

2022

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**MULTICULTURALISM BILL
2022**

**EXPLANATORY STATEMENT
and
HUMAN RIGHTS COMPATIBILITY STATEMENT
(*Human Rights Act 2004, s 37*)**

**Presented by
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Minister for Multicultural Affairs**

MULTICULTURALISM BILL 2022

The Bill **is not** a Significant Bill. Significant Bills are bills that have been assessed as likely to have significant engagement of human rights and require more detailed reasoning in relation to compatibility with the *Human Rights Act 2004*.

This explanatory statement relates to the Multiculturalism Bill 2022 as presented to the Legislative Assembly. It has been prepared to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Legislative Assembly.

The explanatory statement must be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

BACKGROUND

The ACT is home to people from many different cultures and language groups. The 2021 Census identified the ACT as having fastest growing population in Australia, largely due to overseas migration. In 2021, 28.7% of people living in the ACT were born overseas, 30% were second generation migrants and 28.7% spoke a language other than English at home. This growth has made Canberra one of Australia's most culturally and linguistically diverse cities.

While the ACT is a largely inclusive, socially cohesive and welcoming community, inequities and barriers continue to occur in our society on the basis of skin colour, culture, language, migration status, religion, gender, sexual orientation, age and/or ability.

There is evidence of increasing discrimination against people of different faith, race and nationalities as more people compete for available resources and services including housing, employment and financial assistance. There has been an increase in reports of racial vilification and discrimination directly related to the COVID-19 pandemic. In 2018/19 the ACT Human Rights Commission received 39 complaints. This increased to 57 in 2019/20 and 47 in 2020/21¹. Furthermore, the proportion of Australians perceiving racism as a 'big problem' in today's society, increased from 40% in November in 2020 to 60% in 2021². The ACT Government

¹ ACT HRC 2022, *Submission to the Inquiry into Racial Vilification*, Standing Committee on Education and Community Inclusion, Legislative Assembly for the ACT, Canberra, ACT, viewed 19 May 2022, <https://www.parliament.act.gov.au/_data/assets/pdf_file/0006/1977540/Submission-02-ACT-Human-Rights-Commission.pdf>.

² ACT HRC 2022, *Submission to the Inquiry into Racial Vilification*, Standing Committee on Education and Community Inclusion, Legislative Assembly for the ACT, Canberra, ACT, viewed 19 May 2022, <https://www.parliament.act.gov.au/_data/assets/pdf_file/0006/1977540/Submission-02-ACT-Human-Rights-Commission.pdf>.

Education and Community Inclusion Committee Inquiry into Racial Vilification acknowledged racial vilification and racism have profound and lasting impacts on people's lives, and racism and racial bias play a significant role across government services and throughout the country.

Canberra's culturally diverse community has clearly expressed the desire for the important contribution cultural and linguistic diversity brings to the community to be better recognised and valued. The Multiculturalism Bill 2022 is an important step in acknowledging and valuing this contribution but needs to be accompanied by complementary non-regulatory measures including: behaviour change programs, public education campaigns to enable the community to understand inherent bias/racism and intervene when they witness non-inclusive behaviour and adoption of new, inclusive and respectful behaviours. Other measures include strengthening inclusive approaches in ACT Government policies, programs and services.

The ACT currently does not have a formal statement to recognise the value multiculturalism brings to the Territory or our commitment to support culturally and linguistically diverse Canberrans to fully participate in the social, economic, educational and civic life of the city. The ACT Government will benefit from clearer reporting obligations that embrace diversity in the development of legislation, policies and programs, to ensure equity in access to services and opportunities, and to provide accountability to the community.

In November 2020, as part of the Parliamentary and Governing Agreement for the 10th Legislative Assembly, the ACT Government committed to developing legislation to ensure ACT Government policies, programs and services recognise and support Canberra's growing culturally and linguistically diverse population.

OVERVIEW OF THE BILL

The Multiculturalism Bill 2022 (the Bill) is a bill to recognise, promote and value a culturally and linguistically diverse ACT.

