



Law Council
OF AUSTRALIA

Exposure Draft—Treasury Laws Amendment Bill 2024: Scams Prevention Framework

Treasury

17 October 2024

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About the Law Council of Australia

The Law Council of Australia represents the legal profession at the national level; speaks on behalf of its Constituent Bodies on federal, national, and international issues; promotes and defends the rule of law; and promotes the administration of justice, access to justice and general improvement of the law.

The Law Council advises governments, courts, and federal agencies on ways in which the law and the justice system can be improved for the benefit of the community. The Law Council also represents the Australian legal profession overseas, and maintains close relationships with legal professional bodies throughout the world. The Law Council was established in 1933, and represents its Constituent Bodies: 16 Australian State and Territory law societies and bar associations, and Law Firms Australia. The Law Council's Constituent Bodies are:

- Australian Capital Territory Bar Association
- Law Society of the Australian Capital Territory
- New South Wales Bar Association
- Law Society of New South Wales
- Northern Territory Bar Association
- Law Society Northern Territory
- Bar Association of Queensland
- Queensland Law Society
- South Australian Bar Association
- Law Society of South Australia
- Tasmanian Bar
- Law Society of Tasmania
- The Victorian Bar Incorporated
- Law Institute of Victoria
- Western Australian Bar Association
- Law Society of Western Australia
- Law Firms Australia

Through this representation, the Law Council acts on behalf of more than 104,000 Australian lawyers.

The Law Council is governed by a Board of 23 Directors: one from each of the Constituent Bodies, and six elected Executive members. The Directors meet quarterly to set objectives, policy, and priorities for the Law Council. Between Directors' meetings, responsibility for the policies and governance of the Law Council is exercised by the Executive members, led by the President who normally serves a one-year term. The Board of Directors elects the Executive members.

The members of the Law Council Executive for 2024 are:

- Mr Greg McIntyre SC, President
- Ms Juliana Warner, President-elect
- Ms Tania Wolff, Treasurer
- Ms Elizabeth Carroll, Executive Member
- Ms Elizabeth Shearer, Executive Member
- Mr Lachlan Molesworth, Executive Member

The Chief Executive Officer of the Law Council is Dr James Popple. The Secretariat serves the Law Council nationally and is based in Canberra.

The Law Council's website is www.lawcouncil.au.

Acknowledgements

The Law Council is grateful for the contributions of the Queensland Law Society, the Legal Practice Section's Consumer Law Committee, and the Business Law Section's Financial Services Committee, Digital Commerce Committee, Competition and Consumer Committee, and Media and Communications Committee. We have also referred to the Law Society of New South Wales's submission to this inquiry which was submitted separately due to the restricted time period.

Executive summary

1. The Law Council strongly supports the introduction of a comprehensive regulatory framework to better protect Australian consumers from scams. However, we are not persuaded that the detailed model proposed in the Exposure Draft will achieve that objective in a certain and proportionate manner. Further time is required to consider these issues in detail.
2. Whilst prevention of scams should be a critical component of any legislative scheme that seeks to address scam losses, it is equally important that any such scheme ensures that scam victims are able to access redress in a timely manner. We are concerned that the Exposure Draft, as currently worded, could result in a convoluted and unworkable process for many scam victims, who would thus be prevented from seeking redress. This is particularly the case where many scam victims are vulnerable and are unable to afford legal representation to pursue claims.
3. We emphasize the importance of adequate resourcing for legal assistance for vulnerable consumers seeking to give effect to their right to redress under the Scams Protection Framework (**SPF**). In particular, the final report of the Independent Review of the National Legal Assistance Partnership¹ highlights the need to provide substantial new funding in relation to priority matters including additional resourcing for specialist consumer law legal assistance services and additional grants of aid in civil matters.
4. We make the following recommendations:
 - **Recommendation 1:** There should be an independent statutory review in 12 months to allow for the effectiveness of the SPF to be reviewed alongside related changes to the regulatory landscape—in particular, the operation of the proposed statutory tort for serious invasions of privacy under the Privacy and Other Legislation Amendment Bill 2024 (Cth).
 - **Recommendation 2:** The small business component of the definition of ‘SPF consumer’ in section 58AH(1)(b) should be amended to replicate the existing definition of a ‘small business contract’ under the Australian Consumer Law (**ACL**).
 - **Recommendation 3:** Further consideration should be given to key definitional concepts, such as the definition of scam, to ensure the right balance has been struck between certainty and flexibility.
 - **Recommendation 4:**
 - In principle, well-drafted legislation should not leave the identification of regulated entities to secondary legislation.
 - New section 58AE should be amended to include a requirement to consult with stakeholders from the affected sector.
 - **Recommendation 5:** There should be further consultation on certain obligations directed to internal governance arrangements to ensure they can be complied with in practice.

¹ Dr Warren Mundy, *Independent Review of the National Legal Assistance Partnership* (2024), available [online](#).

- **Recommendation 6:**
 - In principle, well-drafted legislation should not leave the determination of significant aspects of regulated entity and sector obligations to secondary legislation.
 - Alternatively, the Minister should be required, by primary legislation, to consult with affected stakeholders before issuing industry codes.
 - The updated draft sector-specific codes should be published and circulated alongside the bill when it is introduced in Parliament, to enable more informed scrutiny.
- **Recommendation 7:**
 - Further consideration should be given to alternatives to reduce the complexity of the multi-regulator model either through demarcating roles and responsibilities clearly; or by establishing a one-stop shop coordinator office to interface with industry and consumers.
 - All regulators responsible for enforcing the SPF principles and SPF codes should have adequate resources to do so competently and efficiently.
- **Recommendation 8:**
 - There should be consistent compensation principles applied to internal and external dispute resolution and statutory actions for compensation under the Exposure Draft.
 - These principles should be specified in primary legislation to ensure that similar cases are treated consistently and address the application of specific liability rules, causation, apportionment of liability, recognising other competing obligations such as a bank's obligation to act in accordance with its customer's instructions.
- **Recommendation 9:** The Exposure Draft should address apportionment of liability.
- **Recommendation 10:** The Exposure Draft should reserve civil penalty provisions for *systemic* conduct in breach of the overarching SPF Principles or SPF Code.
- **Recommendation 11:** Further consideration should be given to the interaction and appropriateness of the combination of internal and external dispute resolution and potentially civil actions under the SPF.
- **Recommendation 12:**
 - Ensure the Australian Financial Complaints Authority (**AFCA**) receives sufficient resourcing to manage expected increases in complaint volume and reduce delays.
 - The Minister's intention to authorise AFCA as the single external dispute resolution scheme that applies to multiple regulated sectors should be specified in primary legislation.
- **Recommendation 13:**
 - New Part IVF of the *Competition and Consumer Act 2010* (Cth) (**CCA**), establishing an SPF, should be added to section 5 of the CCA as one of the parts of the CCA to which that extra-territoriality provision applies.
 - There should be further consideration of how extra-territorial application will be enforced in the context of the SPF.
- **Recommendation 14:** There should be additional resourcing to ensure access to properly funded legal assistance services, including resourcing

specialised legal assistance services and increasing grants of aid in civil matters.

