



Australian Government
**Department of Agriculture,
Water and the Environment**

Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity

Inquiry into the expansion of ACLEI's jurisdiction and corruption vulnerabilities of Australia's law enforcement agencies' contracted services

Submission by the Department of Agriculture, Water and the Environment



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1. Introduction

The Department of Agriculture, Water and the Environment (the department) welcomes the opportunity to provide a submission to the inquiry by the Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity (ACLEI) on the expansion of the ACLEI's jurisdiction and the corruption vulnerabilities of law enforcement agencies' contracted services. The department has a close partnership with ACLEI in efforts to detect, deter and respond to corruption within the department.

2. Related Submissions

The department provided a submission to the Parliamentary Joint Committee on the ACLEI in relation to its inquiry into the integrity of Australia's border arrangements in April 2021.

The department has also provided two submissions to the Attorney-General's Department (AGD) relating to the proposed establishment of the Commonwealth Integrity Commission (CIC):

- in May 2019, the department provided a submission to the AGD on the Commonwealth Integrity Commission Bill 2019 and the Commonwealth Integrity Commission Consequential and Transitional Provisions) Bill 2019 (the CIC Bills), and
- in February 2021, the department provided a further submission to the AGD on the CIC Bills.

The department's submissions on the CIC Bills focussed on the following issues:

- confirming the department's support for proposed expansion of the CIC's jurisdiction across the department's entire workforce,
- the type of matters to be referred to ACLEI by the department, including challenges regarding broad notification obligations,
- how matters are to be referred to ACLEI by the department, including challenges regarding proposed agreements under the CIC Bill,
- who within the department will be within the remit of the CIC, including the scope of 'contracted service providers', and
- the department's limited ability to pursue employment action and reduce corruption risk in certain circumstances.

In each submission, and in engagement to date, the department has welcomed the establishment of the CIC and remains committed to implementing robust and effective frameworks to reduce and eliminate fraud and corruption.

3. The Department

The department's primary purpose is to partner and regulate to enhance Australia's agriculture, water resources, and unique environment and heritage.

The role of the department is diverse and far reaching. The department delivers policies and programs for a strong economy and a healthy environment, with a focus on driving robust and sustainable agricultural industries, managing our environment and heritage, and supporting our regional communities.

In doing this, the department acts as a policy adviser to government, researcher, program administrator, service provider, market access negotiator and regulator.

The department employs approximately 7,000 staff working across Australia, in our external territories, including the Antarctic and in overseas posts around the world. Our staff include inspectors, policy and assessment officers, licensing and permitting officers, program administrators, biosecurity and compliance officers, investigators, veterinarians, scientists, researchers, economists, accountants, legal officers, ICT specialists, data analysts, expeditioners, food safety meat assessors, auditors, park managers and more.

Staff are in a range of locations including national parks, Antarctica, shipping ports and airports, mail centres, quarantine facilities, laboratories, abattoirs and offices in remote and regional centres, rural communities and cities. They work towards achieving the department's purpose and objectives, while effectively managing our risks.

4. Summary of Recommendations

The January 2021 expansion of ACLEI's jurisdiction from five to nine law enforcement agencies, including the support given to, and effectiveness of, agencies undertaking new responsibilities in working collaboratively with ACLEI in detecting, investigating, and preventing corruption.

- Consideration of reporting requirements to ensure arrangements are fit for purpose should an expansion of jurisdiction occur. A simplified approach is needed to ensure that jurisdictional agencies are able to adequately manage reporting obligations with limited investigative resources.
- In support of enhanced identification of corruption activity, the department would benefit from an enhanced focus by ACLEI on:
 - investigation and generation of corruption referrals to the department through ACLEI's investigative programs and agency oversight function, and
 - enhanced strategic analysis and reporting on corruption prevention, including risk indicators, detection methodologies and outreach and engagement programs.

The additional corruption vulnerabilities that may exist from the contracting of services or functions by law enforcement agencies to external service providers.

