



Australian Government  
Attorney-General's Department

Secretary

Dear Attorney-General

On behalf of the Attorney-General's Department it gives me great pleasure to congratulate you on your **appointment/re-appointment** as the Attorney-General of Australia. As the first law officer of the Commonwealth, you are one of an illustrious cohort that includes Alfred Deakin, the first Attorney-General of Australia, Sir Isaac Isaacs, Sir John Latham, Herbert Vere Evatt and Sir Robert Menzies.

The Attorney-General's Department was one of the seven original departments of State and was established on 1 January 1901.

The last 110 years have been filled with great challenges and substantial triumphs and I expect the coming years to be no different.

In my view, the Department is well placed to meet the challenges we will encounter in the 43<sup>rd</sup> Parliament. In particular, we are already working with our colleagues both within and outside the portfolio to ensure the Government can meet its commitments with respect to border protection.

National security more broadly will – of course – remain an area of priority across the portfolio. The concept of national security is an evolving one and now encompasses a wider range of threats and concerns including responding to issues such as organised crime and the management of disasters, natural or otherwise. I expect this evolution will continue with an increasing focus on resilience and community safety – issues highlighted by the horrific Victorian Bushfires and ongoing community concerns about criminal gangs. Cybercrime also looms large.

Beyond national security, there is, I believe, an important agenda to pursue in relation to administrative law reform, governance arrangements and economic sustainability in the territories, and responding to the challenges of the electronic economy. It is also time, I believe, to look afresh at the future of the family law system.

The Department's current budget is \$272.4 million with a staff of 1m455. Of course, the Department's budget and the budgets of many of its portfolio agencies will continue to contract over the coming years. This will require us to be increasingly innovative in how we go about our work and especially attentive in ensuring we focus our efforts on the Government's highest priorities. We are already well advanced in exploring ways to make our budget stretch further through efficiencies within the Department and exploring opportunities for shared services with or between portfolio agencies. This work will continue.

On a personal note, I look forward to working with you to meet the challenges ahead and to successfully implementing the Government's agenda.