- **Recommendation 15:** When the Bill is introduced, it should be referred to a Parliamentary Committee for review with an appropriate time period for public consultation and feedback.

Introduction

5. The Law Council of Australia welcomes the opportunity to provide a submission to the Treasury in response to its exposure draft of the Treasury Laws Amendment Bill 2024 (the **Exposure Draft**), regarding the SPF. The proposed amendments contained in the Exposure Draft introduce Part IVF to the CCA, which establishes an overarching SPF. The object of the SPF is to protect Australian consumers against scams.
6. Like the Treasury and the Commonwealth, the Law Council is eager to ensure that the SPF, if enacted, is fit-for-purpose and successful. Yet, the three-week period for submissions to be provided to the Treasury has heavily constrained our ability to engage at a detailed level with the draft Bill and explanatory materials (159 pages in total). This is regrettable given that, having regard to the economy-wide significance of the reforms and the associated costs of compliance for both regulators and regulated entities, obtaining detailed stakeholder feedback in this review was essential to ensure this legislation achieves its objectives and that any unintended consequences are addressed at the design stage.
7. This truncated consultation timeframe has meant that we were unable to incorporate input from several interested Constituent Bodies into this submission. This is a particularly disappointing outcome, noting that as a membership-based organisation, the Law Council has an obligation to consult with its Constituent Bodies, Sections and Expert Advisory Committees on matters of policy.
8. As a result, we have been unable to ascertain the views of the legal profession on a range of features in the draft Bill. In addition, the consultation questions are overly broad, which has made it challenging to provide meaningful responses.
9. In future, on subject matter and legal reform that is substantive and wide-reaching, it would be of great assistance if more time could be provided to ensure consultations and subsequent submissions are as meaningful as possible. This will produce better outcomes for consumers as well as regulators and regulated entities.
10. Given our limited opportunity to engage comprehensively with the draft Bill and its supporting materials, our views must be considered preliminary and subject to change.

Objective

11. The Law Council strongly supports the introduction of a comprehensive regulatory framework to better protect Australian consumers from scams. We agree a whole-of-ecosystem approach is required to reduce gaps which can be exploited by scammers. The rise in sophisticated scams over recent years has resulted in significant consumer and business losses, and reduced trust and confidence in digital and financial services.
12. The Law Council endorsed the 2023–2030 Australian Cyber Security Strategy which identifies key principles and challenges emerging from the parallel proposals, reforms and review processes taking place in relation to privacy, data protection and cyber security regulation across the economy.² We have underlined the need to ensure proportionality, consistency, and certainty within the regulatory landscape.

² Law Council of Australia, Submission to Department of Home Affairs, [Australian Cyber Security Strategy: Legislative Reforms](#) (15 March 2024).

13. The Law Council notes that the establishment of the SPF is consistent with Australia’s involvement in, and advocacy for, a Comprehensive International Convention on Countering the Use of Information and Communications Technologies for Criminal Purposes.³ Article 34 of that Draft Convention would require state parties to establish, under domestic law, appropriate procedures to provide access to compensation and restitution for victims of offences.
14. The Law Council’s engagement with the Exposure Draft is also guided by our Policy Statement on Rule of Law Principles, these principles require that:
 - the law must be both readily known and available, and certain and clear⁴—the SPF should provide a certain mechanism for consumers to access quick, effective and adequate compensation; and
 - the law should be applied to all people equally and should not discriminate on arbitrary grounds⁵—the SPF should more clearly articulate consistent principles to guide the determination of internal and external dispute resolution.

We elaborate on these matters below.

Enhancing and harmonizing regulatory frameworks to enhance cyber resilience across the digital economy

15. The Law Council considers that a comprehensive response to the harm caused by scams, and often interrelated harms caused by economic, fraud and cyber-crime, requires consideration of a number of related elements in different regulatory contexts.
16. We reiterate the ongoing need to develop the SPF in a consistent manner with related regulatory frameworks, including Anti-Money Laundering and Counter-Terrorism Financing,⁶ privacy,⁷ cybersecurity,⁸ strengthening payment systems, online safety measures, the rollout of Digital ID⁹ and e-Invoicing infrastructure for businesses and wider prudential regulation. We also refer to proposals for a regulatory framework to address consumer harms in the crypto-ecosystem, while supporting innovation, noting that legislation is yet to be released.¹⁰ It is important to ensure definitional concepts governing the limits of the SPF are clear and do not create duplication between the SPF and related schemes. This will create confusion for consumers who need a clear pathway to obtain redress and unjustifiably increase regulatory costs.

³ United Nations General Assembly, [Report of the Ad Hoc Committee to Elaborate a Comprehensive International Convention on Countering the Use of Information and Communications Technologies for Criminal Purposes on its reconvened concluding session](#), UN Doc A/78/986 – A/AC.291.28 (19 August 2024, Draft Resolution United Nations Convention against Cybercrime), 78th session, Agenda Item 108.

⁴ Law Council of Australia, Policy Statement—Rule of Law Principles (Policy Statement, March 2011), Principle 1.

⁵ Ibid, Principle 2.

⁶ The Law Council is currently preparing a submission about the Anti-Money Laundering and Counter-Terrorism Financing Amendment Bill 2024 (Cth).

⁷ The Law Council is currently preparing a submission on the Privacy and Other Legislation Amendment Bill 2024 (Cth).

⁸ See most recently, Law Council of Australia, Submission to Department of Home Affairs, [Australian Cyber Security Strategy: Legislative Reforms](#) (Submission, 15 March 2024).

⁹ Law Council of Australia, Submission to Department of Finance, [2024 Digital ID Rules, Accreditation Rules and Data Standards](#) (Submission, 8 July 2024).

