

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

**Group: 3**

**Program: Other Agency**

**Question No. BE15/047**

**Senator Rhiannon asked the following question at the hearing on 27 and 28 May 2015**

**Senator RHIANNON:** How did the AFP respond when the OECD expressed frustration with the secrecy surrounding Australia's anti-bribery efforts?

**Mr Colvin:** I do not know that they have expressed frustration around the secrecy. They have certainly expressed a view that we have not done enough in the past. In fact, going back to 2012, they released an evaluation report on our implementation of anti-bribery—Australia's implementation, not the AFP's, although obviously we are a part of that—and they were critical of our response to foreign bribery. Since 2012, there have been a range of measures across government, largely in the AFP, to address that. In its most recent report the OECD, while not giving a clean bill of health, recognise that there have been significant advances in Australia's and the AFP's efforts on foreign bribery.

**Senator RHIANNON:** So there has been some improvement, but not a full, clean bill of health. What measures are you taking to respond to those factors that the OECD has identified that have not yet been addressed?

**Mr Colvin:** I believe that what has not yet been addressed is that they, of course, would like to see us do more, as many people would like to see the AFP do more on many crimes. There is only so much we can do, but since 2012 we have brought a concerted effort to this particular crime type. We have participated in a large number of efforts to improve the skill of our officers in foreign bribery, to the point that we now have some highly skilled officers in foreign bribery. We now have a number of investigations—you may well be aware that two are before the courts at the moment. These are highly complicated investigations that lead to very complex prosecutions and take some time to work their way through the courts. As I said, we have in the order of 17 investigations at the moment. So quite a lot has been done by the AFP since 2012, when the OECD first raised some of its concerns.

**Senator RHIANNON:** Thank you for detailing what has been done. Could you just detail what is being done in the areas that have been identified that need to be improved? While you are looking for that, I was wondering if one of the areas was to better protect private sector whistleblowers. I understand that the OECD identified this. Is that one of the areas that you are working on to improve?

**Mr Colvin:** I would have to take that specific question about protecting private sector whistleblowers on notice.

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

In April 2015, the OECD released their report titled "*Australia: Follow-up to the Phase 3 Report & Recommendations*". This document is publically available online at <http://www.oecd.org/daf/anti-bribery/Australia-Phase-3-Follow-up-Report-ENG.pdf>.

Recommendation 15(d) of the OECD Phase 3 report was:

“15. With respect to prevention, detection and reporting, the Working Group recommends that:

- d) Australia put in place appropriate additional measures to protect public and private sector employees who report suspected foreign bribery to competent authorities in good faith and on reasonable grounds from discriminatory or disciplinary action.”

Australia’s response to this recommendation is on pages 30-33 of the report.

Further questions regarding Australia’s response to this recommendation should be addressed to the Attorney-General’s Department and the Australian Securities and Investments Commission.