Yours sincerely **INSERT ELECTRONIC SIGNATURE OR SECRETARY TO SIGN**

Roger Wilkins AO  
Secretary

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Comment [b1]: s.47F

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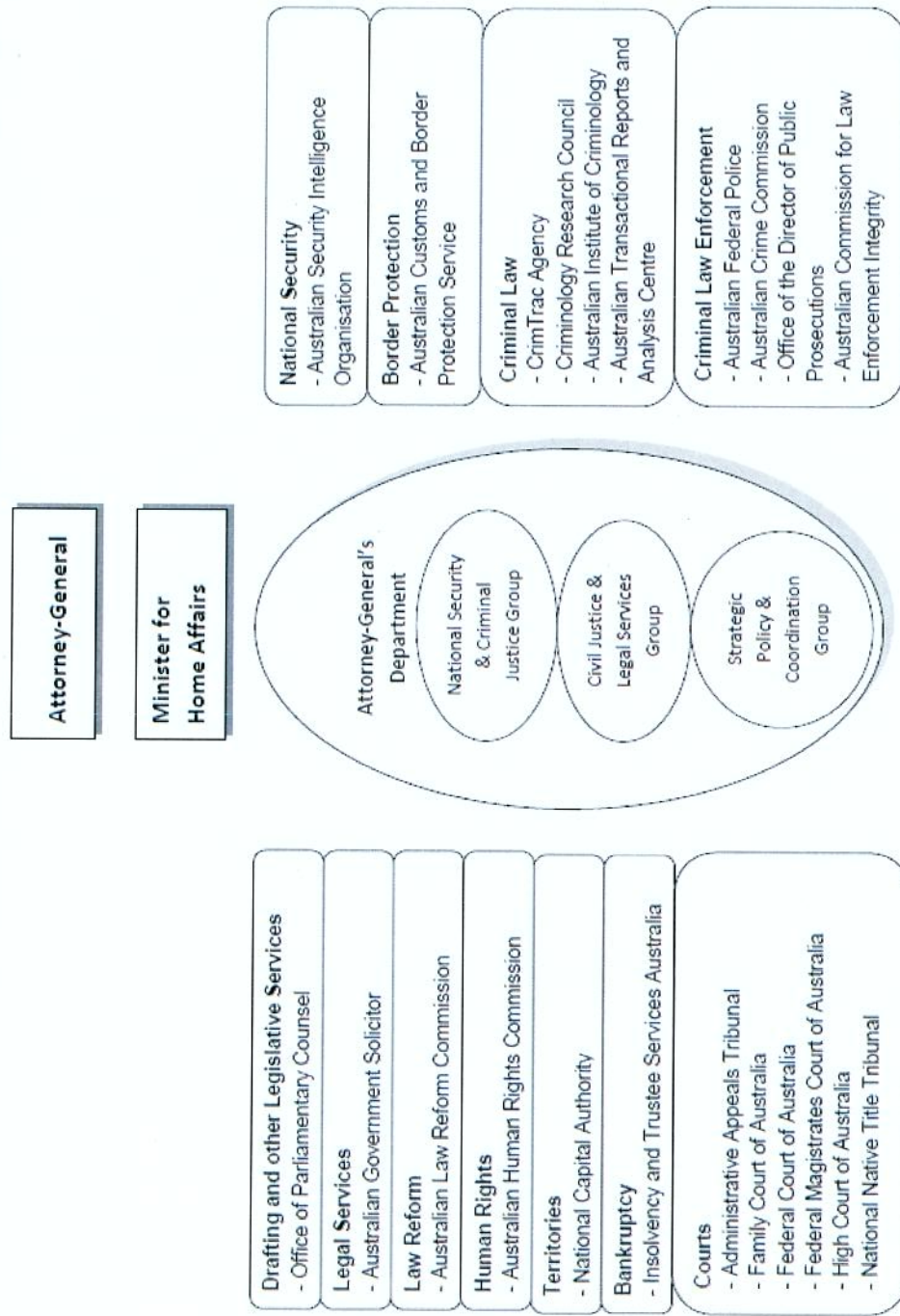
# SECTION 1

## ATTORNEY-GENERAL’S PORTFOLIO OVERVIEW

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## ATTORNEY-GENERAL'S PORTFOLIO



**PORTFOLIO FUNCTIONS**

Ministerial responsibility for the below listed portfolio functions, as set out in the Administrative Arrangements Order, are shared between the Attorney-General and the other Portfolio Minister (most recently the Minister for Home Affairs). Division of responsibilities is decided between the Attorney-General and the Minister.

**Civil Justice and Legal Services**

Administrative Law  
Appointments  
Alternative dispute resolution  
Bankruptcy law  
Classification  
Copyright  
Community Legal Services  
Constitutional issues  
Courts, Tribunals and the Judiciary  
Electronic transactions regulation  
Evidence Act  
Family law including marriage celebrants  
Human rights  
Indigenous justice  
Indigenous legal aid

Insolvency Trustee Service Australia  
Inter-country adoption  
International law  
International Criminal Court  
Law reform  
Legal aid  
Legal profession and legal services coordination  
Native title  
Office of Parliamentary Counsel  
Portfolio Budget  
Pro Bono legal assistance  
Royal Commissions  
Standing Committee of Attorneys-General  
Territories

