Law Council
OF AUSTRALIA

Submission to the Royal Commission on Antisemitism and Social Cohesion

June 2026

Telephone +61 2 6246 3788
Email mail@lawcouncil.au
PO Box 5350, Braddon ACT 2612
Level 1, MODE3, 24 Lonsdale Street,
Braddon ACT 2612
Law Council of Australia Limited ABN 85 005 260 622
www.lawcouncil.au

Contents

Acknowledgements 1

Recommendations 2

Introduction 5

Context 9

- Note on key terms 9
  - Antisemitism 9
  - Social cohesion 10
- Recent reforms and announcements 12
- Interim report findings and recommendations 13

Term of Reference (a)—Tackling antisemitism 15

- Legislative responses 16
  - Criminal law frameworks 17
  - Civil law frameworks 21
    - Federal legislation 22
    - State and Territory laws 24
  - An ALRC review of race hate and racial vilification laws 26
  - Regulation of online platforms 28
- Broader responses 31
  - Investment in education and community-based programs 32

Terms of Reference (b) and (c)—Law enforcement, border control, immigration and security agencies 35

- Adequacy of security and law enforcement powers 35
- Preliminary views on potential reforms raised in Interim Report 37
- The importance of safeguards 40
- Effective reform 42

Term of Reference (d)—Strengthening social cohesion 44

- The role of the justice system 44
- Social cohesion underpinnings 46
- Civics education 47
- Protecting human rights 48
  - The necessity of a Human Rights Act 48
  - International treaty frameworks 49

About the Law Council of Australia 51

Acknowledgements

The Law Council of Australia thanks:

- the New South Wales Bar Association;
- the Law Society of New South Wales; and
- its National Human Rights Committee

for their contribution to the preparation of this submission.

Recommendations

Recommendation 1

Alongside other laws, the role of civil law responses should be considered in combatting antisemitism, as part of a graduated legislative response to different forms of harmful conduct.

Recommendation 2

The Australian Government should ensure adequate and predictable funding for the Australian Human Rights Commission's advocacy and complaint handling functions.

Recommendation 3

Federal, state and territory governments should address identified gaps in funding for legal assistance to address civil justice needs.

Recommendation 4

The Australian Government should refer an inquiry to the Australian Law Reform Commission into legal frameworks relating to racism and racially motivated hate and violence, with a view to achieving greater harmonisation across federal, state and territory laws.

Recommendation 5

The Australian Government should respond to the recommendations of the 2024 statutory review of the *Online Safety Act 2021* (Cth), including: (a) the inclusion of a definition of "online hate material"; (b) the eSafety Commissioner's power to create mandatory rules on entities' compliance with their duty of care requirements; and (c) increased penalties for social media companies.

Recommendation 6

The Australian Government should, in developing the Digital Duty of Care framework for online services, give specific consideration to whether enforcement mechanisms should include a private right of action available to individuals harmed by a platform's failure to meet its duty of care obligations, as a complement to the eSafety Commissioner's regulatory functions.

Recommendation 7

The Australian Government should implement the Australian Human Rights Commission's National Anti-Racism Framework.

Recommendation 8

The Australian Government should ensure investments in education programs are comprehensive and evidence-based to address antisemitism and race hate at its earliest stages, as well as investing in programs to combat pathways to radicalisation and extremism.

Recommendation 9

The Australian Government should ensure that responses to identified gaps in powers for agencies to tackle antisemitism are designed with careful regard to different agency functions, confining exceptional powers to justified matters, and incorporating safeguards to protect individuals when those powers are exercised.

Recommendation 10

The Australian Government should ensure that any expansions of such powers or resources for law enforcement, security and intelligence agencies are accompanied by commensurate expansions of resourcing to the relevant independent oversight bodies for those agencies.

Recommendation 11

The Australian Government should ensure full public stakeholder consultation prior to pursuing any law reforms relevant to this Royal Commission. This should extend to public exposure draft legislation for proper scrutiny and ensuring adequate timeframes for civil society to respond.

Recommendation 12

The Australian Government should ensure adequate training and resources are made available to relevant bodies to support the enforcement of existing legal protections against antisemitism and race hate, with careful regard to the prevalence and nature of those incidents.

Recommendation 13

The role of the independent judiciary should be consistently recognised and properly resourced as a core institutional mechanism underpinning Australian democracy and social cohesion. Existing mandatory sentencing provisions, including for terrorism and hate crimes, should be repealed.

Recommendation 14

The Australian Government should enact a Federal Judicial Commission.

Recommendation 15

Civics education should be prioritised which embeds widespread understanding of the key principles and institutions that underpin Australia's democratic and legal systems, including respect for the rule of law and human rights. The school curriculum should include education about the social and cognitive dimensions of prejudice, to equip students to recognise and resist the conditions in which discrimination and hatred take hold.

Recommendation 16

The Australian Government should enact a Federal Human Rights Act.

Recommendation 17

The Australian Government should review its reservation to Article 20 of the International Covenant on Civil and Political Rights and its interpretative declaration to Article 4(a) of the Convention on the Elimination of All Forms of Racial Discrimination.

Introduction

1. The Law Council of Australia thanks the Royal Commission on Antisemitism and Social Cohesion (**Royal Commission**) for the opportunity to provide a submission on these issues.

2. The Law Council is deeply concerned by the rise of antisemitism in Australia, particularly over recent years. We unequivocally condemn antisemitic and hate-driven acts of any kind and recognise that Australia is at a critical juncture. We recognise the unique nature, history and gravity of harm caused by antisemitism, both recently and historically. This has been detailed in the firsthand testimonies provided to this Royal Commission,[1] the 2025 inquiry into Antisemitism in New South Wales[2] and the Australian Human Rights Commission's (**AHRC**) *Seen and Heard* project,[3] which demonstrate the serious harms that have been done, and continue to be done, by means of antisemitic acts across Australia.

3. These harms are not limited to the Jewish community but have broader implications for social cohesion in Australia. As David Ossip, President of the NSW Jewish Board of Deputies, stated in evidence to the 2025 inquiry into Antisemitism in New South Wales, "[a]ntisemitism is often a bellwether for and harbinger of broader discrimination and a warning bell for structural weaknesses in a society."[4]

4. Jewish Australians—like all Australians—have the right to live their lives free from persecution, discrimination, vilification, harassment and violence. Racism, hatred, intolerance and extremist ideologies have no place in Australia and stand in direct opposition to the principles that underpin our legal system and the legal profession. The Law Council is committed to combatting antisemitism and all forms of discrimination across the legal profession and is giving ongoing careful consideration to our leadership role in this context.

5. The Royal Commission was established in the aftermath of the horrific terrorist attack[5] at Bondi Beach on 14 December 2025, which caused profound harm and distress to Jewish communities and the broader Australian public. The Law Council

---

1 *Royal Commission on Antisemitism and Social Cohesion*, Transcript of proceedings, *Royal Commission on Antisemitism and Social Cohesion* (Hearing Day 1, 4 May 2026) 21; Transcript of proceedings, *Royal Commission on Antisemitism and Social Cohesion* (Hearing Day 4, 7 May 2026) 423; Transcript of proceedings, *Royal Commission on Antisemitism and Social Cohesion* (Hearing Day 6, 11 May 2026) 502-503.