¹⁰ Commonwealth of Australia, The Treasury, [Regulating Digital Asset Platforms](#) (Proposal Paper, October 2023).

17. For example, the SPF appropriately does not seek to regulate the harm caused by unauthorised transactions which is regulated separately by the e-Payments Code. The two regimes may overlap such as when a consumer is induced by fraud to provide information that is used by a scammer to make an unauthorised transaction. It is important that any overlap between the Codes should be minimised to avoid duplication.
18. In our view, there should be a statutory requirement that the effectiveness and proportionality of the SPF be reviewed in 12 months by a Parliamentary committee. This will also allow stakeholders to provide informed feedback on the adequacy of the SPF, alongside, the operation of the proposed statutory tort for serious invasions of privacy under the Privacy and Other Legislation Amendment Bill 2024 (Cth).

Recommendation 1

- **There should be an independent statutory review in 12 months to allow for the effectiveness of the SPF to be reviewed alongside related changes to the regulatory landscape—in particular, the operation of the proposed statutory tort for serious invasions of privacy under the Privacy and Other Legislation Amendment Bill 2024 (Cth).**

Scope

The definition of SPF Consumer

19. The proposed definition of ‘SPF consumer’ includes a person who carries on a business having:¹¹
 - fewer than 100 employees; and
 - a principal place of business in Australia.
(referred to in the Explanatory Memorandum as a ‘small business’ definition).
20. The Law Council is concerned about the growing number of ‘small business’ definitions across different pieces of legislation and codes. In particular, as a concept of ‘small business’ already exists under Schedule 2 of the CCA,¹² the proposed definition will create inconsistencies with, and increase the complexity of, the CCA.¹³ For example, whereas under the ACL the test of how many employees an entity has distinguishes between full-time, part-time or casual employees, the proposed definition of SPF consumer does not.¹⁴
21. In the Law Council’s view, greater consistency and harmonisation would be achieved by aligning the SPF consumer definition of a small business with the existing definition of a ‘small business contract’ under the ACL.

¹¹ Exposure Draft, s. 58AH(1)(b) and Exposure Draft Explanatory Materials, 20.

¹² Schedule 2 of the CCA, s 23(4).

¹³ See further, Kate Jackson-Maynes, Patrick Gunning, Peta Stevenson, Amanda Engels, Hal Bolitho, Natalie Stianos, Chelsea Payne and Zareen Qayyum, [Unpacking the Scams Prevention Framework: What you need](#) (Online, 18 September 2024).

¹⁴ Schedule 2 of the CCA, s 23(5).

22. In addition, the Business Law Section's Competition and Consumer Committee (**Competition and Consumer Committee**) make additional observations in relation to the proposed 'small business' definition:
- There is generally no way for a regulated entity to independently verify the number of employees of an entity that it is dealing with, and employee numbers can often fluctuate within any period of assessment. As the Law Council of Australia similarly observed in its submission to Treasury regarding the Strengthening protections against unfair contract terms consultation, many large commercial entities may not have many (or any) employees and instead use service companies to employ staff.¹⁵
 - A 'small business' is not exempt from being designated as a regulated entity or part of a regulated sector. Given the unclear definition of what constitutes an individual scam, this may give rise to uncertain or overlapping liabilities where scam activities involve multiple SPF consumers and regulated entities.
 - While a 'principal place of business' concept exists in other legal contexts (such as, tests for 'carrying on business'), it has not previously been incorporated into a 'small business' definition. Further, the exposure draft materials do not explain the intended purpose of this subsection, nor how it is proposed that this requirement would be assessed. This aspect of the 'carrying on business' test would be ill-suited to incorporation into a 'small business' definition as it is a distinct legislative requirement that has developed in the context of an entirely separate body of jurisprudence.
23. Having considered the feedback received from the Competition and Consumer Committee, the Law Council is concerned that the above issues will create unnecessary regulatory complexities and cause difficulties with the ability of regulated entities to comply with the framework in practice.

Recommendation 2

- **The small business component of the definition of 'SPF consumer' in section 58AH(1)(b) should be amended to replicate the existing definition of a 'small business contract' under the ACL.**

The definition of a scam

24. The Exposure Draft defines a 'scam' to mean a 'direct or indirect attempt' to engage a Framework consumer of a 'regulated service' that 'involves deception' and 'would, if successful, cause loss or harm including obtaining personal information of, or a benefit (such as a financial benefit) from, the SPF consumer or the SPF consumer's associates'.¹⁶
25. The Exposure Draft specifies four categories where an attempt will involve deception, if the attempt:
- deceptively represents something to be (or to be related to) the regulated service;¹⁷ or

¹⁵ Law Council of Australia, Submission to Treasury, [Strengthening protections against unfair contract terms consultation](#), (Submission, 21 September 2021), 24-25.

¹⁶ Exposure Draft, ss. 58AG(1).

¹⁷ Exposure Draft, ss. 58AG(2)(a).

- deceptively impersonates a regulated entity in connection with the regulated service;¹⁸ or
- is an attempt to deceive the SPF consumer into facilitating an action using the regulated service;¹⁹ or
- is an attempt to deceive the SPF consumer that is made using the regulated service.²⁰

26. We understand that these categories are intended to capture the harms identified by the ACCC under its *Targeting Scams* report, including, but not limited to, common scam types such as investment scams, romance scams, phishing scams, employment scams, and remote access scams.²¹ The November 2023 Consultation Paper said in this regard:²²

The proposed definition is not intended to capture unauthorised fraud, such as cybercrimes that may use hacking, data breaches, and identity theft, that do not involve the deception of a consumer into ‘authorising’ the fraud.

27. As we have previously pointed out in our discussion of mandatory industry codes about scams, any definition of ‘scam’ must strike a balance between ensuring certainty for regulated businesses and allowing sufficient flexibility to capture new and emerging scam categories over time.²³
28. The Law Council expresses concern that the definition, outlined above, is not wide enough to capture some remote access and phishing scams which the Law Council considers should be within the scope of the SPF.
29. The Legal Practice Section’s Consumer Law Committee (**Consumer Law Committee**) supported further widening the definition of ‘scam’ and ‘SPF consumer’. They consider that the SPF regime should offer protections to consumers who suffer loss as a result of a broad range of scams, including hacking, cybercrimes and scams that target entities that hold (or provide instructions in relation to) the consumer’s funds or investments. This would help to ensure that regulated entities are accountable under the SPF to both consumers, other businesses and regulators for an uplift in both anti-fraud and anti-scam systems and processes.