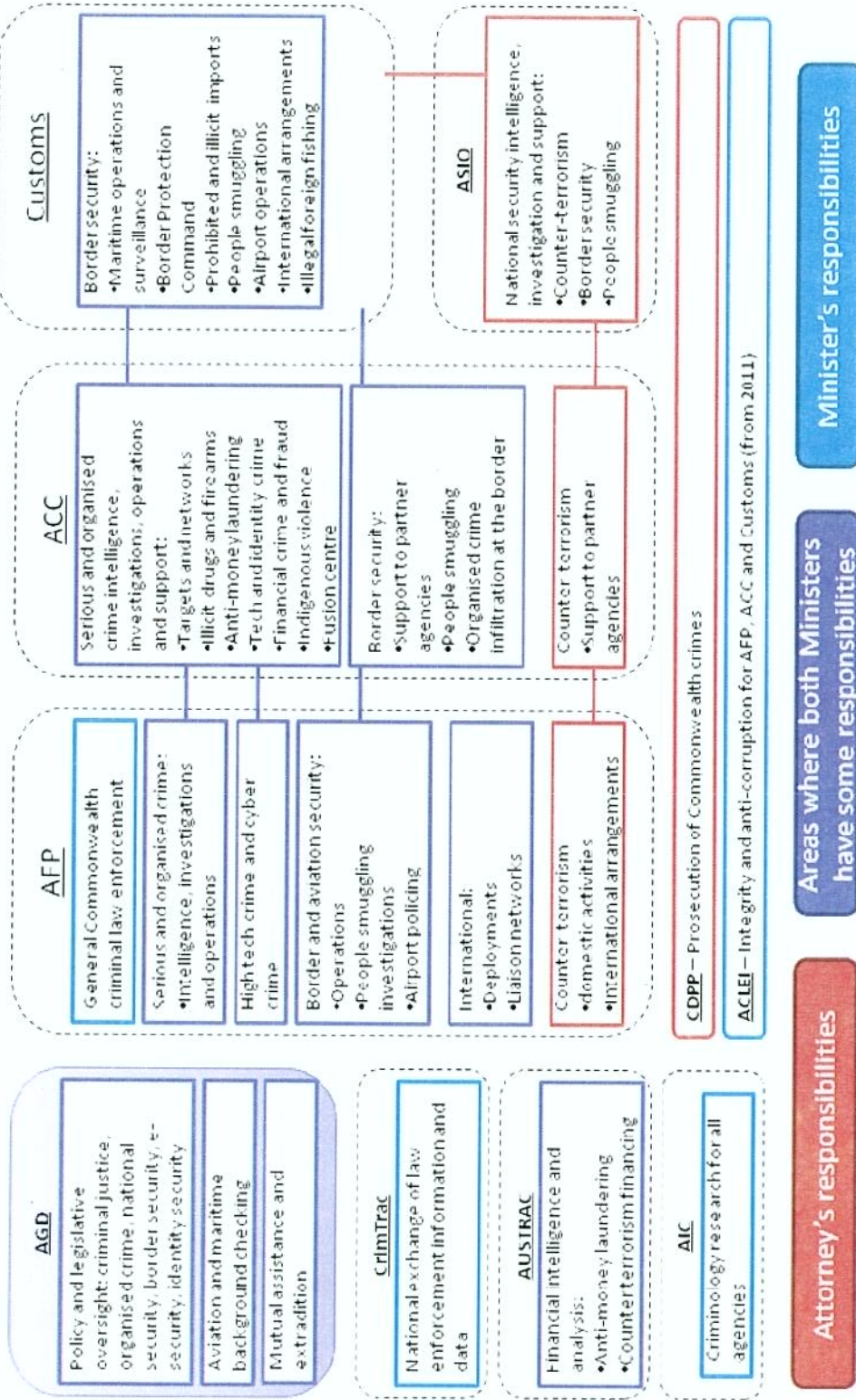
**National Security and Criminal Justice**

Airport physical security and Air Security Officers (to extent not responsibility of Minister for Infrastructure, Transport, Regional Development and Local Government)  
Anti-money laundering strategy  
Australian Crime Commission  
Australian Customs and Border Protection Service  
Australian Federal Police  
Australian Institute of Criminology  
Australian Protective Service, including Air Security Officers  
Australian Security Intelligence Organisation  
AUSTRAC  
Border Protection  
Border Protection Sub-Committee of Cabinet  
Conference of Corrective Services Ministers  
Crime prevention  
Criminal law  
Criminology  
CrimTrac  
Critical Infrastructure  
Cybercrime  
Cyber Security  
Director of Public Prosecutions  
Drugs strategy  
Emergency Management Australia  
Extradition  
Federal Prisoners  
Firearms

