



Australian Government
Attorney-General's Department

AUSTRALIAN COUNTRY REPORT 2017

PACIFIC ISLANDS LAW OFFICERS' NETWORK

36th ANNUAL MEETING, REPUBLIC OF THE MARSHALL ISLANDS

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36th PACIFIC ISLANDS LAW OFFICERS' NETWORK ANNUAL MEETING

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Australia has a federal constitutional system in which legislative, executive and judicial powers are shared or distributed between the Australian Government, six state governments, and the governments of two internal self-governing territories. Responsibility for Pacific Islands Law Officers' Network (PILON) priority issues often overlaps between the Australian Government and the state and territory governments.

In the interests of brevity, hyperlinks are provided to new legislation, reports and policy documents, so PILON members can access further information on particular topics.

This report covers the period July 2016 to October 2017.

1. Significant legal reform and major law and justice achievements

First female Chief Justice of the High Court of Australia

On 29 January 2017, the [Hon. Justice Susan Kiefel AC was appointed as the first female Chief Justice of Australia's highest court](#), making her the 13th Chief Justice of the High Court of Australia. At the time of her appointment, Chief Justice Kiefel had been a sitting member of the High Court Bench since September 2007.

Chief Justice Kiefel was called to the Queensland Bar in 1975 and took silk in 1987, becoming the first woman in Queensland to do so. In 1993, Her Honour became the first woman appointed a Judge of the Supreme Court of Queensland. In 1994, Her Honour was appointed a Judge of the Federal Court of Australia, and served as a part-time Commissioner of the Australian Law Reform Commission from 2003-2007.

Ratifying the Optional Protocol to the Convention Against Torture

On 9 February 2017, the [Australian Government announced its intention to ratify the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment \(OPCAT\)](#) by December 2017. The protocol requires independent monitoring of places of detention by domestic bodies and the United Nations Subcommittee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Illicit drugs

The Attorney-General's Department collaborated with states and territories to reach a national agreement to harmonise laws on the precursor chemicals and equipment used to manufacture illicit drugs. These reforms support the 2015 [National Ice Action Strategy](#), which identified stronger controls as a key action to tackle Australia's ice problem.

Commonwealth, state and territory governments have agreed to:

- harmonise legislation and schedules of precursor chemicals and equipment
- a new national electronic end user declaration system to help police track precursor sales across the country, and
- enhance information-sharing between border and law enforcement agencies about importations of high-risk precursor chemicals.

Money laundering and counter-terrorism financing

This year, Australia completed a roadmap to implement recommendations of the [2016 statutory review of the anti-money laundering and counter-terrorism financing \(AML/CTF\) regime](#). The recommendations modernise, strengthen and streamline the regime. Consultation with industry and government on the first set of reforms was finalised and amending legislation is being developed.

A cost-benefit analysis of imposing AML/CTF regulation on certain non-financial businesses and professions that provide services that pose money laundering and terrorism-financing risks was conducted. The outcome of the analysis will inform the government's decision on future regulation of these sectors.

National Firearms Agreement and the National Firearms Amnesty

In 2017, the [National Firearms Agreement](#) was finalised, establishing minimum requirements for the regulation of firearms across jurisdictions. The Agreement affirms that firearms possession and use is a privilege that is conditional on the overriding need to ensure public safety, and that public safety is improved by the safe and responsible possession, carriage, use, registration, storage and transfer of firearms.

A National Firearms Amnesty took place from 1 July to 30 September 2017, allowing anyone with unwanted or unregistered firearms or firearm-related items to legally dispose of them at approved drop-off points. Persons surrendering firearms were not required to provide personal details, and there was no cost involved. Outside the Amnesty period, anyone caught with an unregistered firearm faces a fine of up to \$280,000, up to 14 years in jail, and a criminal record. [Nearly 26,000 firearms were surrendered under the Amnesty](#).

Child sex offender reforms

Australia embarked on a major new initiative to toughen the legal framework concerning child sex offenders. The [Passports Legislation Amendment \(Overseas Travel by Child Sex Offenders\) Act 2017 \(Cth\)](#) was passed by the Australian Parliament in May 2017. This legislation is the first of its kind and prevents people on the Australian National Child Offender Register from possessing a passport and makes it an offence for them to travel overseas without prior permission.