Recommendation 3

- **Further consideration should be given to key definitional concepts, such as the definition of scam, to ensure the right balance has been struck between certainty and flexibility.**

¹⁸ Exposure Draft, ss. 58AG(2)(b).

¹⁹ Exposure Draft, ss. 58AG(2)(c).

²⁰ Exposure Draft, ss. 58AG(2)(d).

²¹ Australian Competition and Consumer Commission, *Targeting scams: report of the ACCC on scams activity* (Report, 2023).

²² The Treasury, [Consultation Paper: Scams—Mandatory Industry Codes](#) (Consultation Paper, November 2023), 10.

²³ Law Council of Australia, *Scams—Mandatory Industry Codes*

Regulated sectors subject to the SPF

30. The Exposure Draft provides that a Treasury Minister may, by legislative instrument, designate one or more businesses (e.g., businesses of banking or insurance) or services (e.g., carriage services) to be a 'regulated sector'.²⁴
31. Before making such a declaration, there are certain matters the Minister must consider, including for example, scam activity in the sector (e.g., the Minister may identify that certain businesses or services experience high levels of scam activity), the effectiveness of existing industry initiatives to address scams in the sector (e.g., the effectiveness of existing initiatives in a sector seeking to protect against scams) and the likely consequences resulting from making the instrument.²⁵
32. The Summary of Reforms document observes that:²⁶

Under the framework, the Treasury Minister intends to designate banks, telecommunication providers, and digital platform services, initially social media, paid search engine advertising and direct messaging services—as each represent significant vectors of scam activity. The framework includes a mechanism enabling expansion to other sectors as scammers shift their activity to target consumers through other channels.
33. While we acknowledge the information asymmetry between consumers, banks, telecommunication providers and digital platforms regarding the identification and prevention of scams and agree that it is appropriate for such companies to take reasonable steps to detect, prevent and disrupt scams, it is also important to bear in mind the ongoing work by banks and other businesses to address some of these issues.
34. We received some feedback in support of extending the initial designation of regulated sectors to certain additional high risk and/or interrelated sectors operating in the scam ecosystem. In this regard, the Consumer Law; Financial Services; and Digital Commerce Committees as well as the Queensland Law Society support including:²⁷
 - superannuation funds;
 - digital currency exchanges;
 - payment services providers; and
 - online marketplaces.
35. We also received some feedback arguing against extending the designation of regulated sectors in these ways. At this time, the Competition and Consumer; Media and Communications Committees do not support the extension of regulated sectors in such a manner.
36. The Law Council considers that it is essential that the SPF focuses on the sectors and services most vulnerable to exploitation by malicious actors, without imposing undue and onerous regulations on low-risk sectors. Regulation is not without cost, and unnecessary imposition can result in higher barriers to entry and stifled

²⁴ Exposure Draft, s. 58AC(1).

²⁵ Exposure Draft, s. 58AE(1).

²⁶ Summary of Reforms, 4.

²⁷ See further, Law Council of Australia, Business Law Section submission to Treasury, Scams—Mandatory Industry Codes 2-3.

innovation as additional compliance costs are more likely to deter small players or business units while being absorbed more readily by larger firms.

37. It is equally critical that the designated sectors are defined with sufficient specificity to ensure that businesses can clearly determine whether they fall under the SPF and subsequent sector-specific codes. By clearly delineating the scope of the designated sectors, the government can prevent companies from being unnecessarily burdened by regulations that are more relevant to more vulnerable sectors. In circumstances where Government will have the flexibility of subsequently designating new sectors it should ensure that there is not unnecessary over-capture.
38. Given the significant regulatory costs of compliance, the Law Council expresses caution about the capacity of the SPF to be expanded in these significant ways by Ministerial declaration.
39. We submit that, given the inadequate consultation with stakeholders in scrutinising this Exposure Draft, new section 58AE should be amended to require the Minister to undertake consultation with stakeholders prior to the designation of a regulated sector by legislative instrument. This will also assist in the Minister having relevant information in order to address the other mandatory considerations specified in new section 58AE, including, effectiveness of existing industry initiatives to address scams in the sector and likely consequences resulting from making the instrument.

Recommendation 4

- **In principle, well-drafted legislation should not leave the identification of regulated entities to secondary legislation.**
- **New section 58AE should be amended to include a requirement to consult with stakeholders from the affected sector.**

Content of mandatory industry codes

Workability of certain obligations

40. While the SPF correctly focuses on internal governance arrangements of regulated entities, a number of the processes contained in the Exposure Draft create onerous obligations. These should be the subject of further consultation, to give relevant organisations the opportunity to comment on their workability.
41. We note the observation of the Competition and Consumer Committee that the practicalities of internal sign-off amongst multiple business units within large organisations (that may have global reporting lines) make compliance challenging, for example:
 - a regulated entity has an obligation to comply with a written request for a copy of the entity's SPF governance policies, procedures, metrics and targets for the sector or specified kinds of records within 5 business days;²⁸ and
 - a regulated entity has an obligation to ensure annual certification, about SPF governance policies, procedures, metrics and targets, by a senior officer within 7 days after the start of the financial year.²⁹

Recommendation 5

- **There should be further consultation on certain obligations directed to internal governance arrangements to ensure they can be complied with in practice.**

Overly broad delegation of power to make sector-specific codes

42. The Law Council expresses caution about the overly-broad power of the Minister to make sector-specific codes which include additional or more specific requirements for regulated entities.³⁰ We understand the intent is for the codes to ensure there is robust and targeted action by each sector, and each code will impose obligations and associated civil penalty provisions.
43. We are concerned that there is a significant amount of detail with respect to obligations which will be left to be filled by the drafting of the sector codes. In our view, this has the potential to create uncertainty. We suggest that there should be further clarity around the specific requirements that are contemplated for inclusion in the sector codes. We consider that these matters should be included in the draft bill when it is introduced in Parliament and/or the explanatory materials, to enable more informed scrutiny of the regulatory burden imposed by the SPF.
44. We also have reservations about the Ministerial power to, by legislative instrument, designate one or more businesses or services to be a regulated sector under the SPF.³¹ We suggest that expansion of the SPF should be by amendment to the enabling primary legislation to ensure adequate stakeholder consultation and parliamentary scrutiny.

²⁸ Exposure Draft, s. 58BH(1)(b).

²⁹ Exposure Draft, s. 58BE(1).

³⁰ Exposure Draft, s. 58CB.