The purposes of the Bill are to:

- (a) establish and promote the charter for multiculturalism; and
- (b) establish the ministerial advisory council for multiculturalism (the Council); and
- (c) provide a framework for the review and continuous development of the government's promotion of multiculturalism.

The framework for review and continuous development of the government's promotion of multiculturalism is intended to complement existing accountability

measures in the *Human Rights Act 2004* (HR Act) and *Discrimination Act 1991* to protect equality and cultural diversity.

Human rights recognised under the HR Act include the rights to equality and non-discrimination (section 8) and the protection of cultural rights of Aboriginal and Torres Strait Islanders and other minorities (section 27). Under the HR Act, public authorities, which include ACT Government directorates, have obligations to take these and other human rights into account in decision-making and to act consistently with human rights. ACT Government directorates must also provide information in their Annual Report on the measures taken to respect, protect and promote human rights. This provides accountability for ensuring both equal treatment and respect for diverse cultures.

The *Discrimination Act 1991* protects individuals from unlawful discrimination which undermines the acknowledged value of diversity and multiculturalism to our community. This includes discrimination on the basis of race and religious conviction. The *Discrimination Act 1991* provides a complaints framework should an individual believe they have been subject to unlawful discrimination, and access to effective remedies to address discrimination people of diverse backgrounds may face.

Achievement of policy objectives

To achieve its objectives, the Bill will introduce a Charter for Multiculturalism (the Charter) which articulates our vision for, and commitment to multiculturalism. The Charter principles and responsibilities will inform efforts by governments, businesses and communities to advance cultural and linguistic diversity. The ACT Government will also be required to consider the principles and responsibilities when they are developing, delivering and evaluating policy, programs and services.

The Bill will also achieve its objectives by giving legislative recognition to the existing Multicultural Advisory Council (the Council). The Council will provide advice on the evolving needs and concerns of our multicultural community and support the exchange of information and ideas between the Minister and the members of the ACT community. It will play a role in ensuring the principles in the Charter are upheld by government. The Council will include a diverse membership which is representative of the community. The Bill requires the Council to be transparent and accountable by preparing and publishing an annual report.

In addition, the Bill requires the Minister for Multicultural Affairs to deliver an annual statement. The Annual Ministerial Statement will detail progress in promoting and implementing the Charter and include a Multicultural Policy Statement detailing the government's strategies and priorities to promote multiculturalism for the next financial year.

The Bill also establishes reporting obligations for government directorates. A whole-of-government approach will be adopted to report on progress against the Charter

principles and responsibilities, embed inclusive policies and practices and provide accountability to the community. Directorates will have the opportunity to report on their achievements and areas of improvement against key commitments and priorities.

Consistency with legislation of other jurisdictions

The introduction of the Multiculturalism Bill 2022 in the ACT will bring the Territory in alignment with New South Wales, Victoria, Queensland and South Australia, which have existing principle-based legislation regarding multiculturalism.

However, the Bill differs from legislation in New South Wales, Victoria and South Australia as it establishes a legislated ministerial advisory council rather than a multicultural commission.

The Bill is similar to legislation in Queensland as it includes a Charter and establishes a Council.

There is no national legislation relating to multiculturalism.

CONSULTATION ON THE PROPOSED APPROACH

A discussion paper, *Towards a Multicultural Act for the Australian Capital Territory*, was released in April 2021. The paper formed the basis for community consultation, with community members and stakeholder organisations providing feedback on the scope of the proposed legislation. In February to March 2022, ACT Government Directorates were consulted on reporting and accountability mechanisms within the Bill.

A consultation draft of the Multicultural Recognition Bill 2022 was released on 7 June 2022. A second round of community consultation was held from 14 June to 26 July 2022, allowing the ACT community to comment on the proposed Charter, Council and public reporting and accountability measures contained within the proposed legislation.

Input and feedback from stakeholders have informed this Bill.