2 Portfolio Committee No. 5 Justice and Communities, NSW Legislative Council, *Evidence consolidation report from the inquiry into antisemitism in New South Wales* (Evidence Consolidation Report, February 2026).

3 Australian Human Rights Commission, *The struggle in being seen, the power in being heard: Community insights from the Seen & Heard project* (Report, April 2026).

4 Evidence to Justice and Communities Committee, NSW Legislative Council, 19 May 2025, 2 (David Ossip).

5 We note that the surviving accused has been charged with a range of offences, including terror offences, and do not intend to anticipate outcome of his prosecution or any related proceedings.

expresses its strong support for the survivors and families of victims of that attack. As we stated in January 2026:

> *… the scale of the loss of life, the broader context in which the attack occurred, and its profound implications for community safety, social cohesion and confidence in our legal system demanded an inquiry of the highest order.*[6]

6. As we have identified in previous related reviews and inquiries,[7] a comprehensive, rights-compliant and considered approach to combat antisemitism is required. As well as lawmaking, policy tools should include resourcing to implement and enforce laws effectively and fairly, training, programs and policy frameworks. The Royal Commission's findings and recommendations will be crucial to inform this work.

7. Having regard to the Law Council's role and objects, both in representing the Australian legal profession at the national level and promoting and defending the rule of law,[8] this submission is directed to legal and policy aspects of the Royal Commission's terms of reference. The Law Council also recognises that the Royal Commission must carefully consider a wider range of issues and evidence, including, most centrally, the lived experiences of Jewish communities.

8. As recognised in the Letters Patent, the strength of national consensus in support of democracy, freedom and the rule of law provides the strongest defence against antisemitism and extremism.[9]

9. Consistent with the Law Council's Rule of Law Principles Policy Statement, core rule of law principles informing this submission include that:

   - the law must be readily known and available, as well as certain and clear;
   - the law should be applied to all people equally and should not discriminate between people on arbitrary or irrational grounds;
   - all people are entitled to the presumption of innocence and to a fair and public trial;
   - everyone should have access to competent and independent legal advice;
   - the judiciary should be independent of the Executive and Legislature;
   - the Executive should be subject to the law and any action undertaken by the Executive should be authorised by law;

---

6 Law Council of Australia, 'Law Council supports establishment of a Royal Commission into antisemitism' (Media Release, 6 January 2026).

7 See e.g. Law Council of Australia, Submission to Parliamentary Joint Committee on Intelligence and Security, Parliament of Australia, *Combatting Antisemitism, Hate and Extremism Bill* (15 January 2026); Law Council of Australia, Submission to the Independent National Security Legislation Monitor, *Review of the definition of a 'terrorist act' in section 100.1 of the Criminal Code Act 1995* (27 November 2025); Law Council of Australia, Submission to the Senate Legal and Constitutional Affairs Legislation Committee, Parliament of Australia, *Criminal Code Amendment (Hate Crimes) Bill 2024* (29 November 2024); Law Council of Australia, Submission to the Parliamentary Joint Committee on Intelligence and Security, Parliament of Australia, *Review of the Counter-terrorism Legislation Amendment (Prohibited Hate Symbols and Other Measures) Bill 2023* (14 August 2023) (plus supplementary submission); Law Council of Australia, Submission to the Parliamentary Joint Committee on Human Rights and the Senate Legal and Constitutional Affairs Committee, Parliament of Australia, *Religious Discrimination Bill 2021 and related bills* (17 December 2021).

8 Law Council, *About us* (Web page, updated 2026); see also Law Council of Australia, *Constitution of Law Council of Australia Limited* (Policy Statement, 16 April 2003) cl 2.1(a).

9 *Royal Commission on Antisemitism and Social Cohesion* (Letters Patent, 9 January 2026) 1.

- no person should be subject to treatment or punishment that is inconsistent with respect for the inherent dignity of every human being; and
- states must comply with their international legal obligations whether created by or arising under customary law.[10]

10. Implementation of the rule of law must also be seen in the context of Australian constitutional arrangements. In the current context, the implied freedom of political communication, which operates as a restriction on legislative and executive power, is clearly relevant in determining whether laws made with the effect of restricting expression are appropriate and adapted to a legitimate end. This is directed to preserving the fundamental basis of an informed electorate, and therefore a system of representative and responsible government.[11]

11. Australia's international human rights obligations are also clearly engaged by antisemitic and other racially charged hate and violence. The development of the international human rights system was driven by the antisemitic horrors of World War II, and the opposition to racial and religious hatred is at its core.[12] They prescribe the State's duty to individuals within its jurisdiction, including to protect their lives and to prevent cruel, inhuman or degrading treatment or punishment,[13] and guarantees of equality and non-discrimination.[14] They identify crucial safeguards in our justice system, including freedom from arbitrary detention,[15] equality before the law, rights to a fair trial, the presumption of innocence, and other minimum guarantees in criminal proceedings.[16] They also set out fundamental freedoms that individuals may expect, including freedoms of opinion and expression, religion or belief, movement, assembly and of association.[17] While certain rights are absolute and admit of no limitation, most may be subject to permissible limitations (for example, where necessary by law and for legitimate democratic purposes), and tensions arising in protecting rights may require careful resolution by reference to well-established proportionality principles to protect different interests when applied to a particular case.

---

[10] Law Council of Australia, *Policy Statement – Rule of Law Principles* (Policy Statement, March 2011).
[11] See eg *Australian Capital Television v Cth* (No 2) (1992) 177 CLR 106; See also *Unions NSW v NSW* [2013] HCA 58.
[12] Note the *Convention on the Elimination of All Forms of Racial Discrimination* was adopted in March 1966, even before the *International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights*.
[13] *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976), arts 6 and 7 ('ICCPR').
[14] Ibid arts 2(1), 14, 24-26; *International Covenant on Economic, Social and Cultural Rights*, opened for signature 16 December 1966, 993 UNTS 3 (entered into force 3 January 1976). 2 [1976] ATS 5 (entered into force for Australia 10 March 1976) art 2(2); See further *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990) art 2; *Convention on the Elimination of All Forms of Discrimination against Women*, opened for signature 18 December 1979, 1249 UNTS 13 (entered into force 3 September 1981) arts 2-4, 15; *Convention on the Rights of Persons with Disabilities*, opened for signature 30 March 2007, A/RES/61/106 (entered into force 3 May 2008) arts 2-5, 12.
[15] ICCPR art 9.
[16] Ibid art 14.
[17] Ibid arts 12, 19, 21 and 22.

12. These human rights obligations are highly relevant to this inquiry, and this submission identifies the critical need for a federal human rights framework—principally, through a Human Rights Act—to underpin a more cohesive, pluralistic, and harmonious Australian community.