Forensics  
Fraud policy  
Identity security  
Intergovernmental Committee on Australian Crime Commission  
International Transfer of Prisoners Scheme  
Juvenile diversion program  
Ministerial Council for Police and Emergency Management—Emergency Management  
Ministerial Council for Police and Emergency Management—Police  
Ministerial Council on Drugs Strategy  
Model Criminal Code  
Mutual Assistance  
National security and counter-terrorism  
National Security Hotline  
Organised Crime  
Police and police liaison  
Portfolio Budget  
Proceeds of Crime  
Protection of critical infrastructure and national information infrastructure  
Protective security policy  
Protective Security Coordination  
Remission of fines  
Security Coordination  
Telecommunications interception  
Tracking and listening devices  
Witness protection



Portfolio oversight – Law enforcement and criminal justice





## SECTION 2

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**POLICY: REAL ACTION TO STOP PEOPLE SMUGGLERS: INCREASED PENALTIES FOR PEOPLE SMUGGLING OFFENCES**

**Strategies**

As part of its border protection policies, the Coalition announced a range of measures to stop people smuggling. This included a commitment to introduce legislation amending the *Migration Act 1958* to:

- include new minimum and non-parole periods for a range of people smuggling offences to ensure that those convicted of people smuggling offences receive a custodial sentence, and
- increase existing minimum and non-parole periods that apply to a range of related offences, including repeat offenders, those convicted of aggravated people smuggling, as well as those convicted of crimes involving the preparation and/or provision of false documents.

(See attached table.)

The *Coalition Plan for Real Action* also stated that, in the first month of office, Parliament would be recalled and legislation introduced to toughen people smuggling penalties and temporary protection visas.

[REDACTED]

[REDACTED]

[REDACTED]

Comment [m4]: s47C

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Comment [m5]: s47F

**Proposed new penalties for people smuggling**

<b>Offence</b>	<b>Maximum</b>	<b>Minimum</b>	<b>Non-parole period</b>
People Smuggling: s233A	10 yrs	12 mths	Must include an actual period of imprisonment
Aggravated people smuggling: s233B (exploitation, danger of death, etc)	20 yrs	10 yrs	7 yrs
Aggravated people smuggling: s233C (at least 5 people)	20 yrs	7 yrs	5 yrs
s233C (repeat offence)	20 yrs	10 yrs	7 yrs
Supporting people smuggling: s233D	10 yrs	12 mths	Must include an actual period of imprisonment
Concealing & harbouring non-citizens: s233E(1)	10 yrs	12 mths	Must include an actual period of imprisonment
Aggravated false document offence: s234A	20 yrs	7 yrs	5 yrs
s234A (repeat offence)	20 yrs	10 yrs	7 yrs



Section 2 – Policy Implementation Strategies

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**POLICY:        SECURE OUR PORTS AND AIRPORTS: INCREASED CARGO  
                      INSPECTIONS**

**Strategies**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Comment [m6]: s. 47C

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**POLICY: AVIATION SECURITY IDENTITY CARD: STRENGTHEN AND ACCELERATE BACKGROUND CHECKS**

**Strategies**

Responsibility for implementing this policy would be shared by the Attorney-General's portfolio (which administers the scheme through AusCheck and relies on CrimTrac and ASIO to provide relevant criminal and security information) and the Infrastructure, Transport, Regional Development and Local Government portfolio, which has policy and legislative responsibility for the ASIC scheme.

[REDACTED]

[REDACTED]

Comment [m7]: s.47C

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Comment [m8]: s.47F

**POLICY: FIGHT CRIME POLICY: NATIONAL COMMUNITY CRIME PREVENTION PROGRAMME**

**Strategies**

The Liberal Party's *Our Action Contract* identifies "Provide Safer Neighbourhoods" through the provision of CCTV as a key election commitment (no.10). This has been met through the announcement of \$50 million to re-establish the National Community Crime Prevention Programme (NCCPP) – with funding of \$5 million in 2010-11, and \$15 million in each of 2011-12, 2012-13 and 2013-14. The NCCPP has also been linked to the Coalition's gang and knife crime proposals.