CONSISTENCY WITH HUMAN RIGHTS

Rights engaged

The Bill engages the following human rights under the *Human Rights Act 2004* (HR Act):

- Section 8: Recognition and equality before the law (promoted)

- Section 12: Right to privacy (limited)
- Section 14: Freedom of thought, conscience, religion and belief (promoted)
- Section 16: Freedom of expression (promoted)
- Section 17: Taking part in public life (promoted and limited)
- Section 27(1): Rights of minorities to culture (promoted)
- Section 27(2): Cultural rights of Aboriginal and Torres Strait Islander peoples (promoted)

Rights Promoted

The Bill promotes the following rights:

- Section 8: Recognition and equality before the law
- Section 14: Freedom of thought, conscience, religion and belief
- Section 16: Freedom of expression
- Section 17: Taking part in public life
- Section 27(1): Rights of minorities to culture
- Section 27(2): Cultural rights of Aboriginal and Torres Strait Islander peoples

Broadly, the Bill as a whole seeks to promote these rights by formally recognising and enshrining in legislation the value cultural and linguistic diversity brings to the ACT.

Specifically, the preamble promotes the cultural rights of Aboriginal and Torres Strait Islander peoples (section 27(2)) by recognising and paying respect to the first peoples and traditional custodians of the ACT and other Aboriginal and Torres Strait Islander peoples living in, or connected to, the ACT. The preamble also promotes the importance of recognition and equality before the law for all people who make up the diverse ACT community.

In addition, the Charter contains core principles which promote the above rights by acknowledging the right of all Canberrans to: express, practise, maintain and celebrate their cultural, religious and spiritual identity; use, preserve and share their language; participate as equals in the civic, cultural, economic, educational, political and social life; and equitably access information, services and programs.

The Charter also promotes the shared responsibility of all Canberrans to value contributions of all people; embrace and realise the benefits of diversity; create a respectful and unified community; and end racism and other forms of unlawful discrimination.

Section 8 - Recognition and equality before the law

The right to equality and non-discrimination is protected by section 8 (1)-(3) of the HR Act. The HR Act states everyone is entitled to equal respect, recognition and protection under the law regardless of factors such as race, colour, sex, language, religion, national or social origin, birth, sexual orientation, disability or other status.

The right to recognition and equality before the law is promoted in the Preamble and all Charter principles and responsibilities.

Section 14 – Freedom of thought, conscience, religion and belief

The right to freedom of thought, conscience, religion and belief (section 14 of the HR Act) recognises everyone is entitled to follow a particular religious or other belief or practice in public or private, individually or as part of a community. This right is supported through Principle 2 of the Charter which recognises all members of the ACT community are free and safe to express, practise, maintain and celebrate their cultural, religious and spiritual identity.

Section 16 – Freedom of expression

The right to freedom of expression (section 16 of the HR Act) allows a person to hold opinions and beliefs and express these freely and publicly. However, it is limited by the responsibility to respect the rights of others. This right is supported in Principle 2 and Principle 3 of the Charter which recognise all members of the ACT community are free and safe to express, practise, maintain and celebrate their cultural, religious and spiritual identity, and use, preserve and share their language.

Section 17 – Right to take part in public life

Section 17 of the HR Act protects the right for all persons to take part in public affairs. This includes participating in dialogue with elected representatives, engaging with advocacy groups and participating in consultation, review processes and parliamentary inquiries.

Section 15 of the Bill details obligations of ACT Government directorates to ensure: their policies, programs and services are developed, applied and reviewed in a way which promotes multiculturalism; and the diverse characteristics of all members of the community are considered to provide effective and equitable access to information, services and programs.

Examples of this include public communications in languages other than English, providing access to translating or interpreting services and requiring agencies to proactively consider barriers to accessing services and information can be removed to ensure culturally and linguistically diverse members of the ACT community are better able to engage with and participate in public affairs.

Section 17 of the HR Act promotes the right to equal access to positions in the public service and in public office.

This right is further strengthened by Principles 4 and 7 of the Charter which recognise and enshrine that all people are free to participate in and bring value to all elements of public life.