13. It is the Law Council's observation that core rule of law concepts and human rights obligations are frequently given insufficient weight by governments and Parliaments in the rush to further lawmaking. This is particularly the case in the wake of tragic events, including the terrorist attack at Bondi. In such instances, there is often relatively little attention to the safeguards that are needed in the design of laws to ensure that they work fairly in practice, across all areas of the community. We view this as being problematic and having a gradually corrosive effect of undermining the legitimacy of the law in the eyes of the public, and in turn, reducing social cohesion.

14. This submission also addresses the adequacy of enforcement mechanisms for online platforms, including whether reliance on regulatory action alone is sufficient to protect individuals from online hate, or whether direct access to justice through a private right of action is needed to give effect to a meaningful duty of care.

15. The Law Council is also acutely conscious that this submission is made against the backdrop of overwhelming evidence of the profound and escalating harms experienced by Jewish Australians - harms that are personal, communal and generational. The legal frameworks this submission examines must ultimately be judged against that reality: whether they are capable of providing meaningful protection to those targeted, and whether affected communities can have confidence that the law operates equally in their defence. It is with that standard in mind that the Law Council offers its analysis.

16. This Royal Commission is an important mechanism to examine these complex and interconnected issues. Its findings and recommendations—informed by evidence from Jewish Australians, affected communities and experts—will provide an important foundation for restoring trust and confidence in the legal system and the institutions that protect the Australian community.

Context

Note on key terms

17. Before addressing the Terms of Reference, the Law Council makes the following observations on two key terms that are core to the Royal Commission's inquiry: (i) antisemitism, and (ii) social cohesion.

Antisemitism

18. In her opening statement of 24 February 2026, the Commissioner stated that she would apply the International Holocaust Remembrance Alliance's (**IHRA**) working definition of antisemitism.

19. The definition provides:

> *Antisemitism is a certain perception of Jews which may be expressed as a hatred towards Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.*

20. As the Commissioner added at the time, the IHRA definition is accompanied by 11 examples of conduct that could amount to antisemitism. The Commissioner said that, while at least two of the examples are controversial, her view was that those criticisms "pay insufficient regard to the terms of the definition itself" and are "apt to overlook the requirement to take account of the overall context in which conduct occurs before making any determination that the conduct is antisemitic".

21. The Law Council supports the Commissioner's observations and notes the importance of attention to context from a human rights perspective. Articles 20 and 26 of the International Covenant on Civil and Political Rights (**ICCPR**), along with article 4 of the Convention on the Elimination of All Forms of Racial Discrimination (**CERD**) require States parties to protect against discrimination and regulate certain forms of hate speech. Under article 19 of the ICCPR, freedom of expression should only be restricted as necessary for respect of the rights or reputations of others, or for the protection of national security or of public order, or of public health or morals.[18] Legitimate limitations imposed on freedom of expression by the law must be the least intrusive possible to achieve their protective function.[19] Given the balancing exercise involved, the application of these laws in practice will depend on the factual circumstances of a particular case.

22. It should also be noted that the IHRA definition was not originally intended to be used as a "code" or to form the bases of legislative responses to antisemitism.[20]

---

[18] Ibid art 19; International Convention on the Elimination of All Forms of Racial Discrimination, opened for signature 7 March 1966, 660 UNTS 195 (entered into force 4 Jan 1969), art 4 ('ICERD').

[19] See Human Rights Committee, *General Comment No. 34 on Article 19,*UN Doc CCPR/C/GC/34 (29 July 2011), [33]-[34].

[20] See Kenneth S Stern, *Testimony to United States Senate Committee on Health, Education, Labor and Pensions hearing on Antisemitic Disruptions on Campus: Ensuring Safe Learning Environments for All Students* (27 March 2025).

23. The Commissioner stated further that "it is uncontroversial that criticism of the policies that may be pursued by the government of Israel from time to time is not, of itself, antisemitic".[21] The Law Council also supports this observation. Similarly, in *Wertheim v Haddad* (***Wertheim***), Stewart J observed:

> *… political criticism of Israel, however inflammatory or adversarial, is not by its nature criticism of Jews in general or based on Jewish racial or ethnic identity ... The conclusion that it is not antisemitic to criticise Israel is the corollary of the conclusion that to blame Jews for the actions of Israel is antisemitic; the one flows from the other.*[22]

Social cohesion

24. The Law Council also supports the approach of the Senior Counsel Assisting the Royal Commission to social cohesion, being that:

> *The Letters Patent refer to social cohesion as the national consensus in support of democracy, freedom and the rule of law. The consensus to which the Letters Patent refer is not a uniformity of opinion. Nor does it require or involve the suppression of fair criticism and debate. It is quite the opposite, in my submission. It is a consensus that a diverse multicultural society can subsist and thrive only by mutual acceptance of our respective democratic freedoms exercised according to law. Social cohesion begins with empathy. A large part of the work of this Commission will be to present evidence to allow a broader understanding of the scourge of antisemitism, its nature and prevalence throughout Australian society, and its impact on the lives of fellow Australians. Through that understanding there may be opportunities to improve.*[23]

25. In the Law Council's view, policies and legislative responses that reinforce the rule of law, increase democratic literacy, uphold human rights, and bolster institutional fairness, should be seen as an integral part of the architecture to combat antisemitism and to build social cohesion.[24]

26. Social cohesion is itself a multifaceted concept that may be undermined by a range of intersecting factors, including international conflicts and geopolitical developments, social and cultural dynamics, the spread of misinformation and disinformation, economic exclusion, and increasing isolation and polarisation. Given this complexity, responses to threats of social cohesion are unlikely to be addressed through singular or narrowly framed responses. Governments at the Federal, State and Territory levels, together with broader institutions and civil society organisations, should pursue coordinated and sustained approaches that address underlying structural and societal drivers, and support social cohesion, community safety and public trust over the longer term.

---

[21] Royal Commission on Antisemitism and Social Cohesion, *Transcript of Proceedings* (Supreme Court of NSW, Opening Hearing, the Honourable Virginia Bell AC SC, 24 February 2026) 5 [40].

[22] [2025] FCA 720, [107].

[23] Royal Commission on Antisemitism and Social Cohesion, *Transcript of Proceedings* (Supreme Court of NSW, Opening Hearing, Mr Richard Lancaster SC, 24 February 2026) 10 [20]-[30].

[24] Nicholas Biddle and Matthew Gray, *Social Cohesion and Support for Democracy in Australia: Assessing recent polling data and frameworks* (Report, March 2026) 19.

