



Comprehensive Review

Legal Framework of the National Intelligence Community

Terms of Reference

The review will comprehensively examine the effectiveness of the legislative framework for the National Intelligence Community (NIC) and prepare findings and recommendations for any reforms. The review will prepare a classified report for the Government by the end of 2019, followed by an unclassified version of that report.

The review will consider:

- the legislation relating to the six Australian Intelligence Community (AIC) agencies, as well as the Australian Federal Police (AFP), Australian Criminal Intelligence Commission (ACIC), Australian Transaction Reports Centre (AUSTRAC) and the Department of Home Affairs to the extent their legislative provisions relate to the intelligence activities of these four agencies;
- the appropriateness of maintaining the current distinction between Foreign Intelligence and Security Intelligence, and legislative distinctions and restrictions relating to intelligence collection onshore and offshore;
- whether Australia should adopt a common legislative framework, as has been done in the United Kingdom and New Zealand;
- improvements that could be made to ensure that the legislative framework for the NIC:
 - facilitates the general co-ordination and appropriate control and direction of each agency comprising the NIC in relation to the exercise of intelligence powers and functions, and of the NIC as a whole;
 - supports effective co-operation, liaison and sharing of information between NIC agencies, and between NIC agencies and Commonwealth, State, Territory, foreign government and other partners, for intelligence purposes;
 - supports the intelligence purposes, functions, administration and staffing (including recruiting) of each agency comprising the NIC;
 - provides for accountability and oversight that is transparent and as consistent across the NIC agencies as is practicably feasible.
- any specific proposals for reform, such as Recommendation 16(c) of the Independent Intelligence Review.

Without limiting the legislation that the review may consider, the review will consider:

- core legislation relating to the six AIC agencies, such as the *Australian Security Intelligence Organisation Act 1979*, the *Office of National Assessments Act 1977*, including proposed legislation to give effect to the transition to the Office of National Intelligence, and *Intelligence Services Act 2001*, including amendments contained in the Intelligence Services Amendment (Establishment of the Australian

Signals Directorate) Bill 2018 to establish ASD as an independent statutory agency;

- elements of core legislation relating to the AFP, ACIC, AUSTRAC and Department of Home Affairs, such as the *Australian Federal Police Act 1979* to the extent it relates to the performance of their intelligence functions as part of the NIC;
- legislation containing NIC agency investigative powers, such as the *Surveillance Devices Act 2004* and *Telecommunications (Interception and Access) Act 1979*;
- the adequacy of national security information handling provisions under the *National Security Information Act 2004*, including the protection of information relating to counter terrorism and foreign interference prosecutions;
- oversight-related legislation, such as the *Inspector-General of Intelligence and Security Act 1986* and *Independent National Security Legislation Monitor Act 2010*.

The review team will have full access to all material applicable to its examination. Relevant departments and agencies are to cooperate fully with the review and provide any requested assistance. The review team will meet regularly with relevant Ministers and the Chair and Deputy Chair of the Parliamentary Joint Committee on Intelligence and Security.