Section 27(1) – Cultural and other rights of minorities

Section 27 (1) of the HR Act protects the right of those belonging to a minority group who share a common culture, religion or language to enjoy their own culture, to practice their religion, and speak their language. This right applies to everyone including those who are not citizens or permanent residents and includes an obligation to ensure effective participation of members of minority communities in decisions that affect them. However, such activities are subject to the law of the Territory and may be subject to reasonable limitations.

This right is promoted in the Charter in Principles 2 and 3 which recognise all members of the ACT community are free and safe to express, practise, maintain and celebrate their cultural, religious and spiritual identity, and use, preserve and share their language.

Section 27(2) – Cultural and other rights of Aboriginal and Torres Strait Islander peoples

Section 27 (2) of the HR Act recognises Aboriginal and Torres Strait Islander peoples hold distinct cultural rights and must have their material and economic relationships with Country recognised and valued.

The Preamble promotes this right by acknowledging and paying respect to the first peoples and traditional custodians of the ACT and other Aboriginal and Torres Strait Islander peoples living in, or connected to, the ACT. The Charter also acknowledges the ACT community is enriched by the long and continuous cultures of the first peoples of Australia.

Rights Limited

1. Nature of the right and the limitation (ss 28(2)(a) and (c))

Section 17 of the HR Act states everyone has a right to take part in public life. The Bill limits the right to participate in public life as the membership to the Ministerial Advisory Council for Multiculturalism is limited by section 11(3) to people who have demonstrated leadership and expertise in contemporary issues relevant to multiculturalism or are committed to promoting multiculturalism.

Section 12 of the HR Act states everyone has the right to not have their privacy interfered with unlawfully or arbitrarily. The Bill limits the right to privacy as sensitive personal information about gender identity, age and residency or migration status

may be collected as part of the application process for the Ministerial Advisory Council for Multiculturalism.

2. *Legitimate purpose (s 28(2)(b))*

The limitations posed on these rights are considered necessary for achieving the legitimate purpose of ensuring the advisory role of the Council can be delivered effectively by members with appropriate and relevant skills. The Council's role includes advising the Minister on ways to promote multiculturalism and the effectiveness of government policies, programs and other actions in promoting multiculturalism. As such, to ensure the Council is appropriately equipped to provide sound advice to the Minister, it is essential that members of the Council have the appropriate expertise and reflect the diversity of the community to the greatest extent possible.

3. *Rational connection between the limitation and the purpose (s 28(2)(d))*

The limitation is rationally connected to the legitimate purpose as it ensures people with relevant expertise are appointed to the Council. Without this restriction, there is the risk membership of the Council may consist of people without the required knowledge and skills to advise the Minister appropriately and effectively on the ways to promote multiculturalism as required by the Council's functions under the Act.

Collection of sensitive personal information about gender identity, age and residency or migration status ensures membership of the Council represents the diversity of the ACT community.

There is, therefore, a rational connection between the limitation and the purpose.

4. *Proportionality (s 28(2)(e))*

The approach for selecting members of the Council provides for an effective and proportionate way to ensure required expertise is reflected in the composition of members of the Council and its advice. Membership is refreshed periodically to ensure members are appointed equitably, objectively and without discrimination.

Additionally, any information collected as part of the recruitment processes for the Council will be handled and stored in accordance with the Territory Privacy Principles as provided in the *Information Privacy Act 2014*.

MULTICULTURALISM Bill 2022

Human Rights Act 2004 - Compatibility Statement

In accordance with section 37 of the *Human Rights Act 2004* I have examined the **Multiculturalism Bill 2022**. In my opinion, having regard to the Bill and the outline of the policy considerations and justification of any limitations on rights outlined in this explanatory statement, the Bill as presented to the Legislative Assembly is consistent with the *Human Rights Act 2004*.

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Shane Rattenbury MLA
Attorney-General

CLAUSE NOTES

PART 1 Preliminary

Clause 1 Name of Act

This clause sets out the name of the Act as the *Multiculturalism Act 2022*.

This Bill has been titled the Multiculturalism Bill 2022 to provide a formal statement that the Government recognises and values cultural and linguistic diversity and affirms the ACT as an inclusive and welcoming jurisdiction. This acknowledges that cultural and linguistic diversity enriches the cultural, social, political, educational and civic landscape of the ACT.