The Coalition's "Plan for real Action to fight Crime" and Joint Press Release of Mr Abbott and Mr Keenan (24 July) state that the NCCPP will support grass roots projects to enhance community safety and reduce crime measures, including:

- installation of CCTV and other security-related infrastructure,
- funding for local councils to combat low-level crime such as graffiti and vandalism, and
- a national 'Safer Seniors' programme which will provide grants to local government for home security and crime prevention initiatives for seniors (\$7.5 million over three years, \$2.5 million in each of 2011-12, 2012-13 and 2013-14.) (*Coalition's Real Action Plan to Support Seniors*).

[REDACTED]

Comment [m9]: s.47C

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Comment [m10]: s.47F

**POLICY:** FIGHT CRIME POLICY: REAL ACTION TO BREAK UP VIOLENT GANGS – ESTABLISHMENT OF A NATIONAL VIOLENT GANGS DATABASE

**Strategies**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Comment [m11]: s.47C

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Comment [m12]: s.47F



**POLICY: FIGHT CRIME POLICY: REAL ACTION TO BREAK UP VIOLENT GANGS - NATIONAL VIOLENT GANGS SQUAD and HEADQUARTERS**

**Strategies**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Comment [m13]: s.47C

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Comment [m14]: s.47F



**POLICY:** FIGHT CRIME POLICY: NATIONAL STANDARD FOR THE QUANTITIES INVOLVED IN OFFENCES FOR TRAFFICKING IN AND POSSESSION OF ILLICIT DRUGS

**Strategies**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Comment [m17]: s.47C

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Comment [m18]: s.47F

**POLICY: FIREARMS SAFETY FOUNDATION (VICTORIA)**

**Strategies**

The Coalition has committed to providing \$100,000 annually over three years to support the work of the Firearms Safety Foundation (Victoria) ('the Foundation') to increase the provision of firearms education and training to community groups, local government and shooting organisations on hunting and firearm safety.

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Comment [m19]: s.47C

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Comment [m20]: s.47F



**POLICY: \$10 MILLION FOR BUSHFIRE EARLY WARNING SYSTEM**

**Strategies**

The Coalition has committed \$10 million towards an early fire detection system to be developed in consultation with the Victorian State Government, the Country Fire Authority, and communities. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Comment [m21]: s.47C

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Comment [m22]: s.47F

**POLICY: FEDERAL CIRCUIT COURT OF AUSTRALIA**

**This brief should be read in conjunction with Hot Issues Brief – Federal Courts System.**

The proposal would reconstitute the Federal Magistrates Court as the 'Federal Circuit Court of Australia' (FCCA) to deal with the majority of family law matters, and general federal law and military law matters. The federal and family courts would be retained to do appellate work and conduct a small number of complex trials. Federal Magistrates would be offered commissions as Judges in the FCCA and all federal courts would have separate CEOs.

**Strategies**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Comment [m23]: s.47C

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Comment [m24]: s.47F

**POLICY: ENHANCING THE ATTORNEY-GENERAL'S ROLE IN DEREGULATION**

**Strategies**

To enhance the role of the Attorney-General on deregulation issues we would propose that you:

[REDACTED]

Comment [m25]: s.47C

Enhancing the role of the Attorney-General in deregulation was raised by Senator Brandis during his debate with Robert McClelland on 13 August 2010.

[REDACTED]

Comment [m26]: s.47C

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Comment [m27]: s.47F



**POLICY: REFORM FREEDOM OF INFORMATION**

**Strategies**

Significant reforms to the *Freedom of Information Act 1982* will shortly come into effect (the majority of amendments will commence on 1 November 2010, while the publications regime will commence on 1 May 2011). The reforms received bi-partisan support in the Parliament.

The amending legislation describes the aims of the reforms as 'to promote Australia's representative democracy by contributing towards the following: increasing public participation in Government processes, with a view to promoting better-informed decision-making and increasing scrutiny, discussion, comment and review of the Government's activities.'