Protecting the rights of older Australians

On 1 October 2017, International Day of Older Persons, the [Attorney-General announced a range of initiatives to lead a national agenda to address elder abuse in Australia](#). Elder abuse is a complex and often hidden problem in Australia and it can take many forms, including financial, physical, emotional, and sexual. By 2055, the Australian population aged over 65 is expected to rise to 23 per cent, this is up from 15 percent in 2014-15.

Reforms will include:

- an online Knowledge Hub raising awareness and providing information and training materials for the public and professionals to prevent and respond to elder abuse
- support for Elder Abuse Action Australia to establish for the first time a national, elder abuse peak body
- funding for research by the Australian Institute of Family Studies on the prevalence and nature of elder abuse in Australia, in collaboration with the National Ageing Research Institute, the Social Research Centre (ANU) and the Social Policy Research Centre (UNSW), and
- sponsorship of the fifth National Elder Abuse Conference in 2018 to further build engagement and support for a collaborative response to elder abuse.

The reforms follow consideration by a Working Group of Australia's Law, Crime and Community Safety Council, co-chaired by the Attorney-General's Department, on a report by the Australian Law Reform Commission, [Elder Abuse—A National Legal Response](#), released on 31 May 2017.¹

2. Significant court decisions

During 2016–17, the Australian Government was involved in the following significant court decision which may be of interest to PILON members. In [AUSTRAC v Tabcorp NSD852/201](#), the Federal Court of Australia ordered Tabcorp to pay \$45 million for contravening the [Anti-Money Laundering and Counter-Terrorism Financing Act 2006 \(Cth\)](#), the highest civil penalty in Australian corporate history.

¹ The Law, Crime and Community Safety Council (LCCSC) assists the Council of Australian Governments (COAG) by developing a national and trans-Tasman focus on fighting crime and promoting best practice in law, criminal justice and community safety. Each Australian state and territory, the Australian Government and the New Zealand Government is represented on the Council.

3. PILON and its strategic priorities

(a) Cybercrime

The Attorney-Generals' Department works with international, national, state and territory counterparts, community groups, non-government organisations and businesses to reduce exposure and harm to an increasing range of cyber-related threats to Australia's people, infrastructure, technologies, businesses and government agencies.

The Attorney-General's Department led the development of the [National Statement of Principles relating to the Criminalisation of the Non-consensual Sharing of Intimate Images](#), approved and published by the Law Crime and Community Safety Council in May 2017.

The [Criminal Code Amendment \(Protecting Minors Online\) Act 2017 \(Cth\)](#) commenced in May 2017, introducing a new offence into the *Criminal Code Act 1995 (Cth)* to protect Australian children in the online environment.

In October 2016 and June 2017, the Attorney-General's Department participated in plenary meetings for the Council of Europe *Convention on Cybercrime* ('the Budapest Convention'). Over the next year, Australia will participate in a drafting group to develop an Additional Protocol to deal with law enforcement agencies accessing data held in other jurisdictions.

Asia-Pacific CERT Steering Committee

In October 2016, the Computer Emergency Response Team (CERT Australia) was re-elected as the Chair of the Asia-Pacific CERT Steering Committee, providing leadership to build regional cyber security capabilities and coordinate measures across the Asia-Pacific region.

Pacific Cyber Security Operational Network

CERT Australia is proposing to establish the Pacific Cyber Security Operational Network (PaCSON). PaCSON is intended to be a community of national CERTs, comprised of cyber security technical experts from across government agencies in the Pacific. PaCSON is intended to:

- act as a points of contact network should a cyber security incident affect the region
- empower members to share cyber security threat information
- provide opportunities for technical experts to share tools, techniques and ideas
- be an enabler of cooperation and collaboration, and
- be supported by other partners including not-for-profits and academia.

PaCSON will be used to assist new and emerging CERTs to build capability, and to assist with cyber security awareness raising activities across the Pacific and provide members with a toolkit for cyber security incident response.

CERT Australia has been undertaking consultations across the Pacific since June to ensure the design of PaCSON reflects the views of all Pacific countries. Consultation will conclude by the end of October 2017. Following consultation, CERT Australia will work with PaCSON members to develop a governance structure, policies and procedures.

An inaugural AGM, Cyber Security Information Exchange and Cyber Security Workshop will be held in April/May 2018, the first of what will be a yearly face-to-face gathering for PaCSON members. PaCSON members will also communicate with one another electronically as needs arise.