³¹ Exposure Draft, s. 58AC(1).

Recommendation 6

- **In principle, well-drafted legislation should not leave the determination of significant aspects of regulated entity and sector obligations to secondary legislation.**
- **Alternatively, the Minister should be required, by primary legislation, to consult with affected stakeholders before issuing industry codes.**
- **The updated draft sector-specific codes should be published and circulated alongside the bill when it is introduced in Parliament, to enable more informed scrutiny.**

Safe harbour protection for scam disruption activity

45. Principle 5 of the SPF, and new section 58BZ, would provide that a regulated entity is not liable in a civil action or proceeding for taking preventative actions to disrupt an activity that is the subject of actionable scam intelligence about a suspected scam.
46. The objectives of the SPF regime can only be achieved if regulated entities feel empowered to take strong and timely action to block activity that they suspect on reasonable grounds may be a scam but where they do not have sufficient information to be certain that the activity is not a scam. Currently, the proposed SPF regime seeks to offer regulated entities this comfort through the safe harbour provision in section 58BZ.

Reasonably proportionate

47. The Law Council is concerned that the current drafting of the safe harbour includes an ambiguous standard of 'reasonably proportionate' in section 58BZ(2)(c) of the Exposure Draft. The uncertainty created by the requirement has the potential to have a chilling effect on regulated entities taking decisive and timely disruptive actions against potential scam activity due to concern over civil liability that may arise from legitimate transactions or communications being blocked, despite the regulated entity taking the impugned action in good faith.
48. Even if section 58BZ(2)(c) is omitted, a person impacted by disruptive actions taken by a regulated entity is still protected by the proposed sections 58BZ(2)(a), (b) and 58BZ(2)(e). Together, these sections require the regulated entity to take action in good faith, for the purpose of complying with the SPF provisions and to promptly reverse the disruptive action once it identifies that the activity was not a scam and it was reasonably practicable to reverse the action.

Fund transfer delays

49. We are also concerned about unintended consequences in the case of transactions disrupted due to funds transfer delays. For example, in the case of a delayed real estate transaction, the loss would be imposed on an innocent party unable to fulfil their contractual obligations because the necessary funds have been frozen. A clear understanding of appropriate timeframes for investigation and release of disputed funds should be established. If funds need to be transferred days in advance of critical transaction dates, very substantial losses in interest entitlements may also accrue.

Multi-regulator model

50. While we acknowledge the rationale for a consolidated multi-regulator approach that builds upon and takes advantage of the existing regulatory framework, we are concerned that the multi-regulator approach to enforcement will create significant complexity for regulators, industry and consumers. We reiterate our concerns that the proposed approach could result in:
- duplication of actions and penalties; and
 - overlapping and inconsistent approaches across regulators and sectors.
51. For example, in relation to banking, it is unclear the extent to which a breach of the SPF principles would also constitute a breach of the SPF code and other provisions of the financial services laws. It is well within the realms of possibility that three or more regulators would have jurisdiction in relation to conduct resulting in scam losses—the ACCC for a breach of the SPF principles, ASIC for a breach of the SPF code and the *Corporations Act 2001* (Cth),³² and APRA for a breach of prudential standards relating to risk management and cyber security.³³ It is also unclear the extent to which internal dispute resolution requirements will be aligned with existing regulatory requirements that apply to banks under ASIC Regulatory Guide 271 and the *Corporations Act*.
52. In this regard, we repeat our recommendation that arrangements should be put in place to:³⁴
- avoid regulatory duplication and overlap; and
 - facilitate the sharing of information between regulators; and
 - promote consistency between regulators both at the sector level and across the SPF.
53. As an illustration of how a coordination mechanism across government may improve interfacing with industry and consumers, we refer to previous submissions we have made about the new National Cyber Security Coordinator role.³⁵ In that context, we argued that establishing a single reporting portal would alleviate some of the compliance costs associated with overlapping reporting obligations owed to multiple regulatory agencies. This rationale was accepted, and the role is intended to include ensuring an holistic approach to prepare for and manage the consequences of cyber incidents, including triaging of government action in response to a major cyber incident by collaborating with industry, state, territory and local governments through the National Coordination Mechanism. We consider that there is a comparable need for a cross-agency coordination mechanism in this context.
54. The Legal Practice Section’s Consumer Law Committee suggest that the Government might wish to consider a similar approach to that taken with the Australian Consumer Law, whereby ASIC is the regulator for ‘financial products’ (as defined in the *Australian Securities and Investments Commission Act 2001*) and the ACCC and state-based consumer regulators are the regulators for all other non-financial products.

³² For example, the ‘honestly, efficiently, fairly’ obligation under section 912A.

³³ For example, CPS 234 Information Security.

³⁴ Law Council of Australia, Business Law Section submission to Treasury, Scams—Mandatory Industry Codes 2-3

³⁵ See for example, Law Council of Australia, Submission to Department of Home Affairs, 2023-2030 Australian Cyber Security Strategy (Submission, 5 May 2023), 22 – 23 [85] – [88].

55. We are concerned that one adverse consequence of the multi-jurisdictional approach is that the need for additional resourcing may be less visible. It is critical that regulators responsible for enforcing the SPF principles and SPF codes have adequate resources to do so competently and efficiently.

Recommendation 7

- **Further consideration should be given to alternatives to reduce the complexity of the multi-regulator model either through demarcating roles and responsibilities clearly; or by establishing a one-stop shop coordinator office to interface with industry and consumers.**
- **All regulators responsible for enforcing the SPF principles and SPF codes should have adequate resources to do so competently and efficiently.**

Compensation mechanism for SPF Consumers

56. The Law Council considers that new sections 58FZ and 58FZE, which provide statutory actions for damages, and other court relief, should be consistent with the proposed internal dispute resolution and external dispute resolution complaint processes under the Exposure Draft.

Like cases should be treated consistently

57. While we generally agree that the compensation scheme should adopt informal and user-friendly processes, it is important that the compensation scheme is subject to principles that ensure similar cases are treated consistently. This is a fundamental requirement of the rule of law.³⁶ This is because the compensation scheme could involve potential liabilities across multiple commercial parties and the scheme has a compensatory focus (as distinct from the customer service focus of the existing internal and external dispute resolution system).
58. We consider that the splitting of potentially significant losses across different business sectors should not be left to general principles of *'fairness'* but should instead be based upon the application of specific liability rules and causation, and recognise other competing obligations such as a bank's obligation to act in accordance with its customer's instructions.