27. We note that laws to address antisemitism and other forms of discrimination, and to promote social cohesion, must be, ultimately, of general application. As identified in the Introduction, a core tenet of the rule of law is that all persons are equal before the law—that is, equally bound, and protected, by it. Human rights obligations must also be respected and upheld for Australians of all backgrounds. Therefore, laws must be developed, passed and implemented following consultation across the Australian community to ensure that they can operate across a variety of contexts, are implemented fairly and are widely accepted and understood. As the Law Council has previously stated:

> *Public confidence in Australia's legal system depends on the law operating effectively to protect all members of the community from harm, intimidation and violence. When any group is targeted on the basis of identity or belief, the legitimacy of the legal system as a whole is undermined.*[25]

28. The need for thorough stakeholder consultation and adequate scrutiny to deliver effective law reform was also highlighted in our submission on the Exposure Draft of the *Combatting Antisemitism, Hate and Extremism Bill 2026* (Cth). Appropriate consultation is vital for ensuring such reform is evidence-based, effective, legally and constitutionally robust, human rights-compliant, and capable of operating as intended.[26]

29. Further careful community engagement is therefore necessary to achieve these objectives. The findings of this Royal Commission will be important. The current Parliamentary inquiry into racism, hate and violence against First Nations people is another key process in this regard.[27] The need for broad community consultation was also confirmed by the AHRC's *Seen and Heard* report, which identified that "[t]he violence of the events of 7 October 2023 and its devastating aftermath triggered a terrifying surge of antisemitism, anti-Palestinian racism, anti-Arab racism and Islamophobia".[28]

30. Upholding equality and equity through laws of general application requires a nuanced understanding of how harmful conduct uniquely affects these groups in specific contexts. The Royal Commission is uniquely placed to make findings and recommendations in relation to the Jewish community's experiences of antisemitism, so that the design, implementation and enforcement of relevant laws, among other policy responses, are meaningful and effective. This will inform all institutions and individuals involved in the law across the full spectrum of its creation, enforcement, exercise, application and evaluation.

31. The Law Council recognises that the law operates in distinctive social contexts for different communities, having regard to their unique past and present experiences, including histories of extraordinary endurance and survival against profound traumas.

---

[25] Law Council of Australia, 'Law Council supports establishment of a Royal Commission into antisemitism' (Media Release, 6 January 2026).

[26] Law Council of Australia, Submission to the Parliamentary Joint Committee on Intelligence and Security, Parliament of Australia, *Combatting Antisemitism, Hate and Extremism Bill 2026* (Cth) (Submission, 15 January 2026) 2-3 [4]-[8].

[27] See Parliament of Australia, *Inquiry into racism, hate and violence directed at Aboriginal and Torres Strait Islander people* (Web Page, 2026).

[28] Australian Human Rights Commission, *The struggle in being seen, the power in being heard: Community insights from the Seen & Heard project* (Report, April 2026) 7.

This is particularly so for Australia's Jewish community. Achieving equality of the law in practice relies upon building a deeply informed, diverse picture of how, where, and for whom, social harms arise, and what can be done to address them. The Royal Commission will contribute to this picture.

Recent reforms and announcements

32. As recognised by the Royal Commission,[29] several law reforms have sought to address violent extremism, hate-motivated conduct and the proliferation of radical ideologies online since October 2023. Recognising that multiple jurisdictions have responded, we note that, at the federal level, changes have included:

- the introduction of new federal offences in 2023 for the public display or trade in prohibited Nazi and terrorist symbols, performing the Nazi salute, and the use of a carriage service for violent extremist material;
- doxxing offences introduced in 2024 to protect individuals against the intentional publishing or distribution of personal or identifying information without their consent where the conduct would reasonably be regarded as menacing or harassing, together with the aggravated offence of doxxing targeted on the basis of (among other things) a person's religion, race or ethnic origin;
- the expansion of Commonwealth hate crime offences in 2025, to protect a wider range of groups and to criminalise threatening force or violence against groups, and advocating damage or destruction of property;
- the 2025 inclusion of a framework for the listing of state sponsors of terrorism in the *Criminal Code Act 1995* (Cth) (**Criminal Code**), as well as associated offences including criminalising certain dealings with state sponsors. This was closely followed by the subsequent prescription of the Islamic Revolutionary Guard Corps (IRGC) as a state sponsor of terrorism on the basis of ASIO's assessment that the IRGC directed arson attacks against a Synagogue in Melbourne and a kosher restaurant in Sydney, as well as raising perceptions of antisemitism in Australia and seeking to harm the Jewish community;[30] and
- further amendments to the Criminal Code introduced in January 2026, to strengthen Commonwealth hate crime offences and introduce a framework for prohibiting hate groups.[31]

33. These legislative reforms have been accompanied by significant program and funding announcements, as also recognised by the Royal Commission.[32] For example, in January 2025 the Australian Government released *A Safer Australia—Australia's Counter Terrorism and Violent Extremism Strategy*,[33] recognising the ongoing/evolving threat of terrorism and violent extremism domestically.

---

29 *Royal Commission on Antisemitism and Social Cohesion* (Interim Report, April 2026) 82 [8.4].

30 See "Islamic Revolutionary Guard Corps", *Australian National Security* (Web Page, 19 February 2026) <https://www.nationalsecurity.gov.au/what-australia-is-doing/state-sponsors-of-terrorism/listed-state-sponsors-of-terrorism/islamic-revolutionary-guard-corps>.

31 *Royal Commission on Antisemitism and Social Cohesion* (Interim Report, April 2026) 82 [8.4].

32 *Royal Commission on Antisemitism and Social Cohesion* (Interim Report, April 2026) 104-105 [10.5]-[10.6].

33 Australian Government, *A Safer Australia; Australia's Counter-Terrorism and Violent Extremism Strategy 2025* (Report, January 2025).

34. The Strategy was supported by a funding allocation of $106.2 million over four years from 2024–25 to address risks of terrorism and violent extremism. This funding included investment in the National Support and Intervention Program to deliver intervention services for at risk individuals, the national rollout of the '*Step Together*' online support and referral program, and initiatives to strengthen community engagement and public understanding of efforts to counter violent extremism.

35. The recent Federal Budget committed a further $604.2 million for a targeted package of funding and program measures to address antisemitism, violent extremism and hate, and to support the implementation of related legislative reforms.[34]

36. A total of $207.4 million over five years from 2025–26 has been committed to strengthen national security capabilities, enhance social cohesion, and implement the Special Envoy's Plan to Combat Antisemitism.[35]

37. Additional funding supports the development of a national hate crimes and incidents database, the implementation of new migration-related powers (including visa refusal and cancellation grounds), and the operation of a prohibited hate group listing framework.[36] Provision has also been made in the Contingency Reserve for the National Gun Buyback Scheme, pending finalisation of negotiations between the states and territories.

Interim report findings and recommendations

38. On 30 April 2026, the Royal Commission published its Interim Report.[37] Although the report did not identify any issue requiring urgent or immediate action, it recommended improvements to national counter-terrorism capability. Those recommendations included:

- application of the procedures adopted by NSW Police in respect of Operation Jewish High Holy Days to other high risk Jewish festivals and events, particularly those that have a public facing element (recommendation 1);
- consideration of making the Counter-Terrorism Coordinator's role full-time (recommendation 2);
- the Australia New Zealand Counter-Terrorism Committee's (**ANZCTC**) inclusion in the Australian Government Crisis Management Framework so that its role is clear, if it is to be used again as a crisis committee (recommendation 3);
- that the Counter-Terrorism Handbook be updated promptly and then at least every three years, in coordination with updates to the Counter-Terrorism Plan and the ANZCTC triennial review (recommendation 4);
- that the ANZCTC should provide direct advice, at least annually, to National Cabinet, and commission a review of the Joint Counter-Terrorism Teams (recommendations 5 and 6);
- consideration of participation by National Security Committee Ministers, including the Prime Minister, in a counter-terrorism exercise, along with all

---

34 Australian Government, *Budget Measures 2026-27* (Budget Paper No 2, 12 May 2026) 68-70.
35 Ibid 68.
36 Ibid 69.
37 *Royal Commission on Antisemitism and Social Cohesion* (Interim Report, April 2026).