Clause 2 Commencement

This clause sets out that provisions in the Act (other than part 4) commence on 1 September 2023. This date coincides with the end of terms for current Multicultural Advisory Council members and allows time to transition to the new arrangements.

Part 4 of the Act commences 12 months after its notification day. The notification day is the day on which the Act, once it has been passed by the Legislative Assembly, is placed on the ACT Legislation Register. This part of the Bill commences 12 months after its notification day to ensure there is adequate time ACT Government directorates to prepare for their reporting obligations.

Clause 3 Dictionary

This clause states that the dictionary at the end of this Act defines certain terms used in this Act.

Clause 4 Notes

This clause states that a note included in this Act is explanatory and is not part of this Act.

PART 2 Object, important concepts and charter

Clause 5 Object of Act

This clause states the objects of this Act are to:

- (a) establish and promote the charter for multiculturalism; and
- (b) establish the Ministerial Advisory Council for Multiculturalism; and
- (c) provide a framework for the review and continuous development of the government's promotion of multiculturalism.

The Bill complements existing protections, rights, and principles in the *Discrimination Act 1991* and the *Human Rights Act 2004* with a clearly stated vision for, and expectation of, an ACT where the cultural and linguistic diversity of all residents is valued and recognised.

The Bill will not duplicate these protections but will strengthen respect for the rights of all Canberrans and promote the value of social inclusion and belonging. The Bill takes a positive duty (preventative) approach by requiring ACT Government Directorates to identify areas of potential discrimination and taking concrete steps to improve the systems or practices that result in persons with protected attributes such as race, religious conviction and immigration status, from experiencing exclusion or disadvantage. Positive duty is about taking proactive and pre-emptive actions against discrimination without the requirement for someone to first make a complaint. This might include auditing policies or targeted training, depending on circumstances of the duty holder.

Clause 6 Important concepts

This clause provides definitions for multiculturalism and diversity.

Clause 7 Charter for Multiculturalism

This clause states that the Charter is set out in Schedule 1 at the end of this Act.

PART 3 Ministerial Advisory Council for Multiculturalism

Clause 8 Establishment of Council

This clause establishes the Ministerial Advisory Council on Multiculturalism (the Council) as a statutory body.

It is important to note that, prior to the introduction of this bill, the Council exists as an advisory body to the Minister for Multicultural Affairs, but it is not formally recognised within ACT law. The Council was established by the ACT Government in 2017 and since then has made a significant contribution to multicultural policy development through its advisory role to the Minister for Multicultural Affairs. The Bill establishes the Council as a legislated body, formalising its important role and function as a source of advice and expertise on issues relating to the cultural and linguistic diversity of the ACT community.

The Council is a public authority for the purposes of the HR Act insofar as it is a territory authority – a body created by statute for a public purpose.

Clause 9 Functions of Council

This clause sets out the Council's functions, membership and terms of appointment.

The function of the Council is to:

- Advise the Minister:
 - on ways to promote multiculturalism in the ACT. This can include providing advice on ways to increase opportunities and reduce barriers for Canberra's culturally and linguistically diverse community to actively participate in the social, cultural, economic, educational and civic life of the ACT. The Council may also advise the Minister on how migrants, including refugees and asylum seekers, can be welcomed into the ACT community and opportunities to improve their inclusion. The Council can work with other advisory councils to discuss issues of mutual interest and concern and to ensure cultural and linguistic diversity is considered when assessing the needs of other diversity groups.
 - about the accessibility, suitability and effectiveness of government policies, programs and other actions in promoting multiculturalism. The intention is to ensure the needs of people from diverse backgrounds are considered by the ACT Government when developing, implementing and evaluating policies programs and services. The Council can also advise on strategies for increasing community engagement in ACT Government consultation processes and assess the government's progress in implementing the principles and responsibilities of the Charter.
- Consult with individuals and bodies in the ACT community on promoting multiculturalism. The Council will have a dual role as a conduit between the community and the Minister. It will actively engage with the community and key stakeholders, including multicultural community associations and community peak bodies and undertake consultation to determine the changing needs and priorities of the ACT's culturally and linguistically diverse community, including vulnerable and marginalised communities.