Complexity

59. A person who suffers loss or damage by conduct of another person, in contravention of a civil penalty provision of an SPF principle or SPF code, may recover the amount of the loss or damage by actions against that other person or any person involved in the contravention.³⁷
60. The Consumer Law Committee note that the basic problem with the statutory action for damages under section 58FZ is that the onus is on the consumer to identify the relevant civil penalty provision that has been breached and relevant parties (of which there could be several) as part of an AFCA complaint. If principles of apportionment of liability apply, the consumer would again be required to make

³⁶ Law Council of Australia, Policy Statement—Rule of Law Principles (Policy Statement, March 2011), Principle 2.

³⁷ Exposure Draft, s. 58FZ(1).

submissions to AFCA on the appropriate apportionment of losses across the relevant parties. The process of seeking redress by Court order (for example, if the consumer's loss exceeds the relevant threshold for AFCA's jurisdiction) would be even more difficult.

61. We received feedback generally supporting the view that the structure of the civil penalty provisions in the SPF is unnecessarily complex (this is discussed further at paragraph 76).
62. The Consumer Law Committee consider that, without a mandatory reimbursement model, the complexity of the SPF regime is likely to reduce the accessibility of redress to consumers. This will particularly be the case for consumers who are not represented by a lawyer or advocate. They conclude that it would be preferable to establish a simple mandatory reimbursement model, such as the one being implemented by the Payment Systems Regulator in the UK.
63. While the statutory actions for damages require proof of a breach of an SPF Principle or SPF Code—no direction is given in the Exposure Draft as to how compensation would be determined through internal dispute resolution or external dispute resolution processes. This increases the risk of arbitrary differences in the treatment of similar cases and undermines the rule of law.
64. For the reasons outlined above, the Law Council submits that a consistent approach should be taken across internal and external dispute resolution mechanisms and the statutory actions for damages; as well as other court orders discussed further below. These principles should be specified in primary legislation.
65. The Financial Services Committee submit further that there should be simple compensation rules for any non-court compensation process, because otherwise existing principles would apply, and these would generally result in compensation being denied due to the victim's own causative role in falling victim to a scam. For example, a new obligation could be imposed to require the bank to block a payment to an account listed on the AFCX Exchange and, if the bank failed to do so, there would be an objective basis for attributing liability to the bank.

Recommendation 8

- **There should be consistent compensation principles applied to internal and external dispute resolution and statutory actions for compensation under the Exposure Draft.**
- **These principles should be specified in primary legislation to ensure that similar cases are treated consistently and address the application of specific liability rules, causation, apportionment of liability, recognising other competing obligations such as a bank's obligation to act in accordance with its customer's instructions.**

Class actions

66. The SPF would grant a private right of action to any person who suffers damage because of a contravention of an SPF provision by a regulated entity under section 58FZ.
67. In the view of the Competition and Consumer Committee, this has the potential to create a significant and open-ended risk of private class action for regulated entities, particularly in circumstances where a novel scam campaign successfully affects a

large class of SPF consumers, despite the regulated entities taking actions in good faith to prevent or disrupt the scam activity.

68. The Competition and Consumer Committee considers that the risk of private class action is further exacerbated by the increase in litigation funding for class actions in Australia. Given the high cost of defending such actions, and the potential for high damages being awarded, there is a risk that covered entities would be incentivised to engage in highly risk averse behaviour.
69. Accordingly, by taking forceful disruptive actions to satisfy their obligations under the SPF, there is an increased potential that regulated entities may block legitimate and time sensitive banking transactions, telecommunications and digital message.
70. A distinction can be drawn between the nature of legal risk faced by regulated entities in respect of a private class action and an enforcement proceeding commenced by a SPF regulator. While a SPF regulator tasked with administering any part of the SPF regime is required to take appropriate action in the public interest in accordance with its establishing statute, applying well-established principles of regulatory enforcement, a private class action litigant is not limited by notions of public interest and is driven by profit motives. Because of this, a private class action litigant may be more inclined to commence proceedings (or threaten to do so) against a regulated entity without proof of serious wrongdoing that is contrary to public interest, and thereby seek to leverage a settlement.
71. Since compliance with the SPF provisions is contingent on the satisfaction of an inherently ambiguous standard of reasonability, regulated entities will face significant uncertainty in defending their good faith conduct, which is likely to be exploited by class action litigants to continue litigation and seek a favourable settlement.
72. The Competition and Consumer Committee submit that an analogy may be drawn with the Anti-Money Laundering/ Counter-Terrorism Financing (**AML/CTF**) regime, where systems and controls set up by reporting entities are constantly being tested by motivated criminal actors. This is similar to scam conduct, where sophisticated and well-resourced scammers are constantly challenging all anti-scam initiatives taken by regulated entities. However, there is no equivalent private right of action in the AML/CTF regime, which is enforced by a public regulator.

Apportionment of liability

73. Given that the modern digital eco-system relies on the interconnection between the services offered by regulated entities in the three initially regulated sectors, it is likely that circumstances where regulated services from multiple regulated entities are utilised for the propagation of scam activity will be common. For example, a scam may involve a digital message being sent to an SPF consumer, which results in the latter calling a phone number and making a banking transaction.
74. To overcome the uncertainty that is inherent to the proposed SPF regime, which relies on a combination of internal dispute resolution, external dispute resolution and potentially civil action to apportion liability, the Competition and Consumer Committee suggest that the Government include in the proposed legislation provisions which will provide principles for apportioning liability in circumstances where breaches of SPF provisions are committed by multiple regulated entities within the same regulated sector, or by multiple regulated entities across different regulated sectors.

75. The Law Council's Financial Services Committee and Digital Commerce Committee agreed that most scam losses would ordinarily be incurred in circumstances where the customer and multiple regulated entities might have done more to prevent the scam. In that context, it is concerning that the Bill contains no mechanism for any apportionment of liability between the customer and the multiple regulated entities involved. They also consider that the Exposure Draft should explicitly address principles to govern apportionment of liability.

