



COMMUNIQUÉ

Council of Attorneys-General

23 November 2018

A meeting of the Council of Attorneys-General (CAG) was held on 23 November 2018 in Perth, Western Australia. All jurisdictions were represented by Ministers or Senior Officials, with the exception of New Zealand.

The meeting was chaired by the Hon John Quigley MLA, Attorney General, Western Australia.

SUMMARY OF DECISIONS

Options to Harmonise Enduring Powers of Attorney

Participants supported the Australian Government advancing the development of a National Register and agreed to continue work on developing options for greater consistency of national arrangements for financial enduring powers of attorney.

National Plan to Combat Elder Abuse

Participants:

- a) Noted progress with developing a draft *National Plan to Respond to the Abuse of Older Australians*.
- b) Noted that jurisdictions will develop an Implementation Plan to support the draft National Plan, by the first CAG meeting of 2019, with each jurisdiction responsible for undertaking any further consultation necessary to develop the Implementation Plan.

Recommendations of the Australian Law Reform Commission's Report: Elder Abuse – A National Legal Response

Participants commended the Australian Law Reform Commission for elevating elder abuse to an issue of national significance and noted work underway to implement recommendations.

Reform to Test for Admissibility of Tendency and Coincidence Evidence in Criminal Proceedings

Participants:

- (a) Noted that the Admissibility of Tendency and Coincidence Evidence Working Group has developed several reform options to facilitate greater admissibility of tendency and coincidence evidence in criminal proceedings.
- (b) Agreed that the Working Group would report a preferred reform option at the first CAG meeting in 2019.
- (c) Discussed the Working Group's potential future consideration of privileges relating to religious confessions in the context of a recommendation of the Royal Commission into Institutional Responses to Child Sex Abuse recommendation at the conclusion of the tendency and coincidence work.

Implementation of Recommendations in the Royal Commission into Institutional Responses to Child Sexual Abuse Final Report

Participants noted that all Australian governments are continuing to work together to progress the implementation of the Royal Commission's recommendations requiring national coordination.

Participants also noted that all governments have committed to report on progress in implementing the Royal Commission's recommendations, through five consecutive annual reports, beginning in December 2018.

National Standards for Working with Children Checks

Western Australia, Australian Capital Territory, Northern Territory, and New South Wales noted the National Standards for Working with Children Checks as their Community Services Ministers have responsibility for these Standards. Queensland, South Australia, and the Australian Government endorsed the National Standards for Working with Children Checks as their Attorneys-General have responsibility for these Standards. Tasmania endorses the National Standards with the exception of Clause 28.

Nationally Consistent Guidelines for the Protection of the Rights of Australian Victims of Terrorism Overseas

Participants:

- (a) Endorsed the Guidelines and principles for responding to victims of an international terrorist act developed by the National Victims of Crime Working Group.
- (b) Endorsed the National Victims of Crime Working Group examining the importance of, and recommending options for, immediate financial assistance and trauma informed counselling services to be consistently provided for all Australian citizens and permanent residents who have been a victim (including witnesses of) a terrorist act overseas.
- (c) Endorsed the National Victims of Crime Working Group developing nationally consistent guidelines to assist victims in their contact with media.

Mutual Recognition of Supervision Orders for High Risk Offenders

Participants:

- a) Acknowledged the work done by the Working Group to investigate options to cooperatively strengthen High Risk Offender (HRO) schemes across jurisdictions.
- b) Noted that New South Wales and South Australia intend to make changes to their own legislation to cooperatively strengthen their HRO schemes.
- c) Acknowledged that participating jurisdictions may also do the same if they wish.

Defamation Working Group

Participants noted the work of the Defamation Working Group and agreed to consider a draft discussion paper for public release out of session in early 2019.

Information-Sharing Framework between Family Law, and Family Violence and Child Protection Systems, and Possible Technological Solutions

Participants noted the work underway to develop a proposed framework for the appropriate sharing of court orders, judgments, transcripts and other documents between the family law, family violence and child protection systems. Participants agreed for the Family Violence Working Group to continue its work on this topic and report back to the Council of Attorneys-General in the second half of 2019.

National Best Practice Risk Identification and Assessment Principles

Participants:

- (a) Noted the completion of the National Risk Assessment Principles for Family and Domestic Violence by Australia's National Research Organisation for Women's Safety.
- (b) Agreed for jurisdictions to aspire to achieve alignment with the National Risk Assessment Principles, with assistance of guidance developed by the Family Violence Working Group, when developing, updating or evaluating family violence risk identification or assessment tools and processes applicable to the justice system.

Expanded Use of Family Law Jurisdiction

Participants noted work underway to establish pilots of enhanced family law jurisdiction under the *Family Law Amendment (Family Violence and Other Measures) Act 2018* in selected state and territory courts.

Principles to Improve Protection of Vulnerable Witnesses

Participants endorsed guiding principles for protecting vulnerable witnesses in family violence and family law proceedings, for use in all jurisdictions.

Measures to Improve Family Violence Competency of Professionals across Family Violence and Family Law Systems

Participants noted the report of the Family Violence Working Group, *Options for Improving the Family Violence Competency of Professionals working in the Family Violence and Family Law Systems*, which identifies options for improving the family violence competency of professionals working in the family law and family violence systems.

Participants agreed for the Family Violence Working Group to consult with relevant sector bodies about implementing the report's recommendations, reporting back to the Council of Attorneys-General in the second half of 2019.

Post-Sentence Preventative Detention of High Risk Terrorist Offenders – Model Referral of Power Legislation

Participants noted that the Commonwealth and the states will continue work on referral of power legislation to clarify support for the HRTD scheme in Division 105A of the *Criminal Code* (Cth). They agreed that it would be desirable for this to occur in the first half of 2019 alongside a referral to support a new Commonwealth terrorism hoax offence, subject to the model amendment being agreed between the Commonwealth and the states.

Consultation with States and Territories on Strengthening Food Contamination Laws

Participants agreed on the importance of a robust national approach in responding to food contamination incidents and undertook to consider opportunities to strengthen food safety laws.

Review of the Indigenous Legal Assistance Program

Participants agreed that adequate funding for ATSILS is critical and urged the Australian Government to act quickly to finalise the funding arrangements beyond June 2020.

Consideration of Raising the Age of Criminal Responsibility

Participants agreed that it would be appropriate to examine whether to raise the age of criminal responsibility from 10 years of age. A working group will be established to review this matter, drawing from relevant jurisdictional and international experience, and will report back within 12 months.

Council of Attorneys-General Terms of Reference and Work Plan 2018-19

Participants agreed to progress a number of key priorities through the Council in 2018-19.

Management of Unlawful Non-Citizens required for Court Proceedings

Participants agreed that the Department of Home Affairs should consult with states and territories at Ministerial level on solutions to the issue that has arisen with respect to criminal justice stay certificates, with a view to effecting a legislative or administrative change as a matter of urgency.

Update on the Stock-Take and Review of Suppression Order Regimes

Participants noted that the Australian Attorney-General's Department has undertaken a review of the suppression order regimes operating at the federal and state and territory levels. Participants also noted that the review has highlighted that the implementation of the former Standing Committee of Attorneys-General's (SCAG) model legislation in respect of suppression orders varies across jurisdictions.

National Cooperative Scheme on Unexplained Wealth

Participants noted the National Cooperative Scheme on Unexplained Wealth and noted that the Australian Attorney-General will approach, on a bilateral basis, states and territories to discuss taking steps to join the Scheme.