

4 May 2016



Senator Zhenya Wang
Chair
Select Committee on the establishment of a National Integrity Commission
PO Box 6100
Parliament House
CANBERRA ACT 2600

By email: nic.sen@aph.gov.au

Dear Senator

ESTABLISHMENT OF A NATIONAL INTEGRITY COMMISSION

1. Thank you for the opportunity to appear before the Select Committee on the establishment of a National Integrity Commission (the Committee) regarding the inquiry into the establishment of a National Integrity Commission (NIC).
2. This supplementary submission seeks to address a question on notice raised by Senator Eric Abetz at the Law Council's appearance, namely:
...how widely was your submission ventilated amongst the various constituent bodies and lawyers around Australia, noting that you claim that you potentially speak for 60,000 lawyers?
3. I understand that the question was raised in order to give the Law Council an opportunity to outline for the Committee the very rigorous processes to which Law Council policies and inquiry submissions are subject and to satisfy the Committee that the Law Council does indeed speak on behalf of the legal profession in Australia at the national and international level.
4. As Senator Abetz alluded to in his question, the Law Council is the national peak body representing approximately 60,000 lawyers, through the Bar Associations and Law Societies of the states and territories, and Law Firms Australia (the 'Constituent Bodies' of the Law Council).
5. The Law Council is governed by a board of 23 Directors – one from each of the 17 Constituent Bodies – and six elected Executives. The Directors meet quarterly to set objectives, policy and priorities for the Law Council.
6. Between the meetings of Directors, policies and governance responsibility for the Law Council is exercised by the Executive, led by the President who normally serves a 12-month term, which is usually the culmination of several years experience on the Law Council Board and Executive.
7. The Law Council's work and engagement with law reform initiatives is greatly assisted by five specialist sections (Business Law, Family Law, Federal Litigation and Dispute Resolution, International Law, Legal Practice), which comprise members from all jurisdictions, with expertise in relevant areas of law and legal practice.

8. The Law Council's Strategic Plan outlines the Law Council's vision, values and objectives over five year period.¹
9. Each of the Law Council's Sections contributes to achieving the 'strategic pillars' of the Law Council's Strategic Plan 2015–2020, including legal leadership, rule of law, protecting the interests of the profession, and promoting the development of good laws and justice administration.
10. In addition, the Law Council supports a number of Advisory Committees, which provide advice to the Law Council on a range of specific legal and policy issues. Committee members are legal practitioners with specialised legal knowledge and experience who freely contribute their time and expertise.
11. The Law Council's general policy positions are considered and adopted by the Law Council Board, usually unanimously, following extensive consultation with Constituent Bodies, Sections and Advisory Committees. Constituent Bodies, in turn, consult with their own specialist committees and members in providing feedback and assistance in refining policy positions. Once adopted, many of the Law Council's policy positions are published and made available to the public through its website and in hardcopy.
12. The Law Council alerts its Constituent Bodies to the release of relevant federal inquiries and consultations on a weekly basis. In deciding whether or not to respond to a particular inquiry, the Law Council considers:
 - a. the Law Council's strategic and operational plans;
 - b. the Law Council's past advocacy in the particular area;
 - c. the existence of any relevant Law Council policy statements or guidelines;
 - d. the range of Law Council Constituent Bodies, sections, or committees who may have an interest in the matter and any differences in position between them;
 - e. the level of interest in the matter by the Government or the Parliament;
 - f. the legal profession or other key stakeholders; and
 - g. the financial consequences or resource impact of pursuing the policy matter.
13. In the context of specific inquiries, once a decision has been made to respond a memorandum seeking input is usually distributed to Constituent Bodies, as well as relevant sections, advisory committees, and working groups. This occurred in the preparation of the Law Council's submission to the Committee regarding the establishment of a NIC.
14. Upon receiving a memorandum from the Law Council requesting input, Constituent Bodies may consult with their members and expert committees, and provide views expressed to the Law Council, which inform the Law Council's submissions. It is also open to individual members of the legal profession to express their views directly to the Law Council.
15. After incorporating input received from Constituent Bodies into the relevant submission, and depending on the timeframe for the inquiry, draft submissions are distributed for comment to relevant Advisory Committees and Working Groups. Constituent Bodies and Committees that have provided input into the development of a submission tend to be acknowledged in the submission.
16. These processes have been followed in the development of the Law Council's submission to the Committee.
17. As would be expected in relation to any body representing such a diversity of views and expertise, from time to time there will be differences of opinion on a range of

¹ The Law Council's Strategic Plan 2015-2020 is available from the Law Council's website at <http://www.lawcouncil.asn.au/lawcouncil/index.php/about-the-law-council-of-australia/corporate-documents>.

topics. In respect of the present inquiry and the specific matters raised by the Law Council in its written and oral submissions, the Law Council has not yet been informed of a dissenting view from any of its Directors, Constituent Bodies, Sections, Advisory Committees or individual members of the profession.

18. I trust the foregoing satisfactorily addresses the question.

Yours sincerely

S Stuart Clark AM
President