- That the inquiry considers the outcomes and insights of the Chief Operating Officer (COO) Committee: Contractor Management Working Group in the context of identifying mitigating potential corruption vulnerabilities.

What systems or processes are in place within law enforcement agencies to identify, report and investigate potential corruption within external service providers.

- That the inquiry considers the existing definitions of '*contracted services providers*', '*external service providers*' and '*members of staff*' in the context of jurisdiction and the impacts of these definitions on the ability to investigate corruption in these classes of persons.

Whether there are similar corruption vulnerabilities in partnerships between law enforcement agencies and other government agencies who are not subject to ACLEI's powers for investigation.

- That the inquiry considers insights and outcomes from the Criminal Justice and Law Enforcement Forum information sharing working group to harness opportunities to enhance information sharing provisions, which would increase the ability to appropriately share and receive information related to persons subject to integrity investigations.

Other relevant matters

- That the inquiry considers opportunities to support entity-specific checking to enhance employment suitability processes, including by recognising employees of law enforcement agencies as subject to particular terms and conditions of engagement and ongoing suitability in order to better prevent, detect and disrupt corruption.

5. The January 2021 expansion of ACLEI's jurisdiction from five to nine law enforcement agencies, including the support given to, and effectiveness of, agencies undertaking new responsibilities in working collaboratively with ACLEI in detecting, investigating, and preventing corruption.

Since 1 July 2013 the department has operated under partial jurisdiction of the ACLEI. Section 10(2E) of the *Law Enforcement Integrity Commissioner Act 2006* (LEIC Act), together with regulation 7 of the *Law Enforcement Integrity Commissioner Regulations 2017* (LEIC Regulations), provides for the following departmental positions to be captured within the meaning of 'staff members' for the purposes of the LEIC Act:

- the Secretary, who has specific reporting obligations under the LEIC Act,
- persons who hold, or are acting in, the position of Regional Manager in the department,
- members of staff in the department whose duties include undertaking assessment, clearance or control of vessels or cargo imported into Australia, and
- members of staff in the department who have access to the Integrated Cargo System.

Approximately 2,000 departmental employees currently fall under ACLEI jurisdiction. Investigative activity and response to corruption issues relating to departmental employees prescribed under ACLEI jurisdiction are managed within the LEIC Act, in partnership between the department and ACLEI.

Under the LEIC Act, potential corruption issues that relate to employees within legislative jurisdiction are managed between the department and ACLEI through three referral pathways:

- the department refers all internal reports of potential corruption issues to ACLEI for assessment (section 19 of the LEIC Act),
- ACLEI receives referrals from third parties (for example, other departments or agencies) which relate to department employees (section 23 of the LEIC Act), and
- ACLEI initiates referrals of potential corruption issues relating to department employees through their own investigative programs (section 38 of the LEIC Act).

Source of reporting of allegations	2018-19	2019-20	2020-21	2021-22 to date	Total
Referrals to ACLEI by DAWE Secretary (s 19 referrals)	13*	3	3	1	20
Referrals to ACLEI involving DAWE staff by third parties (s 23 referrals)	6	0	0	0	6
ACLEI initiated referrals – relating to DAWE staff (s 38 referrals)	0	3	0	0	3

*Note the increase in s19 referrals to ACLEI in 2018-19 coincided with a targeted engagement program on integrity delivered across the department during this period.

These referral pathways create significant administrative overheads for jurisdictional agencies with the majority of reporting, including regular progress reporting (section 64 of the LEIC Act) and closure reporting (section 66 of the LEIC Act) on all investigations managed by the department, occurring at the Secretary and Integrity Commissioner level. The department continues to collaborate with ACLEI to introduce efficiencies in reporting processes, however delegated powers would markedly improve efficiency (including rapid responses to emerging risks) and allow limited department resources to be dedicated to investigations rather than administration.

