

# Submission for the Commonwealth Government COVID-19 Response Inquiry—Attorney-General’s Department

January 2024

## Overview

This submission provides an overview of the Attorney-General’s Department’s (the department) contributions during the COVID-19 pandemic (the pandemic), to inform the COVID-19 Response Inquiry. The department would welcome the opportunity to engage further with the Inquiry at the appropriate time, including facilitating a discussion with relevant portfolio agencies.

The department supported the Australian legal system and legal assistance sector throughout the pandemic, delivered legal and policy advice and legislative reform on a wide variety of matters related to the pandemic response and, in conjunction with the Australian Government Solicitor, advised the government on a broad range of legal issues central to the pandemic response of both national and international importance.

Machinery of government in July 2022 resulted in all industrial relations-related functions moving to the Department of Employment and Workplace Relations (such as the development of the National COVID-19 safe workplace principles and the establishment of Safe Work Australia as a central hub for workplace health and safety guidance). Functions that progressed Identity Matching Services in support of a number of pandemic measures moved into the department from the Department of Home Affairs in August 2023.

## Ensuring the functioning of legal frameworks and the justice sector during the pandemic

The department supported the federal courts and tribunals to adjust their practices in response to the pandemic, and to publish guidance on operations during the pandemic. The family law jurisdiction of the (then) Family Court of Australia and Federal Circuit Court of Australia was particularly impacted by the pandemic, with a key response being the establishment of the [COVID-19 List](#) to deal with urgent family law-related disputes arising from impacts of the pandemic.

The department worked with state and territory courts and correctional services to ensure the continued operation of criminal and civil justice systems throughout the pandemic, including preventative action to stop the spread of COVID-19 in prisons and youth detention centres. Further information on the effective transition of court hearings to virtual platforms during the pandemic is best obtained from the courts.

The department provided additional funding to the legal assistance sector through the [COVID-19 Legal Assistance Funding](#) agreement to respond to the increased demand on legal assistance services caused by the pandemic, and to support legal assistance services to transition to virtual service delivery. These virtual services have been sustained post-COVID, continuing to enhance community access to legal support across Australia.

The department continued to support the delivery of initiatives to address family, domestic and sexual violence, including the provision of additional funding for the [Family Violence and Cross-Examination of Parties Scheme](#) due to high demand.

The department also waived the annual registration fee for Commonwealth-registered marriage celebrants in 2020-21 (approximately 10,000 celebrants).

## Preventing criminal exploitation of pandemic response measures

### *Fraud Prevention*

The department and the Australian Federal Police established the [Commonwealth COVID-19 Counter Fraud](#)

[Taskforce](#) in March 2020 to support agencies designing and delivering responses to the pandemic to identify key fraud risks to program integrity. The taskforce worked with domestic and international experts to identify opportunities to safeguard future emergency relief and stimulus measures against fraud and corruption. The guidance developed by the department has since been recognised as international best practice by the International Public Sector Fraud Forum.

The department's Commonwealth Fraud Prevention Centre [provided advice and support](#) on pandemic stimulus measures, including to Treasury through the JobKeeper Program Risk and Integrity Inter-Departmental Committee.

#### *Criminal Justice and Law Enforcement Forum*

The Criminal Justice and Law Enforcement Forum (CJLEF) consists of the heads of 17 Commonwealth agencies and was established by the Department of Home Affairs in 2017–18 to bring together the Commonwealth's collective capabilities against capable and well-resourced organised crime syndicates. CJLEF met numerous times over the course of 2020 and 2021, focusing on the impact of the pandemic on organised crime and law enforcement activity in Australia, and preparing strategic reports on this impact and Commonwealth efforts to address emerging threats. Responsibility for the CJLEF transferred to the department from the Department of Home Affairs in 2022.

### **Whole of government advice on pandemic response measures**

#### *Australian Government Solicitor*

The Australian Government Solicitor provided significant support to the government's pandemic response, acting, advising and providing guidance across government on extensive matters relating to economic, quarantine, health, industrial relations and legal practice and risk measures throughout the pandemic.

