

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S DEPARTMENT

Program: 1.7

Question No. AE16/050

Senator Wang asked the following question at the hearing on 9 February 2016:

1. I understand that in 2013 the Attorney-General's Department developed a National Anti-Corruption Plan for the former Government, following a consultation process. I understand that the plan did not include a federal corruption watchdog. Can the Department outline what the plan did in fact include?
2. What gaps in the current framework were identified during the consultation process?
3. How were those gaps addressed in the National Anti-Corruption Plan?
4. Can the Department outline the mechanisms put in place since the plan was developed in 2013 to improve prevention, detection and investigation of corruption and misconduct in the federal sphere?
5. What has been done to improve coordination across the agencies involved in preventing, detecting and investigating corruption and misconduct?
6. The Department's website states that it "is playing an active role in combating corruption through developing domestic policy on anti-corruption and engagement in a range of international anti-corruption forums".
 - a. Can the Department please detail its developments in respect of domestic policy under the current Government?
 - b. Can the Department please outline its engagement with the international anti-corruption forums under the current Government, including:
 - i. The names of the forums and the participants, together with the date, time and location of any forums attended by the Department;
 - ii. The recommendations made at the forums;
 - iii. The action/s the Department has considered, or is considering, as a result of these forums; and
 - iv. The action/s the Department has taken, or elected not to take as a result of these forums?
7. What mechanisms does the Department consider would be necessary to facilitate effective cooperation between a federal integrity commission and state agencies, should a federal agency become a real prospect?

The answer to the honourable senator's question is as follows:

- 1-3: The National Anti-Corruption Plan was an initiative of the previous Government, which was not finalised. It is not appropriate for the Attorney-General's Department (the department) to disclose the details of the Draft Plan and related policy deliberations.
- 4-5: Since 2013, the Government has implemented a number of new measures and fostered greater coordination across relevant agencies to improve prevention, detection and investigation of corruption and misconduct in the federal sphere. Some recent developments are outlined below.

In 2014, a multi-agency Fraud and Anti-Corruption Centre (FAC Centre) was established within the Australian Federal Police. The FAC Centre facilitates the referral of evaluations, triage and review for FAC matters, provides fraud training for Commonwealth agencies,

gathers intelligence and facilitates agency secondment and joint activity coordination. In July 2015, the FAC Centre commenced coordination of the new multi-agency Serious and Financial Crime Taskforce to focus on identifying and treating the threats posed by serious financial crime. Fraud and Anti-Corruption Centre teams have also been established around Australia to investigate foreign bribery. On 23 April 2016, the Prime Minister, the Hon Malcolm Turnbull MP, announced that the Government was investing a further \$15 million over three years to expand and enhance the foreign bribery investigation teams of the FAC Centre, and support the Centre's ongoing foreign bribery investigations.

On 16 March 2016, the Minister for Justice released a public consultation paper on a possible Australian scheme for deferred prosecution agreements (DPAs). Under a DPA scheme, where a company has engaged in serious corporate crime, prosecutors would have the option to invite the company to negotiate an agreement, under which the prosecution would be deferred. The terms of the DPA would typically require the company to cooperate with any investigation, pay a financial penalty and implement a program to improve future compliance.

On 1 July 2015, the jurisdiction of the Australian Commission for Law Enforcement Integrity was extended to include the Department of Immigration and Border Protection and the Australian Border Force.

In October 2013, the Australian Federal Police and the Australian Securities and Investments Commission established a Memorandum of Understanding on collaborative working arrangements around the evaluation and investigation of foreign bribery matters.

6(a): The department has progressed a number of legislative measures under the current Government to enhance Australia's approach to addressing corruption. For example:

- in November 2015, the Parliament passed the *Crimes Legislation Amendment (Powers, Offences and Other Measures) Act 2015* which clarified that a foreign bribery conviction can be established without proof of an intention to influence a particular foreign public official.
- in February 2016, the Parliament passed the *Crimes Legislation Amendment (Proceeds of Crime and Other Measures) Act 2015* which introduced two new offences of false dealing with accounting documents.

6(b): Australia engages actively in a range of regional and international anti-corruption meetings and initiatives, including:

- the United Nations Convention Against Corruption (UNCAC) meetings
- the United Nations Convention Against Transnational Organised Crime meetings
- the Organisation for Economic Co-operation and Development Convention on Combating Bribery of Foreign Public Officials in International Business Transactions meetings, including the March 2016 Anti-Bribery Ministerial Meeting in Paris
- the G20 Anti-Corruption Working Group (ACWG) meetings
- the Asia-Pacific Economic Cooperation (APEC) Anti-Corruption and Transparency Experts' Working Group meetings
- the Asian Development Bank OECD Anti-Corruption Initiative for the Asia Pacific, and
- the Financial Action Task Force on Money Laundering meetings.

Outcomes of these fora include:

- in 2015, the department delivered the APEC Guide to Mutual Legal Assistance after leading the development of the Guide throughout 2014. The Guide is now publicly available on the APEC website.
- in 2014, the department drove Australia's work as co-chair with Italy of the G20 ACWG. Key achievements of the ACWG include:
 - negotiating and endorsing the G20 High Level Principles on Beneficial Ownership Transparency which detail steps G20 countries commit to taking to ensure legal entities are transparent and are not misused for illicit purposes
 - development of a new G20 2015-16 Anti-Corruption Action Plan, which identifies six priority areas for action during 2015-16, namely: beneficial ownership transparency, bribery, public sector integrity and transparency, combating corruption in high risk sector, international cooperation, and private sector anti-corruption initiatives
 - finalising a self-assessment by G20 countries of their domestic frameworks to combat foreign bribery, including any next steps to be taken in order to fully implement their G20 anti-bribery commitments, and
 - continuing work to recover the proceeds of corruption, particularly through the finalisation of G20 Guides to Asset Recovery.
- in 2013 and 2014, Australia reviewed the implementation of the UNCAC by the Netherlands (with Uruguay) and Tanzania (with Sierra Leone). A team from the UNODC, Turkey and the United States reviewed Australia's compliance with the UNCAC in 2012. The Executive Summary is available on the department's website. Australia is due to review Liechtenstein over 2016-17, and is itself scheduled to be reviewed again in 2017-18.

7: The department's view, as outlined in its submission to the Senate Select Committee on the establishment of a National Integrity Commission, is that the current anti-corruption mechanisms are sufficient.