The department continues to invest in detection and outreach initiatives to identify corrupt activity and drive a reporting culture across the department's workforce, including:

- implementation of a dedicated *Integrity Hotline* and *Fraud and Corruption mailbox* to enhance internal reporting culture and centralise data capture on integrity matters,
 - this central capture of integrity reporting enables key integrity stakeholders, including the Chief Security Officer and relevant senior managers in integrity, human resources and security to identify and address problematic behaviours and to conduct early interventions,
- assessments and checks of staff member declarations including conflicts of interest, outside employment and gifts and benefits,
- delivery of face-to-face and online integrity training and fraud and corruption risk education programs to compliment ongoing integrity engagement with staff, strengthen awareness of upholding appropriate work practices and policies and to provide support to staff members, and
- continued investment in the development of integrity detection capability to proactively identify and respond to integrity related activity across the department.

5.1 Recommendations

The department suggests the inquiry consider if ACLEI's existing reporting requirements are fit for purpose should an expansion of jurisdiction occur. A simplified approach is needed to ensure that jurisdictional agencies are able to adequately manage reporting obligations with limited investigative resources.

In support of enhanced identification of corruption activity, the department would benefit from an enhanced focus by ACLEI on:

- investigation and generation of corruption referrals to the department through ACLEI's investigative programs and agency oversight function, and
- enhanced strategic analysis and reporting on corruption prevention, including risk indicators, detection methodologies and outreach and engagement programs.

6. The additional corruption vulnerabilities that may exist from the contracting of services or functions by law enforcement agencies to external service providers.

The department has a robust approach to detecting and responding to corruption and has undertaken significant work to identify and understand integrity risks and controls across the department. Following Machinery of Government changes in 2020, the department implemented its Fraud and Corruption Control Plan and Risk Assessment in 2021. The department's key corruption risks are:

- unauthorised access to, manipulation of or disclosure of information,
- unauthorised facilitation of import and export processes for personal or third-party gain, and
- corruption of accreditation, use and monitoring of third-party providers and processes.

The diverse nature of the department's functions and the value of the information it holds makes it and its staff (both internal and external) vulnerable to fraud and corruption. The department has committed significant effort to building its detection and investigative capability, as well as raising awareness of fraud and corruption risks and embedding a culture of integrity amongst departmental employees, through initiatives such as the implementation of the department's Integrity Framework, Core 4 Values and targeted fraud and corruption risk engagement program in 2021.

The department's regulatory functions at the border remain its highest risk of corruption activity. The department undertakes a range of diverse functions to manage the increasing and high volume of goods and vessels into and out of Australia. In 2020-21 this included:

- Over **746,000** travellers were cleared at airports and seaports
- Over **13,000** items of biosecurity concern were intercepted on travellers
- Over **72,000,000** mail articles entered Australia, over **64,000** items of biosecurity concern were intercepted in mail articles
- Over **15,200** inspections were conducted on international vessels
- **573914** commercial consignments were referred to the department, **81815** involved non-compliance with Biosecurity or other regulation
- **410699** non-commercial consignments were referred to the department, **72271** involved non-compliance with Biosecurity or other regulation
- **4488** post border detections were recorded, of which **704** were actionable

To support the delivery of these regulatory functions, the department utilises the services of a range of third-party service providers, as outlined below.

Approved Arrangements

The department's Approved Arrangements (AA) model involves a central third-party service provider. An AA under the *Biosecurity Act 2015* (Cth) (Biosecurity Act) authorises an entity to carry out biosecurity activities to manage the biosecurity risks associated with their business operations. An AA is not a contract, rather it is a legislative approval for an entity to carry out specific biosecurity activities in accordance with specified conditions.

There are approximately 3,490 AAs in operation, covering a wide range of business enterprises including sea and air freight depots, cold stores, laboratories, fumigators, waste transporters, plant nurseries, zoos, food processors and customs brokers. The biosecurity activities carried out under AAs across the range of business enterprises include assessment of documentation, inspection, testing, treatment, processing, storage, handling, transport, destruction and disposal.