#### *International Law*

The department provided advice on a range of international legal issues arising in the context of domestic measures adopted in response to the pandemic, including restrictions on inwards and outwards travel and other health measures designed to reduce the spread of COVID-19 within Australia. The department worked closely with relevant Commonwealth agencies to ensure these measures were adopted in a manner consistent with Australia's obligations under international aviation law, international health law, the law of the sea, international human rights law and international trade and investment law.

#### *Human Rights*

The department provided advice to government on anti-discrimination laws, as well as to the Australian public on their human rights in the context of the government's pandemic response. The department was responsible for providing advice and reporting on [core international human rights treaties](#) and provided information about Australia's pandemic response to United Nations human rights reports, contributing to the [pandemic-related work](#) of the United Nations Human Rights Council, United Nations Office of the High Commissioner for Human Rights, and the United Nations General Assembly.

#### *Legislative reforms*

The department progressed [urgent privacy law amendments](#) to the *Privacy Act 1988* in support of the release of the COVIDSafe app, and played a key role in scrutinising proposals relating to the handling of personal information throughout the government's pandemic response. These efforts helped bolster public trust and confidence in the data collection practices being used to support the pandemic response.

The department progressed [bankruptcy amendments](#) to the *Bankruptcy Act 1966* to assist individuals experiencing financial hardship. The *Fair Work Act 2009* was also [amended](#) to permit the temporary standing down of employees during the JobKeeper Scheme. The department also progressed the *Coronavirus*

*Economic Response Package (Modifications—Statutory Declarations and Notices of Intention to Marry) Determination 2021* to temporarily amend the *Statutory Declarations Act 1959* and its regulations to allow Commonwealth statutory declarations to be witnessed remotely via audio-visual link and signed electronically. Further amendments have been made to the *Statutory Declarations Act 1959* to maintain the electronic and digitally verified execution of documents.

### **Further contributions**

#### *Identity Matching Services*

[The Identity Matching Services](#), established through a partnership between the Commonwealth, state and territory governments under the Intergovernmental Agreement on Identity Matching Services, provided key support to Australian public and private sector entities managing the health impacts of the pandemic, by facilitating private, secure and fast identity verification services. This included the rapid connection and support of the delivery of the International COVID-19 Vaccination Certificate from Services Australia, and identity verification services for applications and programs used to track and monitor COVID-19 infections.

#### *Portfolio measures*

In support of the department's measures progressed in response to the pandemic, the Australian Financial Security Authority [administered the changes to bankruptcy law](#) to assist those in financial difficulty, the Australian Human Rights Commission developed [online resources](#) for the public, as well as investigating racial discrimination complaints which increased, in particular during the early stages of the pandemic, and the Office of the Australian Information Commissioner provided [public pandemic privacy guidance](#), as well as convening a [National COVID-19 Privacy Team](#).

#### *Internal measures*

The department's internal pandemic response included measures to support remote work mobilisation, including extending service desk hours to support approximately 1200 staff working remotely and increasing network capacity. A COVID-19 Coordination Taskforce was established to ensure a whole-of-department approach to supporting the Attorney-General and engaging with decision-making bodies, including the National Coordination Mechanism. The department also contributed to surge staffing through the Australian Public Service Surge Reserve, providing staffing to Services Australia during the 2021-2022 financial year.

### **Lessons and future contributions**

The measures set out above demonstrate the department's critical role in progressing initiatives that ensured all Australians were able to access, or continue accessing, assistance, justice and employment systems in a way that was appropriate and responsive to their needs during the pandemic.

The department recognises that in the current context of integrity-focused APS and government reform, many of the initiatives being progressed to strengthen integrity may likewise address the considerations of this inquiry, such as those relating to record keeping, transparency and accountability. The department would welcome engaging with the Inquiry further on the lessons learned and its experience of the pandemic.

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