

Official Visitor Powers

The following generic powers apply to all Official Visitors in the ACT. Further powers apply to specific Official Visitors under individual Operational Acts (see over) -

Primary functions of an Official Visitor

- Visit 'visitable places' as defined in Operational Acts
- Report to the Minister on non-compliant places, and any complaints raised
- Receive/consider complaints from 'entitled persons' and others on their behalf
- Complaints taken/in must be related to the 'visitable place'
- Be available to talk to entitled persons or persons with concerns about an entitled person
- Exercise any other function under the relevant operational Act

Powers of an Official Visitor

- Attend a visitable place at any time following a raised complaint, or at their own initiative
- Access any health or other record relating to an entitled person with their written or oral consent
- Access records without an entitled persons permission if that entitled person is not able to make a decision about consent or communicate that decision, and the Official Visitor believes it is important to still access that record to exercise their functions
- Access any record required to be kept under the Operational Act
- Other powers as specific to the Operational Acts

Requirements of a visitable place

- Notify an Official Visitor as soon as possible, but no later than 24 hours of any request by an entitled person to speak with an Official Visitor
- An entitled person cannot be asked why, nor do they need to provide details on why they want to speak with an Official Visitor
- Persons may request to speak with an Official Visitor of a specific gender, and to speak with an Official Visitor with no-one else present in a private place

- Provide all reasonable assistance to the Official Visitor that they ask for to exercise their functions, including answering all questions asked
- Keep a register of each visit by an Official Visitor
- Provide information to all entitled persons on the functions of the Official Visitor, and how they may be contacted
- Provide to an entitled person, no later than when they first enter the visitable place, details about how they can complain to the Official Visitors in an accessible way
- It is an offence to:
 - refuse and or neglect to render an Official Visitor assistance if asked
 - fail to answer any questions if asked by an Official Visitor in the exercise of their functions
 - obstruct or hinder an Official Visitor during the exercise of their functions
 - fail to keep a record of every visit by an Official Visitor

Further specific powers contained in Operational Acts

Children and Young People Act 2008

- To request sensitive information following complaint (S.39).

Disability Services Act 1991

- To investigate a complaint by an entitled person about a specialist disability service other than the visitable place (non-visitable place) and visit the non-visitable place if the entitled person consents to the visit and at a reasonable time (S.8D(2), (3)).
- To visit the non-visitable place after giving the owner of, or entity operating, the place reasonable notice or without giving notice if the official visitor reasonably believes that an entitled person at the place is at risk of harm (S.8D(3)(c)).

Housing Assistance Act 2007

- To visit a visitable place after providing the operating entity 24 hours' written notice (S.25W(1)).
- To visit a visitable place without providing the operating entity 24 hours' notice if the Official Visitor reasonably believes that a person is at risk of abuse or harm and if the person consents to the visit (S.25W(2)).

Mental Health Act 2015

- To enquire into –
 - the adequacy of services provided at a visitable place for the assessment and treatment of people with a mental disorder or a mental illness (S.211(a)).
 - the appropriateness and standard of facilities at a visitable place for the recreation, occupation, education, training and rehabilitation of people receiving treatment, care or support for mental disorder or a mental illness (S.211(b)).
 - the extent to which people receiving treatment, care or support for mental disorder or a mental illness at a visitable place are being provided the best possible treatment, care or support appropriate to their needs in the least possible restrictive environment and least possible intrusive manner consistent with the effective giving of that treatment, care or support;
 - any other matter that an Official Visitor considers appropriate S.211(d)).
- The Official Visitors must be provided with written notice of any detainee in a correctional facility receiving treatment, care or support for a mental disorder or mental illness as soon as possible but no later than 24 hours (S.213).
- The Official Visitor may take complaints about mental health care provided at places external to the visitable place and investigate/visit that place with the entitled person's consent (S.214).

Corrections Management Act 2007

- Official Visitors must perform their functions in accordance to any direction relating to safety, or the security and good order of the correctional centre (S.62(4)).
- All electronic communication with Official Visitors is considered 'protected' as defined under the Act (S.103).
- Official Visitors can access any corrections policies or procedures even those aspects considered 'excluded' (S.15).