National Cabinet members, within nine months of each federal election (recommendation 7); and
- prioritisation of efforts to finalise and implement an updated and nationally consistent National Firearms Agreement, and to implement the proposed National Gun Buyback Scheme (recommendations 13 and 14).

39. The Law Council welcomes these recommendations. We also welcome the Australian Government's acceptance of all recommendations relating to the Commonwealth, as well as its commitment to working with states and territories to strengthen the collective response.[38]

[38] Australian Government, *Australian Government Response to the Interim Report* (As tabled in Parliament, 14 May 2026) 3.

Term of Reference (a)—Tackling antisemitism

40. According to the Royal Commission's Interim Report, "the sharp rise in antisemitic incidents in Australia over the past two and a half years corresponds with events in the Middle East following the terrorist attacks on Israel carried out by Hamas on 7 October 2023".[39] A range of evidence supports the Royal Commission's conclusion.

41. In 2024, the AHRC launched the *Seen and Heard* project, with the aim of understanding and documenting "the experiences of antisemitism, anti-Palestinian racism, Islamophobia and anti-Arab racism", since 7 October 2023.[40] Feedback was obtained from 476 participants and 78 organisations, and detailed in a report published in April 2026. The findings indicated that many participants had observed a sharp and distressing rise in antisemitism, with some Jewish and Israeli participants describing an increase in negative sentiment to people in Australia of Israeli background.[41]

42. Australia's Special Envoy to Combat Antisemitism, Ms Jillian Segal AO, has stated that "from October 2023 to September 2024, antisemitic incidents surged by 316%, with over 2000 cases reported—threats, assaults, vandalism and intimidation".[42] According to the Executive Council of Australian Jewry (**ECAJ**), there were 1654 antisemitic incidents logged from October 2024 to September 2025.[43] Although the number of antisemitic incidents recorded in 2024–25 was slightly lower than the preceding year, the average across the two-year period (1858 incidents per year) marks an increase of approximately 443% compared to the average annual rate over the previous ten years (342 incidents per year). The type of conduct reported to the ECAJ includes assault, vandalism, abuse, messages, graffiti and posters.

43. In a submission to the NSW Legislative Council's Portfolio Committee No. 5—*Justice and Communities' Inquiry into Antisemitism in New South Wales*, Anti-Discrimination NSW (**ADNSW**) advised that between 1 October 2023 and 22 January 2025, it had received 25 enquiries and 25 formal complaints relating to antisemitism, compared to six enquiries and eight formal complaints from 1 October 2021 to 22 January 2023.[44] ADNSW acknowledged that these figures are unlikely to reflect the actual level of unlawful behaviour occurring in the community, given that only a small proportion of affected individuals will make a formal complaint of discrimination.[45]

44. In the tertiary sector, the AHRC's *Respect at Uni: Study into Antisemitism, islamophobia, racism and the experience of First Nations People* survey identified that 81% of secular Jewish respondents and 94% of respondents who identified their

---

39 *Royal Commission on Antisemitism and Social Cohesion* (Interim Report, April 2026) 11.

40 Australian Human Rights Commission, *The struggle in being seen, the power in being heard: Community insights from the Seen & Heard project* (Report, April 2026) 14.

41 Ibid 25.

42 Australia's Special Envoy to Combat Antisemitism, *Special Envoy's plan to combat antisemitism: A policy-oriented framework for government and the Australian Community* (Report, July 2025).

43 Julie Nathan, *Report on anti-Jewish incidents in Australia 2025* (Report, Executive Council of Australian Jewry (ECAJ), 3 December 2025).

44 Anti-Discrimination NSW, Submission No 58 to the NSW Legislative Council's Portfolio Committee No.5 – Justice and Communities' *Inquiry into Antisemitism in New South Wales* (14 April 2025) 3.

45 Ibid.

religion as Judaism reported experiences of direct and indirect racism.[46] The most common form of direct racism experienced by Jewish respondents was feeling they could not express their views, followed by inappropriate jokes or comments, being singled out or excluded, and being verbally harassed, threatened or verbally abused.[47] The Parliamentary Joint Committee on Human Rights' inquiry into antisemitism at Australian universities also found "a disturbing prevalence of antisemitism that has left Jewish students and staff feeling unsafe, hiding their identity on campus and even avoiding campus altogether",[48] concluding that the overall current situation of Jewish students and staff feeling unsafe is "unacceptable".[49]

45. The sharp rise in antisemitism reiterates the pressing need for this Royal Commission and the strong impetus for a coherent and coordinated strategy to combat antisemitism and enhance social cohesion. It is essential that responses across all levels of government to antisemitism support those affected, address underlying risks and drivers of harm, and are implemented in a manner that strengthens social cohesion, democratic values and respect for the rule of law.

46. In addressing Term of Reference (a), this submission examines a range of legislative and policy tools that are available and which should be considered as part of an effective response to antisemitism in Australia.

Legislative responses

47. Thorough consideration of the full suite of existing Federal, State and Territory legislation is important in the Commission's inquiry across Terms of Reference (a)–(c) especially, with a view to identifying and addressing gaps, avoiding overlap and addressing inconsistency.

48. A range of civil and criminal legal protections relevant to antisemitism are canvassed below, in addition to national security and intelligence laws (addressed in our response to Terms of Reference (b) and (c)).

49. In the latter context, the Law Council recognises that national security and intelligence laws have an important and legitimate purpose in responding to extremism, terrorism and security threats, including the most deeply concerning matters before this Royal Commission. They serve a purpose in keeping Australians safe. As a general principle, the Law Council's view that an exceptional role should be retained for these laws, which bring exceptional powers with them.

50. Returning to civil and criminal protections, at the Federal level, relevant laws include protections under the *Racial Discrimination Act 1975* (Cth) (**RDA**) as well as criminal offences and procedural mechanisms found in both Schedule 1 to the Criminal Code and the *Crimes Act 1914* (Cth). However, in Australia's Federal structure, criminal law and policing are primarily State and Territory responsibilities.

---

[46] Australian Human Rights Commission, *Respect at Uni: Study into antisemitism, Islamophobia, racism and the experience of First Nations people* (Report, February 2026) 54.
[47] Ibid 83-85.
[48] Parliamentary Joint Committee on Human Rights, *Inquiry into antisemitism at Australian universities* (Report, February 2025) ix.
[49] Ibid.

51. As a general approach, we highlight that the necessity and proportionality of any new laws should be carefully considered by reference to the respective roles of civil and criminal laws to address graduated forms of harmful conduct. In relation to criminal law, this includes canvassing both general offences and specific hate-crime offences.

