

RECENT DEVELOPMENTS

*Alice Mantel**

Whole-of-government review of e-security

The Attorney-General Robert McClelland and the Minister for Broadband, Communications and the Digital Economy Senator Stephen Conroy have announced a whole-of-government review of e-security.

Australia's ever-increasing reliance on information and communications technology and the threat of a hostile online environment has prompted the review which will assist the development of a national framework for securing Australia's electronic networks.

'New and networked systems increasingly underpin our business and social interactions, but they also provide fertile ground for exploitation by cyber criminals', Mr McClelland said. 'The e-security review is an opportunity to look at what help the Government can provide to develop a more secure and trusted electronic operating environment for both the public and private sectors. The review will also consider whether Commonwealth programs can be better focused to deal with the ever increasing range of online threats.'

Senator Conroy said that the review of e-security was a vital step towards fostering confidence in using the internet for personal and business activities.

A multi-agency team, led by the Attorney-General's Department, will conduct the review, which will be completed by the end of this year. Details of how the public and industry can contribute to this review are available at: www.ag.gov.au/eseecurityreview.

MR 2/7/08

New inquiry into immigration detention

The Minister for Immigration, Senator Chris Evans, has asked the Joint Standing Committee on Migration to inquire into the criteria for immigration detention and alternatives available.

There are currently 461 people in immigration detention across Australia. Some of these are seeking asylum in Australia, others are appealing deportation following criminal offences, and others have breached the conditions of their visa or have entered illegally and are under investigation.

The Chair of the Committee, Michael Danby, said 'A humanitarian approach that treats all people with dignity needs to be integrated into Australian policy on overseas arrivals. This inquiry is an important initiative in setting Australia's immigration detention policies and exploring options for the future. I encourage all those who have had experience of immigration detention to contribute to this inquiry and help shape both a fairer and more efficient system.'

In April 2008 the Committee visited the Villawood Detention Centre in Sydney and spoke to

** AIAL Forum editor*

staff, advocacy workers and ex-detainees. Concerns were raised regarding the length of time in detention, the application and appeal processes and the physical environment of the centres.

The Committee is now setting out to develop a blueprint for Australia's immigration detention policy and centres and will report on issues such as:

- the criteria for detention and length of time in detention;
- the criteria for release from detention;
- accountability and transparency in immigration detention processes;
- the infrastructure and physical environments of detention centres;
- types of detention (including residential housing and community detention) and other alternatives; and
- the administration of the services available to those in detention.

Background information and the full terms of reference can be found at the inquiry website at: <http://www.aph.gov.au/house/committee/mig/detention/index.htm>

Inquiry into developing whistleblower protection in the public sector announced

A wide-ranging inquiry into protections for public interest disclosures (whistleblowing) within the Australian Government public sector was announced by the House of Representatives Standing Committee on Legal and Constitutional Affairs.

At present there are no uniform laws to protect whistleblowers. Some protections exist at both the federal and at the State and Territory level. At the federal level, the *Public Service Act 1999* provides protection for Australian Public Service (APS) employees making disclosures in a narrow range of circumstances.

The Chair of the Federal parliamentary committee, Mark Dreyfus QC, said, 'This inquiry is an important initiative in that it will consider and report on a preferred model for legislation to protect public interest disclosures within the Australian Government public sector.'

The Attorney-General, the Hon. Robert McClelland MP, on behalf of the Cabinet Secretary, Senator the Hon. John Faulkner, has asked the Committee to inquire into and report on issues such as:

- the categories of people who could make protected disclosures
- the types of disclosures that should be protected
- the conditions that should apply to a person making a disclosure
- the scope of statutory protection that should be available
- procedures in relation to protected disclosures
- the relationship between the Committee's preferred model and existing Commonwealth laws, and
- such other matters as the Committee considers appropriate.

Background information and the full terms of reference can be found at the inquiry website at www.aph.gov.au/laca.

Disability treaty ratified

Australia has ratified the UN Convention on the Rights of Persons with Disabilities, making Australia one of the first Western countries to ratify the Convention.

Australia joins 29 other countries around the world in a move that aims to promote a global community in which all people with disability are equal and active citizens.

Ratifying the Convention clearly demonstrates the Rudd Government's international commitment to ensuring people with disability are treated equally and not as second-class citizens, Attorney-General Robert McClelland said.

Attorney-General Robert McClelland has tabled a national interest analysis, examining the impact on Australia of the United Nations Convention on the Rights of Persons with Disabilities. The analysis, which is the result of wide-ranging consultation, examines the impact of ratification on Australia and Australians living with disability. It says ratification of the treaty is likely to raise awareness of disability issues and foster a more inclusive and cohesive society.