The Council may undertake other functions according to ACT law.

Clause 10 Director-general to give support

As discussed in Clause 8, this Bill formalises the Council's role as an advisory body. This clause creates an obligation for the director-general of an administrative unit responsible for the Bill to provide the Council with administrative support and facilities in its everyday operations. At the time of writing this explanatory statement, the administrative unit responsible for the Bill is Community Services Directorate. The director-general must, for example, provide the Council with a meeting space, and access to an ACT Government staff member to undertake secretariat functions for Council meetings, including preparing meeting agendas and taking minutes. It may also mean the provision of any data or information required for its work, including policies and programs administered by their directorates.

Council members will be remunerated under an ACT Remuneration Tribunal determination.

Clause 11 Membership of council

This clause establishes members of the Council will be appointed by the Minister and will consist of 11 members including the chair and the deputy chair. Members will be appointed on an individual basis having a demonstrated commitment to multiculturalism and leadership or expertise in contemporary issues relevant to cultural or linguistic diversity. Membership numbers were selected to align with membership of other legislated councils and in response to feedback provided in the first round of public consultation.

The Minister must endeavour to ensure the Council is made up of people representing diversity characteristics including different gender identities, sexualities, abilities, age groups, residency or immigration status, generations of migrants and their families. This obligation aims to ensure that the Council can be as representative of the culturally and linguistically diverse ACT community as possible.

The diversity characteristics listed in section 11 (4) are only one of many considerations for the Minister when selecting members. The Minister can consider other characteristics or protected attributes.

Protected attributes are described in the *Discrimination Act 1991*. Examples include race, gender identity, sexuality, age and disability.

The term 'generations of migrants and their families' encompasses all forms of migration including people who arrived in Australia on permanent and temporary visas under Australia's skilled, family and humanitarian migration programs as well as people who are studying or seeking to engage Australia's protection obligations.

Gender identity covers gender, non-gender and non-binary-based identities.

A definitive list of all diversity characteristics to be considered for membership to the Council has not been included to avoid omitting a characteristic or group.

Members will be appointed on an individual basis having demonstrated they have the skills and expertise to undertake the functions of a member of the Council. A transparent public nomination process with clear selection criteria outlining required skills and expertise, will be undertaken to recruit members. In addition to representing diverse groups, the Minister may appoint members with specific skills needed to assist the Council.

ACT and Commonwealth public servants are not prevented from being appointed to the Council but must declare any conflict of interest or manage a conflict of interest that cannot reasonably be avoided in accordance with the *Public Sector Management Act 1994*, section 9 and section 151.

The *Governance Principles: Appointments, Boards and Committees in the ACT* also states that a member of a statutory body, including a member of council, must sign the Declaration of Private Interests form upon appointment.

Members may serve a maximum of two terms (cumulatively). The *Governance Principles: Appointments, Boards and Committees in the ACT*, state 'Appointments must not be made or re-made for a period of more than two full-terms or a maximum of six years within the same appointment or board/committee unless:

- the statutory term is greater than six years; or
- the decision maker in relation to the appointment agrees there is compelling justification.'

Clause 12 Ending appointments

This clause gives the Minister power to end the appointment of a member of the Council for misbehaviour or misconduct, or if the Minister is satisfied that the member is, or may be, unable to carry out the member's functions, which are outlined in Clause 9.

The *Legislation Act 2001*, section 210 provides that a member can end their appointment before their term has finished.

Clause 13 Minister to give directions on council procedures

This clause provides guidance about the general running of the Council. The Minister must give directions on Council procedures or Terms of Reference, including:

- How the Council must conduct its meetings
- How frequently the Council must meet
- The records the Council must keep or publish, such as how the Council keeps minutes of its meetings and records of its decisions.

A direction by the Minister is a notifiable instrument, meaning that it will be published as subordinate legislation on the ACT Legislation Register alongside this Act.

