

Media Release



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Law Council recommends reform to continuing detention order, control order regimes

Representatives of the Law Council of Australia have appeared before the Independent National Security Legislation Monitor Hearing today and recommended reform to Australia's continuing detention order and control order regimes.

Tim Game SC and David Neal SC, from the Law Council of Australia's National Criminal Law Committee, told the hearing the control order regime itself does not appear to have been utilised by law enforcement since 2015, and that even then its usage was problematic.

[The Law Council's submission](#) suggested this gives rise to questions as to whether these extraordinary powers are necessary for the current threat environment or whether improvements can be made to ensure their utility.

Speaking after the hearing, Law Council of Australia President Fiona McLeod SC said that despite the difficulty in assessing the laws' effectiveness, improvements could nevertheless be made.

"The Law Council recommends a single court process where an application for a continuing detention order is sought to be made. This would assist efficiencies in the judicial process for all parties concerned," Ms McLeod said.

"At the moment there are harmonisation difficulties between the new high risk terrorist offenders continuing detention orders regime and the control order regime.

"The continuing detention order regime for post-sentence detention cases is largely based on State and Territory high risk sex offender legislation, in contrast to the control order regime, which has been developed within the counter-terrorism framework."

Ms McLeod said the Law Council had made several other recommendations relating to the control order regime, if it is to be retained.

"A critical recommendation is that special Commonwealth funding should be allocated to ensure that legal aid is available in confirmation hearings, akin to the arrangements for complex criminal cases," Ms McLeod said.

"This is vital in ensuring Courts are able to adjudicate with the best evidence before them."

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