The operation of the Act with respect to exemptions will change significantly—in particular the application of a new and narrower public interest test to some exemptions (such as those concerning personal information, business affairs information, Commonwealth/State relations, Departmental operations and internal working documents). Other changes require Commonwealth Departments and Agencies to proactively publish more information on the web about some line area activities, and to make all documents released under FOI publicly available. The Act also establishes the Office of the Australian Information Commissioner and the FOI Commissioner, whose roles include developing guidelines, and monitoring and reviewing FOI decisions by Departments.

In Senator Brandis's debate with Mr McClelland during the election campaign he indicated that a coalition government would bring policy responsibility for FOI back into this Department. He also appeared to raise the possibility of further reforms being made to the FOI Act. (Senator Brandis stated that a 'pro-disclosure culture will be observed in fact not merely in rhetoric' and that he would, as Attorney-General, 'drive the right to know agenda'.)

Should policy responsibility for FOI matters be returned to this Department by an amendment to the Administrative Arrangements Order, Departmental officers can advise on any further FOI reforms sought by the new Government.

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Comment [m28]: s.47F



**POLICY: EFFECTIVE PROTECTION FOR JOURNALISTS' SOURCES**

An article in the *Weekend Australian* on 14 August 2010 reported the following:

'The Coalition scheme, unveiled yesterday, would be based on shield laws in force in Britain and New Zealand, which have been endorsed by the Press Council and the Right to Know coalition..... He revealed that the Coalition's bill to enact the proposed shield law had already been drafted'.

This is consistent with the Liberal and minor party view in the Senate Legal and Constitutional Affairs Committee report on the ALP's journalist shield amendments on 15 May 2009.

[REDACTED]

Comment [m29]: s.47C

*New Zealand and UK Models*

The New Zealand *Evidence Act 2006* includes a specific journalist privilege (section 68) which is supported by the Australian Press Council and the Right to Know Coalition. The privilege may not apply if a judge orders that the public interest in disclosure outweighs the adverse effect of disclosure on a person or the public interest in the communication of material to the news media. The onus would be on the person seeking disclosure to establish the public interest.

The UK *Contempt of Court Act 1981* (section 10) contains a similar privilege which may be displaced if a court is satisfied that disclosure is necessary in the interest of justice or national security or for the prevention of disorder or crime. The NZ model appears preferable as it is supported by the Australian Press Council, leaves more discretion to the court as to what constitutes the 'public interest' and may therefore avoid legal argument about the precise category under which disclosure is permitted. At the same time it still requires the court to consider the public interest in non-disclosure.

**Strategies**

To implement this policy:

[REDACTED]

Comment [m30]: s.47C

Section 2 – Policy Implementation Strategies

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[REDACTED]

[REDACTED]

[REDACTED]

Comment [m31]: s.47C

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Comment [m32]: s.47F

**POLICY: ANTI-DISCRIMINATION LEGISLATION BASED ON SEXUAL ORIENTATION**

The Coalition will include sexual orientation as a category within federal anti-discrimination laws. Currently, sexual orientation is not a formal ground of discrimination in the anti-discrimination Acts. It receives only limited protection in the employment context via the *Australian Human Rights Commission Act* and the *Fair Work Act*.

**Strategies**

*Proposed approach*

[REDACTED]

Comment [m33]: s.47C

*Comments*

[REDACTED]

Comment [m34]: s.47C

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Comment [m35]: s.47F

**POLICY: CONSTITUTIONAL REFORM: INDIGENOUS RECOGNITION**

**Strategies**

The Coalition supports constitutional recognition of Indigenous Australians. 'The Coalition's Plan for Real Action for Indigenous Australians' states that the Coalition will 'support a referendum to recognise Indigenous Australian in the preamble of the Constitution'. To this end, the Coalition will 'encourage public discussion and debate about the proposed change and seek bipartisan support for a referendum to be put to the Australian people at the 2013 election'.

During August 2010, the Hon Tony Abbott MP publicly expressed support for a referendum. Senator Nigel Scullion was also reported on 10 August as saying that under a Coalition government a form of words would be developed by the middle of the next political term in time for people to consider well before the following election.