As of 29 September 2017, the Cook Islands, Fiji, Federated States of Micronesia, Kiribati, Republic of Marshall Islands, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga and Vanuatu had all agreed to join PaCSON. CERT Australia has contacted all remaining Pacific Island countries and is looking forward to their responses.

International Cyber Engagement Strategy

On 4 October 2017, Australia launched its new [International Cyber Engagement Strategy](#). The Strategy puts Australia at the forefront of international efforts to promote and protect a peaceful and stable online environment – on which we all depend.

The Strategy aims to foster good cyber security practices in our region and improve our collective capacity to respond to global cyber incidents. The global nature of cyberspace means we must cooperate internationally to advance and protect our shared interests in cyberspace. Partnerships between governments, the private sector and civil society are indispensable to safely realising the full potential of the digital age. The Strategy's seven key themes outline Australia's plans to:

- maximise opportunities for economic growth and prosperity through digital trade
- foster good cyber security practices
- reduce the risk of cybercrime
- promote peace and stability in cyberspace
- advocate for multi-stakeholder Internet governance
- promote respect for human rights and democratic principles online, and
- encourage the use of digital technologies to achieve sustainable development.

The Government has allocated \$10 million to the Cyber Cooperation Program to support implementation of the Strategy, with a particular focus on the Indo-Pacific region.

(b) Environmental Crime and Corruption

Fraud control

On 30 March 2017, Australia introduced the [Crimes Legislation Amendment \(Powers, Offences and Other Measures\) Bill 2017](#) to address legislative barriers on information sharing that currently limits action that Australian Government agencies can take to prevent, detect, investigate or respond to fraud and corruption matters. We also strengthened fraud control under the [Commonwealth Fraud Control Framework 2017](#).

Review of Whistleblower Protections

On 14 September 2017, the Commonwealth Parliamentary Joint Committee on Corporations and Financial Services released a report on [Whistleblower protections in the corporate, public and not-for-profit sectors](#). The report contains a number of recommendations for strengthening the protection of whistleblowers in Australia, in particular by extending the protections to the private sector and ensuring greater consistency of whistleblower laws across Australia, for both public and private sectors.

Significantly, the report recommended that a *Whistleblower Protection Authority* be established to support whistleblowers, assess and prioritise the treatment of whistleblowing allegations, conduct investigations of reprisals, and oversee the implementation of the whistleblower regime for both the public and private sectors. The report also recommends that a reward system be implemented and that a proportion of any penalty imposed as a result of the whistleblowing be allocated to the whistleblower. The Australian Government is considering the recommendations made in the report and has formed an Expert Advisory Panel to review and comment on a draft bill, with a view to legislating by 30 June 2018.

(c) Sexual and Gender-Based Violence

Royal Commission into Institutional Responses to Child Sexual Abuse

In 2016–17, the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission) continued a program of private sessions, public hearings and research and policy work examining the nature, cause and impacts of child sexual abuse. It held its last scheduled public hearing in March 2017.

The Royal Commission released an Interim Report in June 2014, a [Working with Children Checks Report](#) in August 2015, a [Redress and Civil Litigation Report](#) in September 2015 and a [Criminal Justice Report](#) in August 2017.

In response to these reports, the Australian Government has undertaken a number of actions, including:

- making changes to how it treats limitation periods in cases where it is the defendant in a matter involving allegations of institutional child sexual abuse
- announcing a Commonwealth Redress Scheme to support people who were sexually abused as children in Commonwealth institutional settings, and
- leading the development of nationally consistent standards for working with children check schemes to improve the effectiveness of these screening processes in protecting children from abuse.

The Commonwealth Redress Scheme is expected to be established by 2018, and be available for ten years. It will offer a direct personal response for those eligible survivors who seek it; options to receive psychological counselling; and a monetary payment (comprising a maximum payment of \$150,000).

The Royal Commission's Criminal Justice Report contained a number of recommendations to improve police and prosecution responses to victims of child sexual abuse. The report also contained a number of ideas for strengthening the special measures put in place to help improve courtroom experiences and ensure that complainants and other witnesses in child sexual abuse prosecutions are able to give their best evidence.

The Royal Commission's final report is due to the Governor-General by 15 December 2017. It is expected that the findings and recommendations of the Royal Commission will improve responses to all forms of child sexual abuse.