Recommendation 9

- **The Exposure Draft should address apportionment of liability.**

Court ordered compensation to scam victims

76. The Legal Practice Section's Consumer Law Committee make the following additional observations:
- **Regulators should be empowered to seek redress on behalf of scam victims.** Section 58FZE empowers the court to make orders (other than awards of damages) to redress for loss or damage caused to scam victims. The kinds of orders include an order directing the respondent to refund money or return property to a victim referred in to in section 58FZE(1).³⁸ It appears that regulators would not be able to seek orders from the Court for compensation for loss or damage resulting from breaches of the SPF principles or SPF code as part of a civil penalty proceeding or otherwise. This significantly restricts the regulators' ability to respond to and reduce consumer harm when enforcing the new laws.
 - **The rationale for including subclause 58FZE(5)(b) should be explained.** The Committee query whether it is appropriate for a Court to have general regard to the conduct of victims without any further guidance provided in the legislation or the explanatory materials as to what, of their conduct, might be relevant to the Court's considerations.
 - **Regulators should not take a 'two-step' approach to enforcement action, whereby they issue remedial directions under section 58FZB prior to commencing civil penalty proceedings.** While issuing a remedial direction is not a pre-condition to commencing civil penalty action for other breaches of the SPF principles or SPF code under the Exposure Draft, the Committee are concerned that a practice may develop for regulators to take a 'two-step' approach to enforcement action, whereby they issue remedial directions prior to commencing civil penalty proceedings. Ensuring regulators are agile and responsive to potential consumer harm is essential due to the fast-paced and ever-changing nature of scams targeting Australian consumers.

Necessity of certain civil penalty provisions

77. The Exposure Draft contains an extensive range of civil penalty provisions. There are civil penalty provisions attached to:
- the overarching principles of the SPF (set out in Division 2, for example: in relation to developing and implementing governance policies and

³⁸ Exposure Draft, s. 58FZF.

procedures)³⁹ and the failure to take reasonable steps to prevent scams from being committed;⁴⁰

- compliance with an SPF code;⁴¹
- ensuring an accessible and transparent internal dispute resolution mechanism;⁴² and
- not being a member of a relevant external dispute resolution scheme.⁴³

78. The Law Council shares the concern expressed recently by the Australian Law Reform Commission about the proliferation of civil penalty provisions in Commonwealth law.⁴⁴ This has a tendency to increase legislative complexity and may be difficult to enforce in practice. In this regard, the Australian Law Reform Commission observed: '[p]rovisions containing obligations, as well as the consequences that flow from breaching them, may be unnecessarily complex if they are unduly long, structured inappropriately, duplicative or overly intricate'.⁴⁵
79. The Law Council considers that the civil penalty provisions proposed under the Exposure Draft (which are set at the highest level, and which relate to conduct that is not currently unlawful) should be reserved for systemic conduct in breach of the overarching principles of the SPF Principle or SPF Code.
80. In our view, it is not necessary for civil penalty provisions to apply at an individual customer level (e.g., a failure to take reasonable steps to disrupt a specific scam under new section 58BW or a failure to disclosure to SPF consumer information about actional scam intelligence under new section 58BX). We consider that, at the individual customer level, it is crucial to focus on the obligation for the regulated entity to provide avenues for compensation and redress, through the courts or through internal or external dispute resolution, to the SPF Customer.
81. Given limited resources of regulators, confining civil penalty provisions to issues of systemic breaches also provides important guidance from the legislature on how the regulator should prioritise its resources.

Recommendation 10

- **The Exposure Draft should reserve civil penalty provisions for systemic conduct in breach of the overarching SPF Principles or SPF Code.**

Dispute resolution mechanisms: the interaction of internal dispute resolution, external dispute resolution and civil actions

82. The Law Council considers that the interaction and appropriateness of the combination of internal dispute resolution, external dispute resolution and potentially

³⁹ Exposure Draft, s. 58BC.

⁴⁰ Exposure Draft, s. 58BJ.

⁴¹ Exposure Draft, s. 58FG.

⁴² Exposure Draft, s. 58BZB(2).

⁴³ Exposure Draft, s. 58BZC(2).

⁴⁴ Australian Law Reform Commission, [DataHub—Legislative Complexity and Law Design: Obligations and Penalties](#) (12 December 2022).

⁴⁵ Ibid.

civil actions under the SPF, alongside similar mechanisms under current or future regulatory regimes,⁴⁶ requires more careful consideration.

83. The Competition and Consumer Committee submits that further consideration should be given to the interaction between the internal dispute resolution and external dispute resolution mechanisms proposed under the SPF and the overarching internal dispute resolution processes which Government has called for in relation to digital platforms.⁴⁷ The existence of multiple pathways to dispute resolution risks resulting in delays, consumer confusion and sub-optimal outcomes. Further clarity is required on the intended operation and scope of these processes.
84. We received feedback from the Financial Services Committee that directing victims of scams to internal dispute resolution processes before external dispute resolution processes would result in a poor and frustrating experience for victims. This approach presupposes that a victim would be in a position to select the correct regulated entity to pursue (which might be their own social media platform, their telecommunications carrier, their bank or a payee's bank). Any one of these regulated entities might have principal or exclusive responsibility for a given scam loss. For example, where:
- A social media platform has hosted known scam content identified as a scam on the AFCX Exchange and has failed to take it down;
 - A telecommunications carrier has facilitated the use of a mobile phone number identified on the AFCX Exchange for scams or failed to block access to a website identified on the AFCX as using a malicious URL, the victim's bank would be justified in declining to provide compensation from the victim if the victim initiated an internal dispute resolution compensation claim with the bank.
85. The Queensland Law Society supports clear and accessible dispute resolution pathways for consumers to seek redress against scam activity and supported the internal and external dispute resolution processes. However, it also considers that further clarity is needed with respect to the process which should be followed when more than one entity may be liable.
86. The Financial Services Committee considers that the design of the compensation mechanism should be aligned with the whole-of-ecosystem approach otherwise promoted under the SPF. While external dispute resolution is likely to be expensive, and this expense may incentivise a regulated entity to determine a scam compensation claim internally, there needs to be an effective framework for participation of, and contribution by, all involved regulated entities. Otherwise, the first regulated entity to receive a complaint may expend significant resources dealing with a compensation claim which should be the responsibility (in whole or in part) of one or more other regulated entities).
87. The Competition and Consumer Committee expresses a different view, noting that if a regulated entity is able to reach a mutually agreeable resolution with an affected customer without a need to go to external dispute resolution (or civil action), then that SPF Consumer should be free to resolve the matter in that way. It considers that—while any internal dispute resolution may appropriately be considered as part

⁴⁶ See for example, the Government recently indicated in-principle support for economy-wide mandatory internal dispute resolution standards that ensure accessibility, timeliness, accountability, the ability to escalate to a human representative and transparency in relation to digital platform specific consumer measures: The Treasury, [Government Response to ACCC Digital Platform Services Inquiry](#) (Online, December 2023).