The operators of AAs interact in person with the department's auditors and, depending on the type of AA, the department's inspection staff. AA applicants and operators may also interact with staff through email and phone in relation to various matters such as booking inspections or applying for AAs or variations to AAs. AA operators typically only have access to the department's public web systems (for example, the Biosecurity Import Conditions database (BICON), the online AA application form). Customs

brokers operating under AAs for automatic entry processing interact with the Australian Border Force's (ABF) Integrated Cargo System (ICS), either directly or through third party software. This interaction involves customs brokers entering codes reflecting an assessment of consignment documentation in order to receive biosecurity directions or releases from biosecurity control.

While the AA model is not a contracted service, given the nature of this access, corruption vulnerabilities may exist. To mitigate this risk, when assessing an application for an AA, the department must, amongst other things, consider whether the applicant is a fit and proper person under the Biosecurity Act. Assessment of fit and proper person status involves a number of considerations, including conviction and pecuniary penalty history as well as whether the applicant has previously had AAs or import permits suspended or revoked, as might happen following instances of serious non-compliance. The fit and proper person provisions assist the department in excluding entities which pose a demonstrably high risk of non-compliance, which can include non-compliance related to corruption. Following approval, the department routinely monitors the compliance of businesses with their AAs and the conditions of those arrangements. This ongoing compliance monitoring seeks to identify both inadvertent and deliberate non-compliance.

As AA operators are not contracted by the department to exercise departmental powers or duties but are instead approved by the department to carry out biosecurity activities associated with their businesses, the department's focus is on monitoring the compliance of those AA operators with the conditions of their AAs. In the course of this compliance monitoring the department may become aware of evidence of some form of corruption relating to the Biosecurity Act or other legislation. Any such information would be provided to the department's Enforcement Branch for investigation.

Sharing of information relating to AA operators with other agencies (or with non-biosecurity areas of the department) is subject to the information confidentiality provisions under sections 580-590 of the Biosecurity Act.

Biosecurity Contracted Workforce

The department's biosecurity areas utilise Whole of Australian Government (WoAG) processes to engage contractors (either as consultancy services or labour hire services) to assist with performing the department's biosecurity functions. Under these arrangements there are standard confidentiality clauses regarding access to, and use of, departmental information. Contractors engaged under WoAG processes are working under the guidance of department officers in positions of trust.

For example, at the Post Entry Quarantine (PEQ) facility the department contracts from a range of agencies to fill Biosecurity Contract Officer and Contract Officer positions. Biosecurity Contract Officers perform a large range of biosecurity functions associated with the management of animal and plant biosecurity risks at PEQ. Contract Officers undertake duties that are of assurance to biosecurity officers such as animal husbandry and support animal collections. Biosecurity Contract Officers have access to department systems so they can undertake their role. Contract Officers do not have access to any systems as their roles do not require IT access.

The department's Detector Dog Unit also engages a contracted workforce, who undertake kennel hand duties, through local labour hire arrangements in Perth and Melbourne. Kennel hands are managed by the local Detector Dog Technical Supervisor. In Sydney, the department has shared kennelling

arrangements with ABF's contracted workforce, who also manage the Kennel hands. In most jurisdictions, the facilities for kennelling of detector dogs is in shared leased premises with other government agencies, such as the Australian Federal Police (AFP), West Australian Department of Primary Industries and Regional Development and/or the ABF. Melbourne is the only location where a department lease is in place with a third party.

As of 31 July 2021, the department's Biosecurity Operations Division (BOD) had a total workforce of 2,023 employees, comprising of 1,747 ongoing, 96 non-ongoing, 50 casual and 130 contractor employees. The contracted workforce performs functions related to the department's biosecurity functions such as:

- responding to client requests for information on the department's role, services, and regulatory obligations within the Client Contact Group program, responsible management of inspection processes and bookings,
- undertaking assessment of documents for clients importing goods into Australia to support compliance by individuals and industries of import requirements,
- program management and providing assistance with the delivery of major government policy agendas, including drafting New Policy Proposals and other policy documents, and
- general administrative and business/financial management functions.