The Terms of Reference are not included in the Bill to ensure the Minister for Multicultural Affairs (now and into the future) is able to make changes to these operational aspects as required in response to changing circumstances and needs. The Terms of Reference will be developed in consultation with the community.

Clause 14 Annual report by council

This clause requires the Council to prepare an Annual Report on its activities which is made publicly available.

PART 4 Obligations of administrative units and Minister

Clause 15 General obligations of administrative units

This clause requires the directors-general of ACT Government directorates to promote the Charter and ensure their directorate develops, implements and reviews its policies and services in a way that recognises and invests in the growth of cultural and linguistic diversity in the ACT. Examples include agencies' policies and guidelines on recruitment and procurement; representation on boards and committees; accessible provision of translating and interpreting services; and communications in languages other than English. This clause raises awareness and reminds decision makers to ensure their policies and operations consider the diverse needs of the ACT community. Measures to taken by the directorates to promote human rights are reported against the *Human Rights Act 2004*.

Directors-general must also ensure the government directorate they oversee:

- Promotes multiculturalism. This includes considering the Charter.
- Provide information, services and programs which are effectively and equitably accessible to all people in the ACT, regardless of their culture, language, religion or spiritual belief. For example, government agency must make sure that the services they provide are culturally sensitive and accessible to people who have difficulty communicating in English.

Administrative units are defined in the *Legislation Act 2001* and under the *Public Sector Management Act 1994*, section 13 (1). It includes all ACT Government directorates but excludes statutory bodies and Government owned corporations. Non-government organisations funded to deliver services on behalf of government departments are also excluded from this definition.

Under this reporting model, a whole-of-government approach is required. Each directorate will have a responsibility to ensure that recognition of diversity is a priority in all areas of work undertaken and institutional barriers to participation are addressed.

Clause 16 Reporting obligations of administrative units

This clause outlines the reporting obligations for ACT Government directorates. These directorates must provide an annual report outlining steps they have taken to comply with the obligations outlined in Clause 15. Reporting should reflect outcomes achieved by implementing the Charter, not merely activities completed, or outputs delivered.

The annual report must report on actions taken to address any community feedback received as part of consultation undertaken according to Clause 15 during the year.

It is envisaged reporting will include a mix of qualitative and quantitative information.

Additional reporting responsibilities may be specified through the annual report directions made under the *Annual Reports (Government Agencies) Act 2004*, section 8 (Annual report direction)

Clause 17 Annual ministerial statement to Legislative Assembly

This clause requires the Minister to table a report in the Legislative Assembly on the progress of government agencies in meeting the obligations set out in Clause 15. The report must be tabled as soon as practicable after the end of each financial year.

The Annual Ministerial Statement must also include a Multicultural Policy Statement about the Government's priorities and strategies for promoting multiculturalism in the next 12 months. This will be publicly available through the Legislative Assembly website. An action plan will not be developed to accompany the multicultural policy statement as the Charter principles and responsibilities form the basis for directing directorate's activities. The need to report on specific measures will be included in Annual Report Directions.

PART 5 Miscellaneous

Clause 18 Review of Act

This clause states the operation of the Bill must be reviewed as soon as practicable after every 5 years of the Bill's operation. The Minister must present a report of each review to the Legislative Assembly within 6 months after each review begins.

Clause 19 Regulation-making power

This clause sets out that the Minister may make regulations for this Act.

Schedule 1 Charter for multiculturalism

This schedule sets out the principles and responsibilities for an inclusive and welcoming Canberra which the ACT Government is committed to upholding.

The Charter principles and responsibilities aim to provide clear definitions, and core values, for recognising, valuing celebrating and promoting cultural and linguistic diversity in the ACT.

Principles 1-5 are stated using rights-based language and are intended to speak directly to all Canberrans regardless of culture, race, national origin, linguistic group, migration status, or any other identity attribute. The principles also encompass community groups who have been left out of universal terms. Broad, inclusive language is used to avoid omitting particular groups. This makes it more appropriate to be read as a self-contained part of this Bill.