The Opposition supports constitutional recognition. The Hon Jenny Macklin MP announced on 8 August 2010 that the Labor Party would, if re-elected, establish a bipartisan expert panel to progress the issue. Senator Scullion was reported as not supporting a panel. Greens leader Bob Brown was also reported on 10 August as supporting Indigenous recognition but not a panel.

[REDACTED]

Comment [m36]: s.47C

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Comment [m37]: s.47F





**POLICY: HEALTH AND SOCIAL SERVICES ACCESS CARD IDENTITY MANAGEMENT**

**Strategies**

A health and social services access card or single health identifier (access card) has been proposed to provide reliable and convenient proof of identity and entitlement for citizens accessing Government benefits and services and prevent fraudulent activity. The Department of Human Services would have primary carriage of implementation, with the Department providing advice on the identity management issues associated with the measure.

[REDACTED]

Comment [m40]: s.47C

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Comment [m41]: s.47F

**POLICY: DISCONTINUANCE OF THE AFRICA LAW AND JUSTICE FRAMEWORK**

**Strategies**

In a press release dated 20 July 2010, the Coalition indicated it would discontinue the African law and justice program from 2010-11 creating savings of \$12.9 million over the 2010-11 to 2012-13 period. Of that total, \$3.5 million has been allocated to the Department, and the AFP and AUSTRAC have been allocated \$3.6 million and \$5.8 million respectively.

[REDACTED]

[REDACTED]

[REDACTED]

Comment [m42]: s.47C

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Comment [m43]: s.47F

**POLICY: DISCONTINUE AUSTRALIA'S HUMAN RIGHTS FRAMEWORK**

**Strategies**

The Coalition will discontinue the Framework as announced by the former Government in April 2010 as a savings measure.

[REDACTED]

Comment [m44]: s.47C

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Comment [m45]: s.47F



**POLICY: CLOSURE OF THE CHRISTMAS ISLAND IMMIGRATION DETENTION CENTRE**

**Strategies**

Closure of the Christmas Island Immigration Detention Centre would be the responsibility of the Minister for Immigration and Citizenship. AGD, in its state-type role, would implement a number of transitional arrangements associated with the closure of the Immigration Detention Centre on Christmas Island.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Comment [m46]: s.47C

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Comment [m47]: s.47F

**COMMITMENTS IN OTHER PORTFOLIOS WHICH HAVE A SIGNIFICANT ROLE FOR THE ATTORNEY-GENERAL OR MINISTER**

This brief indicates some election commitments that are primarily the responsibility of Ministers outside this portfolio. Implementation of these policies is likely to significantly involve this portfolio for the reasons listed under each.

**Broadband and Telecommunications**

Implementation of the National Broadband Network (NBN) policy is primarily the responsibility of the Minister for broadband and communication matters.

[REDACTED]

Comment [m48]: s.47C

**Energy Resources**

The commitment to work with industry to ensure national energy security is primarily the responsibility of the Minister for energy resources. However, the Attorney-General's Department manages the Trusted Information Sharing Network for Critical Infrastructure Resilience which is the primary mechanism for critical infrastructure owners and operators, including energy infrastructure, to engage with government on security issues facing their sector.

**Indigenous Affairs**

Implementation of policies on future directions for the Northern Territory Emergency Response is primarily the responsibility for the Minister for Indigenous Affairs. The Attorney-General has a significant role in many aspects of Indigenous affairs, especially in the area of **Indigenous community safety, in particular law and justice issues.**

**Paid Parental Leave and Mental Health**

**The implementation of the paid parental leave policy and the expansion of frontline services in mental health is primarily the responsibility of the Ministers for family and community services and health matters respectively. However, these policies will also raise significant family law and discrimination law issues, requiring consultation with the Attorney-General.**

**Small Business**

The commitment to genuine consultation with the Small Business sector on changes in Government imposed fees and charges, along with Cabinet assessment of potential small business impacts, is primarily the responsibility of the Minister for business and industry matters.

[REDACTED]

Comment [m49]: s.47C

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Comment [m50]: s.47F