More broadly across the department, and separate to the AA model, the department is increasingly reliant on a casual and contracted workforce to fulfil its program obligations. As of 31 July 2021:

- the department engaged 1,630 contractors (of a total workforce of 8,699 (both APS and contractors) - 19% of total workforce), and
- of APS (i.e. non-contractor) employees, the department employs 6,315 ongoing (89%), 413 non-ongoing (6%) and 341 casual (5%) employees.

Consideration for the use of contractors is given where a role has a higher biosecurity risk (for example importation of live animals and plants) due to the associated political, economic and biosecurity consequences if there is a failure in processes or systems. The current engagement of contractors is considered a manageable risk (i.e., through police checks and security clearances), and contractors are generally used in roles considered low in risk.

All contractors engaged under WoAG processes are required to undergo a police check prior to commencement. Additionally, depending on the APS equivalent level of the contracted officer and the function being performed, security clearances are progressed to access higher level classified information if required.

Risk Mitigation

To mitigate against insider threats in the casual and contracted workforce, integrity and security processes are implemented across the employment lifecycle. During recruitment, employment suitability and eligibility checks include:

- confirmation of identification using the Document Verification Service (from a third-party provider) and checking legal rights to work in Australia,

- Conducting National Police Records Checks, supported by a mature and documented process to risk-assess disclosable court outcomes as they intersect with the inherent requirements of the position,
- requirement to obtain and maintain a security clearance to the specified level, and
- where applicable, a risk assessment for the engagement of non-Australian citizens and a waiver process for those who require a security clearance through the Australian Government Security Vetting Agency.

Ongoing suitability is ensured through mandatory training, including but not limited to:

- *Integrity Essentials* and *Security Essentials* e-learning packages within 3 months of joining the department for contractors engaged for longer than 3 months and within the first week for contractors engaged for less than 3 months; and
- *Security Clearance Holder Obligations* e-learning training package for external workforce who are security clearance holders.

The department continues to strengthen these processes and has activities underway to engage the casual and contracted workforce more effectively in cessation exit processes and obligations, continuing to build on internal information sharing initiatives, and sharing employee risk information between government agencies.

Key challenges for the department in mitigating risks associated with the casual and contracted workforce include:

- maintaining visibility to ensure that systems access is appropriate and ceased on departure, combined with the need for mature metrics and reporting to manage contractors in-agency and when moving between agencies,
- aligning risk mitigation measures with high-risk positions to ensure that risk is appropriately managed,
- highlighting key differences between the APS workforce and contractor workforce in terms of procedures and policies to be followed (for example, financial and HR delegations), ensuring they are adhered to and disincentivising the perceived need and/or ability to create work arounds,
- front-loading security and integrity requirements into contracts, including exit clauses (for example skills transfer back to the APS workforce on cessation), requires expertise and planning, and
- procurement and contract management must become a core APS capability to mitigate against risk of non-compliance and fraud.

The department is advancing a series of interconnected initiatives to begin addressing these challenges, including:

- an integrity and security culture uplift project to develop a suite of creative and innovative communication tools to educate and raise awareness of integrity and security risks and obligations across the department. This project will be focused on changing behaviours and driving a reporting culture to uplift the integrity and security culture as a key risk mitigation,
- an annual electronic Integrity and Security Declaration has been developed for employees aligned to their performance management cycle. The form is designed to assist employees to

easily comply with obligations related to security training, changes of circumstances for security clearance holders, secondary employment and conflicts of interest. The declaration provides links to each obligation or process, as well as to relevant policies, to ensure employees know where to find the information they need. A modified version of the declaration is being implemented for the casual and contracted workforce,

- the department has recently conducted a 'Contractor Census' to benchmark and analyse contractor sentiment in the department, the results of which are currently under analysis,
- the department's Integrity Branch is represented on the *Chief Operating Officer (COO) Committee: Contractor Management Working Group* (the Working Group):
 - the purpose of the Working Group is to define the scope and progress of an APS enterprise approach to contractor management. The Working Group is chaired by Department of Finance and the opening meeting occurred 24 June 2021,
 - the Working Group will have ongoing oversight of agency-led actions, with actions to focus on consistency, simplification and/or standardisation across the APS,
 - the department has committed to delivering the Working Group's work package titled 'Contractors' understanding of ethics and behavioural expectations', which will identify improvements for consistency in contractor induction processes, including coverage of values and behaviours, ethics and integrity. The work package is scheduled for implementation by March 2022. The department will pilot the program internally with its external workforce before broader roll-out, and
- continued investment in developing proactive integrity detection capability to mitigate against trusted insider risks.