The Charter principles and responsibilities aim to advance a harmonious, inclusive society, and to promote understanding and acceptance of cultural and linguistic

diversity. This necessarily includes addressing issues of social and systemic racism and discrimination in ACT society. It places a shared obligation on ACT community to act in inclusive and respectful ways. The Bill also promotes institutional change by requiring ACT Government directorates to report on progress against the principles, embed inclusive policies and practices and provide accountability to the community.

Principle 1 welcomes all people.

The ACT is an accredited Welcoming City and a Refugee Welcome Zone and is committed to ensuring all people feel they are valued and belong in the ACT regardless of whether they are living in the ACT on a permanent or temporary visa under Australia's skill, family and humanitarian migration programs or as a student, tourist or seeking to engage Australia's protection obligations.

Principle 2 encourages people to fully express and connect with their cultural, religious and spiritual identity.

Both the right to freedom of religion and belief and the right to equality and non-discrimination are recognised and protected rights under *Human Rights Act 2004*. Additionally, the *Discrimination Act 1991* protects individuals from unlawful discrimination on the basis of a range of protected attributes including race, gender identity, sexual orientation and religious conviction.

While the right to hold a religious or other belief or opinion is recognised as an absolute right under international human rights law, the right to demonstrate or manifest this belief may be limited in certain circumstances. Any limitation on this right must be reasonable, proportionate, and necessary to achieve a legitimate objective, which can include protecting other human rights such as the right to equality and non-discrimination.

The freedom and safety to express and practise one's culture and religion does not offer protection to discriminate against others or interfere with individual rights and beliefs. The right to freedom of expression is limited by the responsibility to respect the rights of others, including an individual's right to choose not to practice particular cultural and/or religious practices.

This principle must not be taken as condoning behaviour or practices associated with a particular culture that are illegal in Australia e.g. female genital mutilation, child marriage, forced marriage or polygamy. This means freedoms exist only within Australian legal frameworks and expression of culture must be lawful.

Principle 3 acknowledges language as a central aspect of cultural identity. People have the right to express themselves using their preferred language. Community language schools and language education are supported and valued to ensure languages are preserved. The principle also aligns with the ACT Government commitment to ensure the language needs of Canberrans are met so they have fair and equitable access to information, services and programs.

Principle 4 concerns eliminating barriers faced by people from culturally and linguistically diverse backgrounds, so they have equitable opportunities to participate in all areas of life in the ACT.

Examples include:

- Support to access employment opportunities.
- Implementation of measures to identify and address barriers and unconscious bias.
- Recruitment practices which encourage applicants from culturally and linguistically diverse backgrounds to apply.
- A workforce which reflects the diversity of the ACT community.
- Providing opportunities for the voices of more culturally and linguistically diverse community members to be heard at community-based events, activities and consultation processes.
- Giving culturally and linguistically diverse people equal consideration for leadership positions on ACT boards, committees and working groups.

Principle 5 refers to appropriate access to information and support to access services and programs. For example, access to translated information or an interpreter for people who have difficulty communicating in English, or culturally sensitive services.

Principles 6-9 reflect shared rights and responsibilities and place a clear and positive obligation on all Canberrans to understand biases and be open, respectful and embracing of diversity in all its forms.

Principle 9 reflects the ACT's commitment to actively respond to racism and discrimination.

Racism is experienced differently by people of colour than other people from culturally and linguistically diverse backgrounds.

Discrimination can also exist within multicultural communities, intersecting race, caste, religion, ethnicity, class and geographic location of origin.

Everyone in the ACT has a shared obligation to be a part of the solution to prevent and address racism and discrimination and the negative effects it has on our community. Racism and discrimination are not acceptable in the ACT and are significant barriers to progressing as an inclusive, safe and welcoming society. Racism and discrimination will only be eradicated if the whole ACT community acts and responds.

This principle applies a positive duty and requires individuals and ACT Government Directorates to identify areas of potential and real discrimination and to proactively and tangibly improve systems or practices that result in persons with protected attributes such as race, religious conviction and immigration status, from experiencing exclusion or disadvantage.