MR 18/7/08

Coercive powers report tabled

Federal Attorney-General, Robert McClelland, announced that the *Coercive Information-gathering Powers of Agencies* report by the Administrative Review Council has been tabled in Parliament.

The report focuses on the powers granted to Government agencies for compelling the provision of information, the production of documents, and the answering of questions.

It considers the use of these powers with specific reference to the legislation and practices of Centrelink, Medicare Australia, the Australian Securities and Investments Commission, the Australian Prudential Regulation Authority, the Australian Taxation Office and the Australian Competition and Consumer Commission.

Examples of recommended best practice include:

- agencies should consider alternative means of obtaining information before using coercive information-gathering powers;
- coercive information-gathering powers should only be delegated to sufficiently senior and experienced officers in an agency;
- coercive information-gathering notices should comply with privacy legislation and inform recipients of their rights in relation to privilege.

Matters covered by the principles include what the 'trigger' threshold for use of the powers should be, which agency officers should exercise the powers, the conduct of hearings, training, privilege, and the exchange of information between agencies.

MR 4/6/08

Inquiry into budget's impact on public sector agencies

The Chair of the Public Accounts Committee Sharon Grierson has announced a new inquiry into the impact of the efficiency dividend on smaller public sector agencies.

The dividend was introduced in 1987-88. Each year, the public funding component of agencies' budgets has usually been trimmed by 1.25 per cent. For the 2008-09 year only, the Government increased the efficiency dividend by an extra 2 per cent. This implemented an election commitment.

'The Committee is concerned that the efficiency dividend may have had a greater effect on small agencies than the larger ones,' Ms Grierson said. 'Small agencies often don't implement new policy, so they don't receive extra funding on a regular basis. It appears that for some agencies the only funding experience may be a constant shaving of their budget. Although they have small budgets, these agencies play a vital part in our system of government. They include the High Court, the Australian National Audit Office, the Ombudsman and the Parliamentary Departments.'

Preliminary statistics of agencies' budgets between 2000-01 and 2008-09 show a noticeable difference in growth between types of agencies. For small agencies (budgets less than \$150 million per annum), their budgets grew by 27 per cent on average. For non-security large agencies, budget growth was 57 per cent. In the large security agencies, budget growth was 185 per cent on average. Over this period, the Consumer Price Index increased by 30 per cent.

'Preliminary statistics suggest that the budgets of small agencies are barely keeping up with inflation, and have lagged behind the budgets of larger agencies,' Ms Grierson said. The Committee will examine the impact on smaller agencies' functions, performance and staffing arrangements.

Coastal communities inquiry announced

The House of Representatives Climate Change, Water, Environment and the Arts Committee is to conduct an inquiry into climate change and environmental impacts on Australian coastal communities.

Committee Chair Jennie George welcomed the co-referral of this inquiry by the Minister for the Environment, Heritage and the Arts Peter Garrett MP and the Minister for Climate Change and Water Senator Penny Wong.

The terms of reference provide for the committee to inquire into climate change and environmental pressures experienced by Australian coastal areas. The inquiry will have particular regard to:

- existing policies and programs related to coastal zone management, taking in the catchment-coast-ocean continuum
- the environmental impacts of coastal population growth and mechanisms to promote sustainable use of coastal resources
- the impact of climate change on coastal areas and strategies to deal with climate change adaptation, particularly in response to projected sea level rise
- mechanisms to promote sustainable coastal communities
- governance and institutional arrangements for the coastal zone.

Submissions have now closed and a schedule of public hearings have been held. Further details about the inquiry can be obtained from the committee's website at <http://www.aph.gov.au/ccwea>.

Meeting the needs of carers

The House of Representatives Family and Community Committee will conduct an inquiry to determine how to better meet the needs of carers who look after those with chronic illness, disability or frailty.

Committee Chair Annette Ellis welcomed the referral of this inquiry from the Federal Community Services Minister Jenny Macklin. A 2003 Australian Bureau of Statistics survey

found there were over 2.5 million carers in Australia, including more than 470,000 primary carers.

The Australian Institute of Health and Welfare anticipates there will be more than 600,000 primary carers by 2013, with 70 per cent likely to be women.

Ms Ellis said 'The Committee embraces this opportunity to hear first-hand through a formal inquiry from carers about their day-to-day experiences and to learn more about the social, economic and physical costs of being a carer.'

The Committee will inquire into and report on:

- the role and contribution of carers in society and how this should be recognised;
- the barriers to social and economic participation for carers, with a particular focus on helping carers to find and/or retain employment;
- the practical measures required to better support carers, including key priorities for action; and
- strategies to assist carers to access the same range of opportunities and choices as the wider community, including strategies to increase the capacity for carers to make choices within their caring roles, transition into and out of caring, and effectively plan for the future

The Committee will report in early 2009.