6.1 Recommendations

The department recommends that the inquiry considers the outcomes and insights of the COO Working Group in the context of mitigating potential corruption vulnerabilities.

7. What systems or processes are in place within law enforcement agencies to identify, report and investigate potential corruption within external service providers

Investigation of corruption allegations that are not referred to or accepted by external agencies such as the ACLEI or the AFP are managed through the following internal means:

- Compliance and Enforcement Division investigates allegations of breaches of portfolio legislation,
- Fraud and Corruption Section (Integrity Branch, People Division) investigates allegations of fraud and corruption by departmental employees and its contracted workforce,
- Conduct Section (Integrity Branch, People Division) investigates allegations of breaches of the APS Code of Conduct,
- IT Security Section (Information Services Division) investigates threats to the integrity of the department's IT infrastructure,
- Security Section (Corporate and Business Services Division) responds to breaches of Security protocols, and
- People Support Section (People Division) responds to allegations of wrongdoing for which a formal investigation is not required.

The department is continually assessing how to best manage potential misconduct within its contracted workforce and makes full use of available contractual options, as appropriate. The department actively engages with contracted entities (i.e. recruitment service providers) to ensure behavioural standards are understood and expectations are effectively managed within the terms of the contract. Where criminal activity is alleged to have occurred matters are referred to relevant law enforcement agencies.

Strengthening Capability within Biosecurity Operations Division

BOD is currently establishing a new team to identify and address vulnerabilities within its operational processes and systems. In response to external reviews undertaken by the Inspector-General Biosecurity over previous years, the team's focus will be on performing regulatory assurance activities on biosecurity operational pathways using regulatory design methodology. This will provide insights to BOD related to regulatory and legislative vulnerabilities and allow for the implementation of appropriate solutions. This work will also provide BOD with opportunities to uncover any issues related to integrity and corruption within its processes and systems and develop mitigating strategies in real time.

A vulnerability identified relates to the BOD Verification system, which is used by BOD to assess staff compliance against set standards, procedures, and systems and to monitor the performance and competence of individual officers to determine whether staff have the requisite skills, training, attitudes, and behaviours to undertake the required activities. A project is underway to develop a robust Verification Framework for our front-line regulatory officers (which also includes contractors employed under WoAG processes). As part of this framework, there is potential to verify integrity and corruption matters within the cohort of operational employees.

BOD is also trialling automation technologies. These technologies will assist in streamlining activities, such as import document assessments, to help deliver stronger regulatory outcomes. As these technologies are developed and implemented to deliver greater rules-based processing, it is expected to reduce opportunities for mishandling of sensitive information provided to the department.

Definitions

Across the department's contracted workforce, the ACLEI's ability to investigate contracted service providers within the department is governed by the broad definition of '*members of staff*' within the LEIC Act, being:

- *members of staff* within the department whose duties include undertaking assessment, clearance or control of vessels or cargo imported into Australia, and
- *members of staff* within the department who have access to ICS.

Currently, the department understands that contractors are not '*member of staff*' for the purpose of the LEIC Regulations. This continues to create a vulnerability where such staff are not covered by ACLEI jurisdiction, despite performing like tasks alongside ongoing and non-ongoing department employees.

The department has previously sought clarification on the definition of '*staff member*' within the department's submission to the AGD during consultation of the draft CIC Bill legislation, specifically how the legislation will apply to persons who exercise Commonwealth functions that fall within the

department's portfolio responsibility who are however not employees of the department or its portfolio bodies.

