

Independent counter-terrorism report addresses key concerns of the legal profession

A report released today by the Independent National Security Legislation Monitor has recognised key concerns from the legal profession about improving the safeguards of people subject to the new control order regime.

The report, [Part 2 of the Control Order Safeguards Report](#) (INSLM Report), has responded to several key [recommendations of the Law Council](#) to ensure Australia gets the balance right between protecting the community while upholding essential legal protections. These include:

- the introduction of a special advocate regime for control orders;
- the Federal Court being the primary issuing court for control orders with a power to remit to the Federal Circuit Court;
- that a prohibition or restriction under a control order not constitute a relocation order;
- that consideration be given to including an overnight residence requirement for lengthy curfews; and
- a 'proportionality' test being implemented to ensure that the control order obligations, prohibitions and restrictions are appropriate

The President of the Law Council of Australia, Stuart Clark AM, called on the next re-elected Government to respond promptly and comprehensively to the INSLM's Report.

"Control orders can involve significant restrictions of a person's liberty without following the normal process of arrest, charge, prosecution and determination of guilt beyond a reasonable doubt," Mr Clark said.

"The serious impact that a control order has upon the liberty and life of a controlee and their family will become more severe if, as is likely, control orders are to apply to people as young as 14 and a monitoring of compliance regime is introduced.

"It is therefore essential that the Government responds to the recommendations made in the INSLM's report to ensure the control order regime is proportionate and operationally effective.

"In the past, successive federal governments have not provided responses to INSLM recommendations and this creates a difficulty where it is unclear to the Australian community why the Government seeks to implement some, but not all, recommendations.

"The Law Council would like to see a formal response to all of the INSLM's recommendations in this case," Mr Clark said.

The Law Council has consistently supported the valuable contribution of the Independent National Security Legislation Monitor to the national debate concerning counter-terrorism laws.

"Part 2 of the INSLM's report demonstrates that the role of the Independent National Security Legislation Monitor continues to be a useful and effective form of scrutiny of national security and counter-terrorism legislation," Mr Clark said.

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