52. Legislative responses should also be informed by various other reviews, inquiries and law reform processes relevant to the Royal Commission's terms of reference, many of which have been directed (partially or wholly) to addressing antisemitism and violence towards the Jewish community, including through criminal and anti-discrimination law frameworks.[50]

53. We acknowledge there is a delicate and difficult balance to be struck in enacting laws in this area, noting that they are developed as laws of general application. For example, from a human rights perspective, human rights are interrelated, interdependent and indivisible. Australia's laws must uphold a range of rights including the rights to life, equality and non-discrimination, privacy, family, health, of children and culture, and freedom of religion. At the same time, safeguards are also needed to preserve the right to a fair trial, freedoms of opinion and expression (including for artistic and satirical purposes), rights to peaceful assembly (including protest), the implied freedom of political communication under the Australian Constitution and other matters that commonly form the basis of genuine defences or exceptions. International human rights law obligations will inform the limitation of rights in this area and remain paramount.

Criminal law frameworks

54. Several existing criminal offences may capture incidents of antisemitism depending on the circumstances. At the federal level, for example, under the Criminal Code this includes:

- advocating force or violence against groups (section 80.2A) or members of groups or close associates (section 80.2B);
- threatening force or violence against groups (section 80.2BA) or members of groups or close associates (section 80.2BB);
- advocating (section 80.2BC) or threatening (section 80.2BD) damage to or destruction of real property or motor vehicle;
- advocating terrorism (section 80.2C);
- advocating genocide (section 80.2D);
- public display of prohibited Nazi symbols or giving Nazi salute (section 80.2H);

---

[50] Federally, this includes the *Combatting Antisemitism, Hate and Extremism (Criminal and Migration Laws) Act 2026* (Cth) and the *Criminal Code Amendment (Hate Crimes) Act 2025* (Cth). States and Territories have also undertaken their own processes. For example, in New South Wales alone, this includes the NSW Legislative Assembly Committee on Law and Safety's inquiry on measures to combat right-wing extremism in New South Wales; the NSW Law Reform Commission's ongoing review of the *Anti-Discrimination Act 1977* (NSW); the NSW Legislative Council Portfolio Committee No. 5 – Justice and Communities' report on the inquiry into antisemitism in NSW; the NSW Legislative Assembly Committee on Law and Safety's report on the inquiry into measures to prohibit slogans that incite hatred; the review by the Honourable John Sackar AM KC into criminal law protections against the incitement of hatred; the *Crimes Amendment (Places of Worship) Act 2025* (NSW); the *Law Enforcement (Powers and Responsibilities) Amendment (Places of Worship) Act 2025* (NSW); the *Crimes Legislation Amendment (Racial and Religious Hatred) Act 2025* (NSW); the *Terrorism and Other Legislation Amendment Act 2025* (NSW) and the NSW Law Reform Commission's review report on "Serious racial and religious vilification".

- public display of prohibited terrorist organisation symbols (section 80.2HA);
- directions to cease display of prohibited symbols in public (section 80.2K);
- using a carriage service to make a threat (section 474.15);
- using a carriage service to menace, harass or cause offence (section 474.17); and
- using a carriage service to make available personal data of an individual/s (section 474.17C) or group/s (section 474.17D)

55. The passage of several recent federal reforms is summarised above. Most recently, following the Bondi terrorist attack, the *Combatting Antisemitism, Hate and Extremism (Criminal and Migration Laws) Act 2026* (Cth) introduced a range of further amendments to the Criminal Code, including:

    - an aggravated offence for religious officials or other spiritual leaders (section 80.2DA);
    - a new framework to allow certain organisations to be listed as prohibited hate groups where they engage in hate crimes, or support or advocate the commission of these offences, and associated criminal offences (see Part 5.3B);
    - an aggravated offence for using a carriage service for violent extremist material (section 474.45BA);
    - various changes to offences addressing the public display of prohibited hate symbols (Division 80), including:
        - the reversing of the burden of proof so that a defendant is required to present evidence, in the first instance, that the public display of a prohibited hate symbol was for a legitimate purpose (sections 80.2H and 80.2HA);
        - the addition of "prohibited organisation symbol" offences to address the symbols of prohibited hate groups (sections 80.2E, 80.2HA, 80.2JA and 80.2M); and
        - replacing the reasonable person test with a test that considers the perspectives of a reasonable person who is a member of a group of persons distinguished by race, religion or nationality (sections 80.2H and 80.2HA).

56. By way of example at the state level, in New South Wales relevant powers and offences include those under the *Crimes Act 1900* (NSW), *Law Enforcement (Powers and Responsibilities) Act 2002* (NSW), *Crimes (Domestic and Personal Violence) Act 2007* (NSW) and *Summary Offences Act 1988* (NSW). The *Crimes Act 1900* (NSW) criminalises a broad range of conduct that may be hate-based or motivated by antisemitic, including murder, wounding or causing grievous bodily harm, assault, and property damage. It also contains offences that specifically criminalise hate-based conduct and conduct targeting specific groups of people, including for publicly threatening or inciting violence on grounds of race, religion and other protected status,[51] publicly inciting hatred on the grounds of race,[52] and the public display of Nazi symbols.[53] Most recently, following the Bondi terrorist attack, an offence was

---

[51] *Crimes Act 1900* (NSW) s 93Z.
[52] Ibid s 93ZAA.
[53] Ibid s 93ZA.

introduced criminalising the act of knowingly displaying, by a public act and without reasonable excuse, a prohibited terrorist organisation symbol.[54]

57. If relevant and known,[55] both NSW and Commonwealth law require certain motivations of an offender to be taken into account as an aggravating factor in sentencing. For example, where an offence was partially or wholly motivated by hatred or prejudice against a group (such as people of a particular religion, racial, or ethnic origin), this factor must be taken into account as an aggravating factor on sentence under section 21A of the *Crimes (Sentencing Procedure) Act 1999* (NSW). The Law Society of NSW considers this aggravating factor provides sufficient scope to sentencing judges to reflect the seriousness of a hate-based or antisemitic crime in the sentence they hand down. Similarly, Victoria has also adopted as a sentencing factor, whether the offence was "motivated (wholly or partly) by hatred for or prejudice against a group of people with common characteristics".[56]

58. Regardless of the adequacy of current Australian criminal laws, we caution against an over-reliance on the criminal law to promote social cohesion and deter antisemitic or hate-motivated conduct. The criminal law is of course necessary to respond to graver forms of conduct. However, the criminal law is ultimately a blunt instrument and may only play a very limited, and reactive, role in addressing antisemitism, as it does not address the underlying, complex historical, social, cultural and political drivers contributing to these beliefs and associated behaviour. Further, there is a risk that the reality or perception of selective enforcement can undermine social cohesion and can inadvertently lead to an increase in racist and extremist views and behaviour. This outcome may be more likely if offences are so broadly framed and uncertain that they rely upon law enforcement and prosecutorial discretion to determine, in practice, what conduct should or should not be subject to sanction. At the same time, the Law Council recognises that the effectiveness of the criminal law in responding to hate-based conduct must be assessed against the evidence of how such conduct is experienced and perpetuated by different groups of individuals, including the evidence before this Royal Commission.