Any proposed expansion of ACLEI jurisdiction would require careful consideration of the definition of proposed terms such as '*contracted services providers*', '*external service providers*' and '*members of staff*' and the impacts of these definitions on agency ability to investigate corruption in these classes of persons.

The department noted the definition of 'staff member' may capture these persons as '*contracted services providers*', but the nature and terms of their engagement/employment may indicate that they should not really be classified as '*staff members*'. The department noted the benefit in this arrangement where matters are to be investigated by the CIC, however, if for example, the CIC were to refer a corruption issue relating to a third-party back to the department, the remit of the department to investigate these entities is likely to be limited. The department noted that if all such referrals will remain with the CIC, then it would be beneficial for the legislation to reflect this.

Similarly, the department sought AGD's consideration of whether the way the CIC Bill provides that contracted services providers are 'staff members' is consistent with the intended policy, noting the absence of an employment relationship may present practical difficulty for law enforcement agencies and public sector agencies to adopt any recommendations by the Commissioner to initiate disciplinary proceedings against a person or determine whether their employment or appointment should be terminated.

7.1 Recommendations

The department recommends that the inquiry considers the scope proposed terms such as '*contracted services providers*', '*external service providers*' and '*members of staff*' in the context of jurisdiction and the impacts of these definitions on the ability to investigate corruption in these classes of persons.

8. Whether there are similar corruption vulnerabilities in partnerships between law enforcement agencies and other government agencies who are not subject to ACLEI's powers for investigation.

The ability to effectively share information amongst all law enforcement agencies markedly strengthens the capability of the department to prevent corruption against the Commonwealth. This is increasingly important when employing a diverse workforce of APS and contracted employees. The department recognises the importance of sharing integrity related information in assessing employment suitability as a critical step in corruption prevention.

The Criminal Justice and Law Enforcement Forum (CJLEF) has identified that the complexities of existing legislative frameworks governing agencies' information collection and sharing are such that finding a balance between 'the need to know' and 'the need to protect' information is difficult. There is no single barrier to effective information sharing. While some agencies have strict legislative provisions governing the sharing of their information, for other agencies the issues are not as clear-cut. Aside from legislative obligations, information sharing can be inhibited by internal processes, organisational cultures, varying risk appetites, and/or differing interpretation of legislation. The Criminal Justice and Law Enforcement

Forum (CJLEF) agencies, including the department, have agreed to work together to explore opportunities to enhance information sharing and the department is actively represented in relevant working groups on this issue.

8.1 Recommendations

The department recommends that the inquiry considers insights and outcomes from the CJLEF information sharing working group to harness opportunities to enhance information sharing provisions, which would increase the ability to appropriately share and receive information related to persons subject to integrity investigations.

9. Other relevant matters

The Employment Framework

Law enforcement agencies with governing employment legislation have unique powers to manage the integrity of their respective workforces and in turn proactively prevent, detect and disrupt corruption in their workforces. This includes for example, retrospectively applying conditions of employment relating to suitability, and conducting random drug and alcohol testing. These powers are not available to the department.

While it is important to acknowledge that agencies have different risk profiles, a clear authority to support agency-specific checking would address this deficiency, and fill the gap left from the security clearance process.

While the department obtains some assurance through the security clearance process, clearances are designed to determine the suitability of an individual to have access to national security classified information and assets. Security clearances do not assess risk or an individual's suitability in the context of a particular agency (for example, criminal associations for employees in border-facing roles). A clear authority to support entity-specific checking would address this deficiency and could be achieved through, for example, inclusion in the *Commonwealth Integrity Commission Bill 2020* or by amendment to the *Public Service Act 1999*. This would provide recognition that employees of law enforcement agencies are subject to particular terms and conditions of their engagement and ongoing suitability.

9.1 Recommendations

The department recommends that the inquiry considers opportunities to support entity-specific checking to enhance employment suitability processes, including by recognising employees of law enforcement agencies as subject to particular terms and conditions of engagement and ongoing suitability in order to better prevent, detect and disrupt corruption.