Financial Ombudsman Service commences

The Financial Ombudsman Service (FOS) has commenced, merging the Banking & Financial Services Ombudsman (BFSO), the Financial Industry Complaints Service and the Insurance Ombudsman Service.

All Terms of Reference, procedures and policies which previously applied at BFSO, FICS and IOS will continue to apply to disputes which come to the Financial Ombudsman Service following the merger of the three schemes this month.

The Banking & Finance division of the Financial Ombudsman Service now provides the dispute resolution service previously conducted by the BFSO.

An intensive consultation period will take place during the next 18 months during which a single Terms of Reference will be created for the FOS. For more information on the new service, visit www.fos.org.au/.

MR 1/7/2008

Permanent HREOC Commissioners appointed

Federal Attorney-General Robert McClelland has announced the appointment of Graeme Innes as permanent Disability Discrimination Commissioner and Tom Calma as permanent Race Discrimination Commissioner.

Mr Innes is the current Human Rights Commissioner and has acted as Disability Discrimination Commissioner since December 2005. Mr Calma is the current Aboriginal and Torres Strait Islander Social Justice Commissioner and has acted as the Race Discrimination Commissioner since July 2004.

MR 2/7/2008

New Federal Discrimination Law publication released

The Human Rights and Equal Opportunity Commission (HREOC) has released a new publication entitled *Federal Discrimination Law*.

Federal Discrimination Law is produced by HREOC's Legal Section and examines the significant issues that have arisen in federal unlawful discrimination cases. It provides a comprehensive coverage of decisions in the jurisdiction as well as highlighting a range of relevant issues of practice and procedure.

FDL Online provides an updated version of *Federal Discrimination Law*, with the date of currency reflected on the title page.

MR 26/6/2008

Search and you may find Google's Privacy Policy?

Federal Australian Privacy Foundation (APF) Board Member, Dan Svantesson, said: 'Google Australia is taking steps to improve its approach to privacy. However, so far it has failed to take the most obvious step of making its Privacy Policy easy to find.'

Mr Svantesson said that unlike most major Internet companies, Google has refused to place a link to its Privacy Policy on the front page of its website. 'This makes it unnecessarily difficult for people to even know that Google has a Privacy Policy, not to mention what is in it and how it applies to Google service users whose data may be captured,' he said.

Search engine company Google has on several occasions been accused of being one of the worst privacy offenders amongst the popular Internet companies and previously, a coalition of privacy advocates in the US suggested that Google may be violating Californian Law which requires privacy policies to be displayed 'conspicuously,' he said.

'While Australian law does not specifically address this issue, one would hope that companies like Google would wish to pursue "best practice". In this case, doing so would mean placing a seven letter (i.e. "privacy") link on the front page,' Mr Svantesson said.

MR 8/6/08

Same-sex equality in superannuation is not achieved

Greens Senator Kerry Nettle welcomed the Government's same-sex superannuation legislation introduced to the Parliament on 27 May, but was disappointed that it did not deliver superannuation equality for all same-sex couples.

'The legislation removes discrimination for same-sex couples in Commonwealth super schemes but it does not remove the discrimination that same-sex couples face in commercial superannuation schemes,' said Senator Nettle. 'The government is relying on commercial superannuation firms to make these decisions. This is not the removal of discrimination that the government promised the public.'

By contrast, the Federal Human Rights Commissioner, Graeme Innes, has welcomed the introduction of Same-Sex Relationships (Equal Treatment in Commonwealth Laws - Superannuation) Bill 2008 saying it would provide equal access to superannuation benefits for all same-sex couples and their children. He commented that 'Superannuation is one of

the main ways of saving for retirement. Most people expect that their superannuation entitlements will be inherited by their partner, children or other dependants, but Commonwealth employees in same-sex relationships have never had this right. This Bill, if passed, will ensure that right from 1 July.'

Senator Nettle said the Greens will look at moving amendments to ensure discrimination is removed for same-sex couples in commercial superannuation.

MR 27/5/08

First ACT same-sex commitment ceremony takes place

Mr Kevin Boreham, a university lecturer, and Mr Edwin Ho, a public servant, were the first same-sex couple to become 'partners for life' in a commitment ceremony held under the ACT's new civil partnership laws. A small gathering of friends witnessed the historic event held within view of federal parliament.

The ACT government last month abandoned plans to recognise same-sex relationships through civil union ceremonies after the federal Labor government said it would veto the move. Instead, the Territory's Legislative Assembly passed the civil partnership laws which allow for commitment ceremonies.

*Simon Jenkins, AAP Correspondent
2/6/08*