59. In this context, we note that while the Law Council has strongly supported the important public policy objectives behind recent federal criminal law reforms, it has also raised certain concerns about these laws. In summary, these relate to:

    - **Process**—rushed law reform risks unintended consequences and produces less optimal legislative outcomes (discussed at paragraphs 148–152 below);

    - **Necessity**—for example, in our submission about the Exposure Draft of the Combatting Antisemitism, Hate and Extremism Bill 2026 (Cth) (**2026 Exposure Draft**), we underlined the importance of considering the proposed offences in that Bill in the context of the range of existing offences criminalising hate-based conduct across all jurisdictions (federal, state and territory), so that they can best increase community safety and promote social cohesion rather than further

---

[54] Ibid s 93ZB.
[55] *Crimes (Sentencing Procedure) Act 1999* (NSW) para 21A(1)(a); *Crimes Act 1914* (Cth) para 16A(2)(mb).
[56] *Sentencing Act 1991* (Vic) s 5(2)(daaa).

complicate an already complex legislative landscape.[57] These concerns were also reflected in our response to the Criminal Code Amendment (Hate Crimes) Bill 2024 (Cth) (**2024 Bill**).[58]

- **Clarity**—for example, in our submission about the 2026 Exposure Draft, the Law Council raised concerns about the proposed framework for proscribing groups as "prohibited hate groups" under the Criminal Code.[59] This included suggesting that some provisions were ambiguous, open-ended, or contained inappropriately low thresholds. Responding to the 2024 Bill, we were concerned by the emerging lack of coherence or clarity in Division 80 of the Criminal Code, recommending that it should be referred to the ALRC.

- **Proportionality**—for example, regarding the 2026 Exposure Draft, we raised a range of issues with the drafting of the relevant Bill, including:
  - the extension of criminal liability on the basis of association, requiring lower thresholds of proof of criminal conduct for the proscribed group than would otherwise attach to an individual;
  - concerns with proposed procedural safeguards;
  - relatively low fault elements for offences carrying significant consequences; and
  - reversed burdens of proof.

60. In responding to the 2024 Bill, we raised concerns about the removal of a good faith defence which provided an important balance mechanism for existing and proposed new offences, facilitating the careful assessment of the context in which speech occurs. We recommended the inclusion of a public interest exception instead as an element of the offences,[60] which did not eventuate. Subsequently, we were concerned by amendments attaching mandatory sentencing to certain hate crimes and a broad range of terrorism offences.[61] In our view, mandatory sentencing is disproportionate, unfair and undermines judicial independence to ensure that the individual punishment fits the crime.

61. We raise these issues to reinforce the ongoing importance of designing coherent, targeted, and effective laws, with appropriate safeguards (as discussed below), which avoid unintended consequences, and are widely understood and accepted as legitimate and fair.

---

[57] Law Council of Australia, Submission to Parliamentary Joint Committee on Intelligence and Security, Parliament of Australia, *Combatting Anti-Semitism. Hate and Extremism Bill 2026 (Cth)* (15 January 2026) [8].

[58] See Law Council of Australia, Submission to Senate Legal and Constitutional Affairs Legislation Committee, Parliament of Australia, *Criminal Code Amendment (Hate Crimes) Bill 2024* (29 November 2024).

[59] Law Council of Australia, Submission to Parliamentary Joint Committee on Intelligence and Security, Parliament of Australia, *Combatting Anti-Semitism. Hate and Extremism Bill 2026 (Cth)* (15 January 2026) [23]-[62].

[60] Law Council of Australia, Submission to Senate Legal and Constitutional Affairs Legislation Committee, Parliament of Australia, *Criminal Code Amendment (Hate Crimes) Bill 2024* (29 November 2024) [87]-[93].

[61] Law Council of Australia, 'Mandatory sentencing is not the answer' (Media release, 6 February 2025) referring to the Government's amendments to the *Criminal Code Amendment (Hate Crimes) Bill 2024*.

62. In its consideration of criminal offences, the Royal Commission should closely evaluate evidence of their impact in reducing antisemitism or deterring hate-fuelled conduct, and any unintended consequences. It appears that certain offences are selectively or rarely prosecuted, which may indicate institutional reluctance to utilise existing offences and/or technical difficulties in securing evidence to initiate prosecutions for hate-based offending. For example, the inquiry into antisemitism in NSW heard evidence that some people displaying Nazi symbols have been proceeded against at some public demonstrations but not others.[62] The perception of any enforcement inconsistency has real consequences for affected communities, who may reasonably feel that the law does not operate equally in their protection—an experience that itself undermines social cohesion and public confidence in the legal system. In addition to the issues raised above, the Law Council has also raised concerns about the construction of Commonwealth offences addressing prohibited symbols and gestures.[63] A number of these offences have only recently been introduced and therefore there may not have been sufficient time to collect data on the effectiveness of these reforms and how specific offences function alongside the general criminal law.

63. We add that the National Hate Crimes Database is a valuable resource, and the Law Council was pleased to work with the Department of Home Affairs towards establishing it. At this stage, the Australian Institute of Criminology identifies that data "does not allow for disaggregation by specific hate motivations of offences", and that it is "working with data providing agencies to expand the scope of the data available on the dashboard".[64] Effectively, the database tracks the use of specific charges rather than instances of hate-motivated violence. Improved data collection to better document instances of antisemitism would also assist an evaluation of existing hate crimes frameworks, noting that any proposed new criminal offences or related measures should be grounded in robust, evidence-based justification.

Civil law frameworks

64. The important role of the civil law as part of a graduated response to harmful conduct should not be overlooked. The Royal Commission should examine the role and operation of existing anti-discrimination and human rights frameworks across federal, and state and territory jurisdictions, including their capacity to respond effectively to antisemitic conduct and broader matters impacting social cohesion. In particular, the inquiry presents an opportunity to identify and address any gaps in current anti-discrimination frameworks, and to consider how greater consistency might be achieved across jurisdictions.

---

62 Portfolio Committee No. 5 Justice and Communities, NSW Legislative Council, *Evidence consolidation report from the inquiry into antisemitism in New South Wales* (Evidence Consolidation Report, February 2026) 11 (per witness *Robert Gregory*).

63 See Law Council of Australia, Submission to Parliamentary Joint Committee on Intelligence and Security, Parliament of Australia, *Combatting Antisemitism, Hate and Extremism Bill 2026* (Cth) (15 January 2026) [79]-[92]. See also Law Council of Australia, Submission no 150 to Parliamentary Joint Committee on Intelligence and Security, Parliament of Australia, *Review of the Counter-Terrorism Legislation Amendment (Prohibited Hate Symbols and Other Measures) Bill 2023* (14 August 2023).

64 Australian Institute of Criminology, 'National Hate Crimes Database' (Web Page, reference period 1 October 2024 to 30 September 2025).

Federal legislation

65. The preamble to the RDA recites Parliament's desire to provide for "the prohibition of racial discrimination and other forms of discrimination and, in particular, to make provisions for giving effect to" the CERD.