Expanding family violence protections

Australia's family law system helps people resolve the legal aspects of family relationship issues, including family relationship breakdowns. This year saw the allocation of significant government funding for programs targeting dispute resolution and family violence.

In 2016–17, the Attorney-General's Department commenced a pilot program for specialist domestic violence units and health justice services as part of the Women's Safety Package. These services build on traditional legal assistance models by requiring lawyers to partner with social workers and health professionals to deliver holistic, client-centred services. There are [12 specialist domestic violence units and five health justice partnerships](#) operating under the pilot. The program showed promising early results with over 530 women accessing services in the first half of 2016.

Under the [Third Action Plan 2016-19 of the National Plan to Reduce Violence against Women and their Children 2010-2022](#), eight Family Relationship Centres are piloting enhanced models of legally-assisted and culturally appropriate family dispute resolution to vulnerable families, particularly Indigenous and Culturally and Linguistically Diverse families who have experienced family violence.

The [National Partnership Agreement on Legal Assistance Services 2015–20](#) has been amended to provide funding to community legal centres for family law and family violence services with effect from 28 June 2017.

Family Advocacy and Support Services (FASS) have been established at 16 family law court locations. The service is designed to help self-represented litigants attending the family law courts with matters involving family violence. The FASS gives extra capacity to duty lawyer services, with the addition of social support services, to address non-legal issues alongside a client’s legal issues. Early reports indicate the FASS is filling an important need by providing a holistic approach to help people affected by family violence navigate state and federal court systems.

In December 2016, the [Exposure Draft Family Law Amendment \(Family Violence and Other Measures\) Bill 2017](#) was released for consultation. The Bill implements a number of recommendations from the Family Law Council [Final Report on Families with Complex Needs 2016](#) and the intersection of the family law and child protection systems. The report targeted improving the interaction between the family law system and the state and territory criminal justice and child protection systems.

The [National Domestic and Family Violence Bench Book](#) that provides guidance for judicial officers dealing with cases involving family violence was released. Implementation of the Bench Book will be supported by training for federal and state and territory judicial officers. This training will be available in 2017–2018.

Coordinating a national domestic violence order scheme

During 2016–17, the Attorney-General’s Department continued to develop and coordinate the [National Domestic Violence Order Scheme](#) policy. Commencing nationally on 25 November 2017, the scheme will ensure that domestic violence orders issued in one Australian jurisdiction will be automatically recognised and enforceable in all others.

Forced marriage and human trafficking

Work has progressed under the [National Action Plan to Combat Human Trafficking and Slavery 2015–19](#) to address and prevent forced marriage. Key initiatives included updating the Forced Marriage Community Pack and delivering awareness-raising and training workshops in each Australian capital city. The workshops attracted 325 people.

In August 2016, the Attorney-General's Department co-hosted the inaugural World Day against Trafficking in Persons with the Department of Foreign Affairs and Trade. The event drew experts from government, business, civil society and the international diplomatic community to share insights and best practice responses to human trafficking and slavery.

4. Other significant initiatives involving the member country and its law and justice sector

Royal Commission into the Child Protection and Youth Detention Systems of the Northern Territory

On 1 August 2016, the Australian Government established a [Royal Commission into the Protection and Detention of Children in the Northern Territory](#) to examine how children are treated in detention centres in the Northern Territory, and to look into the child protection system in the Northern Territory. [The Royal Commission has received 79 public submissions](#). It is due to deliver its final report by 17 November 2017, with recommendations on how to improve laws, policies and practices in the Northern Territory.

Defence Abuse Response Taskforce

The [Defence Abuse Response Taskforce](#) ceased operations on 31 August 2016. The taskforce was established in 2012 to assist complainants who had suffered sexual abuse, physical abuse, sexual harassment and workplace harassment and bullying in the Department of Defence prior to 11 April 2011. The taskforce received 2,439 complaints of which 1,751 were assessed as within scope and plausible.

From 1 December 2016, the Commonwealth Ombudsman, within its Defence Force Ombudsman jurisdiction, was given the role of receiving reports of serious abuse within the Department of Defence.

5. Technical legal assistance

PILON

The Attorney-General's Department supported PILON to strengthen collaboration, coordination and cooperation between Pacific law and justice agencies to progress regional law and justice priorities, focusing on PILON's strategic priority areas of sexual and gender based violence, cybercrime and environmental crime and corruption.