⁴⁷ Ibid.

of any subsequent external dispute resolution or civil action—it is important to preserve the freedom of parties to reach efficient and mutually agreeable private resolutions. This will often be the most efficient way for an SPF consumer to achieve appropriate redress for their losses.

Recommendation 11

- **Further consideration should be given to the interaction and appropriateness of the combination of internal dispute resolution, external dispute resolution and potentially civil actions under the SPF.**

The role of AFCA

88. We welcome the Minister’s intention to authorise AFCA as the single external dispute resolution scheme that applies to multiple regulated sectors⁴⁸ and agree that this will simplify a consumer’s experience of seeking redress (as compared to a multi-scheme model).
89. However, we are concerned that AFCA will struggle to cope with the significant increase in complaints as a result of expanded membership of the scheme. Complaint numbers have already been building: 105,454 in FY23/24,⁴⁹ compared with 96,987 in FY 22/23⁵⁰ and 72,358 in FY21/22.⁵¹ Between FY21/22 and FY22/23 there was a 63.4 per cent increase in the number of AFCA cases open for more than 365 days.⁵² Delays in resolving AFCA disputes cause significant stress, anxiety and financial loss for consumers.
90. We also submit that the Minister’s intention to authorise AFCA as the single external dispute resolution scheme that applies to multiple regulated sectors should be specified in primary legislation.

Recommendation 12

- **Ensure AFCA receives sufficient resourcing to manage expected increases in complaint volume and reduce delays.**
- **The Minister’s intention to authorise AFCA as the single external dispute resolution scheme that applies to multiple regulated sectors should be specified in primary legislation.**

Extraterritorial application and enforcement concerns

91. The Exposure Draft includes an extra-territoriality provision which would be added as section 58AJ to the CCA.
92. The explanatory material provided does not make it clear as to why this provision is necessary to the functioning of the SPF regime, nor does it identify deficiencies in

⁴⁸ Explanatory Materials, [1.29].

⁴⁹ <https://www.afca.org.au/news/media-releases/financial-complaints-rise-further-9-to-record-105000-in-2023->

²⁴ Australian Law Reform Commission, Legislative Complexity and Law Design

⁵⁰ <https://www.afca.org.au/annual-review-overview-of-complaints>

⁵¹ <https://www.afca.org.au/news/latest-news/afca-releases-2021-22-annual-review>

⁵² <https://www.afca.org.au/annual-review-open-cases>

the existing and well understood extra-territoriality provision in section 5 of the CCA that makes section 5 inappropriate for the purpose of the SPF regime.

93. The Competition and Consumer Committee consider that the existing section 5 of the CCA is well-tested and well-understood, having been subject to consideration by the court in a number of cases.
94. Accordingly, the Law Council suggests that—rather than introducing a new and untested provision dealing with the complicated question of extra-territorial application—new section 58AJ be omitted from the Exposure Draft. Instead, new Part IVF of the Exposure Draft should be added to section 5 of the CCA as one of the parts of the CCA to which the extra-territoriality provision applies.
95. The Queensland Law Society observes barriers to communicating issues and pursuing complaints and enforcing rights generally in some of these sectors, such as:
 - entities not having an office in Australia at which process can be served; and
 - entities structuring their business with the aim of preventing or minimising the avenues of enforcement by consumers (for instance, by using entities within the corporate group with no assets in Australia or by benefitting from the group’s Australian subsidiary’s corporate veil to require the consumer to enforce rights overseas).

Recommendation 13

- **New Part IVF of the Exposure Draft should be added to section 5 of the CCA as one of the parts of the CCA to which that extra-territoriality provision applies.**
- **There should be further consideration of how extra-territorial application will be enforced in the context of the SPF.**

Legal assistance

96. The Law Council has consistently argued that Commonwealth departments should consider the potential impacts that a proposed legislative change may have on the justice system, for example, impacts on access to legal assistance services including Aboriginal and Torres Strait Islander legal services; community legal centres, family violence prevention legal services, legal aid commissions and alternative dispute resolution processes; the resources or workload of the federal courts and tribunals; and the cost of access to the civil justice system as a whole.⁵³
97. We are concerned that the changes contained in the Exposure Draft, particularly given our concerns regarding complexity, will not achieve the intended objectives if vulnerable individuals do not have access to independent and expert legal advice and representation.
98. The final report of the Independent Review of the National Legal Assistance Partnership highlights the urgent need to provide substantial new funding in relation to priority matters including additional resourcing for specialist consumer law legal

⁵³ Law Council of Australia, Policy Statement—Justice Impact Assessments (Policy Statement—September 2013).

assistance services and additional grants of aid in civil matters.⁵⁴ The Law Council has called for prompt implementation of the Independent Review of the National Legal Assistance Partnership.⁵⁵

99. While we have welcomed some elements of the new National Access to Justice Partnership, we have explained that much more is needed to address key areas of identified unmet need within the legal assistance sector.⁵⁶ This includes resourcing of legal aid commissions to expand current means testing arrangements and increase grants of legal aid to facilitate legal representation for some of our most marginalised members of society, especially in rural, regional and remote areas of the country.
100. The Queensland Law Society highlights the need for additional legal assistance sector funding for civil matters to ensure that any avenues of redress afforded by the proposed framework are accessible by consumers and small businesses.

Recommendation 14

- **There should be additional resourcing to ensure access to properly funded legal assistance services, including resourcing specialised legal assistance services and increasing grants of aid in civil matters.**

The need for scrutiny by parliamentary committee

101. We understand the Government's intent is to introduce the matters addressed in the Exposure Draft in the form of a bill this year. We strongly recommend that the Bill be referred promptly for review by a Parliamentary Committee with appropriate deadlines for public consultation recognising the importance of stakeholder feedback. We recognise that this is a matter for Parliament, rather than the Treasury.

Recommendation 15

- **When the Bill is introduced, it should be referred to a Parliamentary Committee for review with an appropriate time period for public consultation and feedback.**

⁵⁴ Dr Warren Mundy, [Independent Review of the National Legal Assistance Partnership](#) (Final Report, March 2024), Recommendations 18 and 20.

⁵⁵ Law Council of Australia, [Access to justice funding report welcome, implementation plan must be urgently developed](#) (Media Release, 28 May 2024).

⁵⁶ Law Council of Australia, [National Access to Justice Partnership](#) (Media Release, 6 September 2024).