In particular, we supported PILON to hold a cybercrime workshop in Tonga focused on the use of electronic evidence. The Attorney-General's Department also played an active role as a member of the PILON Sexual and Gender Based Violence Working Group by supporting PILON in the development of principles for dealing with vulnerable witnesses and victims of sexual and gender based violence, and monitoring and evaluation frameworks for sexual and gender based violence legislation.

The Attorney-General's Department continued to support PILON's collaboration with other Pacific regional bodies such as the Pacific Islands Chiefs of Police (PICP), to strengthen efforts to improve coordinated regional law and justice outcomes. As requested by the Pacific Transnational Crime Coordination Centre (under the auspices of the Pacific Island Chiefs of Police), the Attorney-General's Department has built on the analysis done by Samoa on behalf of PILON in 2016, reviewing Pacific laws criminalising methamphetamine, which we presented at PICP's Annual Meeting in September 2017. This will also be presented at the 2017 PILON annual meeting, and be made available to PILON members.

Legal policy development and law reform capacity

The Attorney-General's Department continued to focus on building Pacific legal policy development and law reform capacity, through its two month Pacific Policy Twinning Program in 2016, hosting officers from Fiji, the Solomon Islands, Papua New Guinea and Vanuatu. We also hosted seven Pacific law and justice officials for our Pacific Policy Champions Course in March 2017. The participants rated the programs highly, reporting an increase in their knowledge and skill base in legal policy development after they completed the respective programs.

These courses have a multiplier effect by including a 'train the trainer' element, whereby participants run the policy development course upon return to their home countries. These programs also have the benefit of increasing the network of law and justice officials across the Pacific. The Attorney-General's Department also fosters these peer to peer relationships through its Pacific Legal Policy Network, to promote continuous learning and sharing of policy development approaches appropriate for the Pacific. 162 Pacific Island officials were trained or mentored during 2016/17 (77 females; 80 males; 5 gender unspecified).

Legislative reform projects

The Attorney-General's Department also provided technical and capacity development assistance on a number of Pacific law reform projects, including a new Nauru Police Bill, new Tonga cybercrime legislation, forensics reforms for the Federated States of Micronesia, a review of sex offences in Kiribati and draft legislation to address a range of frontline policing problems in Tuvalu, including underage drinking and road safety.

Australian Government Solicitor pro bono work in the Asia-Pacific

In 2017, the Australian Government Solicitor (AGS) delivered pro bono legal training in the Asia-Pacific region. Senior Executive Lawyers and Senior General Counsel from AGS travelled to the Solomon Islands to deliver intensive training in March and September 2017 on legal reasoning, advocacy and writing advice. AGS Senior Executive Lawyers also delivered training in Papua New Guinea in December 2016 and September 2017 on statutory interpretation, legal reasoning, presentation skills and writing advice.

Anti-money-laundering and counter-terrorism financing

Australia continued to assist Papua New Guinea to implement reforms to its anti-money laundering and counter-terrorism financing framework and worked with the Australian Transaction Reports and Analysis Centre (AUSTRAC) to assist Papua New Guinea develop subsidiary legislation to its proceeds-of-crime legislation.

Australia also assisted Vanuatu to implement action to address deficiencies in its anti-money laundering and counter-terrorism financing framework and provided training to 20 Ni-Vanuatu law and justice officials on terrorism-financing investigations and international cooperation.

People smuggling and human trafficking

Australia continues to work multilaterally through fora such as the Bali Process to help countries establish strong laws to combat people smuggling, human trafficking and related transnational organised crime, including the ability to follow illicit money trails. Australia co-chaired a drafting committee to develop the Bali Process policy guide on *Following the Money in Trafficking in Persons Cases*. The Bali Process Trafficking in Persons Working Group endorsed the guide and associated training module in May 2017.

6. Contact information for key law and justice agencies

Agency	Key responsibilities	Contact person and position	Phone number
Attorney-General's Department	Federal legal policies and laws	International Legal Assistance	+61 2 6141 6666
Australian Federal Police	Policing	International Operations	+ 61 2 6131 3000
Australian Transaction Reports and Analysis Centre (AUSTRAC)	Regulatory responsibility for anti-money laundering and counter-terrorism financing	Domestic and International Relations	+ 61 2 9950 0094
Office of Parliamentary Counsel	Legislative drafting	First Parliamentary Counsel	+61 2 6270 1400