66. Section 18C of the RDA renders it "unlawful for a person to do an act, otherwise than in private, if the act is reasonably likely, in all the circumstances, to offend, insult, humiliate or intimidate another person or group of people and the act is done because of the race, colour national or ethnic origin of the other person or of some or all of the people in the group". If an act is done for two or more reasons, and one of the reasons (whether or not it is the dominant or substantial reason) is the race, colour or national or ethnic origin of a person, the act is taken to be done because of the person's race, colour or national or ethnic origin.[65]

67. Section 18C(1)(a) is an objective test. When applying it, is necessary to regard the perspective of a reasonable member of the hypothetical group who might be offended by the act.[66] Section 18C(1)(a) is directed towards conduct which has "profound and serious effects, not to be likened to mere slights".[67]

68. Section 18D of the RDA provides for a range of exemptions to the operation of section 18C for certain things said or done reasonably and in good faith. In *Bropho v Human Rights and Equal Opportunity Commission*, French J recognised that, just as Australia's relevant human rights obligations allow States to "strike a balance between the need to prohibit the evil of racial vilification and hatred and the need to protect freedom of speech and association within their reasonable limits", the prohibitions in section 18C and exemptions allowed by section 18D reflect "a like balance".[68] Section 18C was itself characterised as creating "an exception to the general principle that people should enjoy freedom of speech and expression … reflected in the recognition of that freedom as fundamental in a number of international instruments and in national constitutions … [and] in the common law albeit subject to statutory and other exceptions".[69]

69. Other provisions of the RDA, which may be enlivened to combat antisemitism, include:

    - Section 9, which prohibits racial discrimination by making it "unlawful for a person to do any act involving a distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of any human right or fundamental freedom in the political, economic, social, cultural or any other field of public life".
    - Section 15 of the RDA, which makes it unlawful to refuse or fail to employ a qualified person, refuse or fail to offer a person the same employment

---

65 *Racial Discrimination Act 1975* (Cth) s 18B.
66 *Clarke v Nationwide News Pty Ltd* (2012) 201 FCR 389 (***Clarke***), [50] (Barker J).
67 Eatock v Bolt (2011) 197 FCR 261 (***Eatock***), [268] (Bromberg J), citing *Creek v Cairns Post Pty Ltd* , [16] (Kiefel J); *Bropho v Human Rights and Equal Opportunity Commission* (2004) 135 FCR 105 (***Bropho***), [70] (French J); *Jones v Scully (2002) 120 FCR* 243, [102] (Hely J).
68 *Bropho v Human Rights and Equal Opportunity Commission* (2004) 135 FCR 105, 122 [62].
69 Ibid 125 [72].

conditions or opportunities for training made available to others with the same qualifications, or to dismiss a person from employment, by reason of their race, colour or national or ethnic origin or that of any relative or close associate.

- Between 2000 and 2007, the RDA was successfully used on several occasions to ascribe accountability for antisemitic actions.[70] Since then, section 18C was either not used or only scarcely used (at least at the Federal Court phase) for over two decades.

70. More recently, the ECAJ brought an application under section 18C in *Wertheim*. In that case, Stewart J found that William Haddad contravened section 18C by delivering three lectures which were "reasonably likely in all the circumstances to offend, insult, humiliate or intimidate Jewish people in Australia and that were made because of the race or ethnic origin of Jewish people in Australia, and that were not made reasonably and in good faith in the course of any statement, publication, discussion or debate made or held for any genuine purpose in the public interest".[53] Stewart J also found that the Al Madina Dawah Centre Inc had contravened section 18C by publishing the lectures online.

71. In *Wertheim*, Stewart J concluded that a further sermon (Speech B) delivered by William Haddad did not convey the pleaded imputations and therefore did not contravene section 18C. With reference to Speech B, in which Mr Haddad made several statements critical of Zionists and Israel, Stewart J stated that "the ordinary, reasonable listener would understand that not all Jews are Zionists or support the actions of Israel in Gaza and that disparagement of Zionism constitutes disparagement of a philosophy or ideology and not a race or ethnic group".[55]

72. The Law Council is also aware of three ongoing cases under the RDA in the Federal Court pertaining to remarks in connection with Jewish and Israeli people, as the relevant protected groups.

73. A key barrier to access to justice under the RDA is cost and time, and the subsequent aggravation or exacerbation of damage due to the lengthy, and expensive and sometimes combative nature of the legal process. In *Kaplan v State of Victoria*,[71] five Jewish former students of Brighton Secondary College brought an application under section 9, alleging that between 2013 and 2020 they were subject to a range of antisemitic bullying (including physical, verbal and offensive graffiti) that went unaddressed by the school. The eight-week trial ultimately spanned the course of 8 months (including two pre-trial mediations). It is understood that the applicants' lawyers represented them pro bono, waiving almost the entirety of the fees by offering and obtaining a reciprocal costs order at the start of the case. Had this not occurred, the applicants would likely have been prevented from pursuing these proceedings, due to concerns relating to potential adverse costs orders.

74. Reforms made by the *Australian Human Rights Commission Amendment (Costs Protection) Act 2024* (Cth) have since sought to address that issue. Those amendments sought to protect applicants in anti-discrimination court proceedings

---

[70] *Jones v Scully* [2002] FCA 1080; *Jones v Toben* [2002] FCA 1150; *Jeremy Jones, and on behalf of the Executive Council of Australian Jewry v The Bible Believers' Church* [2007] FCA 55.

[71] (No 8) [2023] FCA 1092.

from adverse costs orders when they are unsuccessful, based on an 'equal access' model.

75. More broadly however, access to justice remains a concern for civil law matters. Funding for civil law services, including to support claims brought under the RDA, remains a critical gap. For example, according to data from National Legal Aid, in 2022, only 2 per cent of legal aid grants that provide for court representation were provided for civil law matters.[72] In the Final Report of the Independent Review of the National Legal Assistance Partnership, Dr Warren Mundy recommended a substantial increase in funding to expand the availability of civil law services.[73] However, the Law Council's assessment is that the National Access to Justice Partnership, which commenced in July 2025, failed to address this critical funding gap. Funding for Australia's legal assistance sector should not be static and should respond to increases in demand to ensure that vital legal services, including civil law services, are available when needed.

76. We note that discrimination in employment based on race, colour, religion, national extraction and other protected factors, is also prohibited under the *Australian Human Rights Commission Act 1986* (Cth).[74] Under amendments to that Act made in 2022, the AHRC can also inquire into, and report on, issues of systemic unlawful discrimination (actual or suspected) under any of the four federal anti-discrimination Acts.[75]

77. Additionally, section 351(1) of the *Fair Work Act 2009* (Cth) provides protection against adverse action in employment, and against the termination of employment, based on a range of protected attributes including on the basis of race, colour, religion, national extraction and social origin. However, these protections apply only to the extent that such conduct is unlawful under any anti-discrimination law in force where the action is taken and therefore may operate differently depending on the scope of protections available under different state and territory jurisdictions.[76]

State and Territory laws

78. At present, anti-discrimination protections against hate-based and antisemitic conduct, including protections against discrimination and vilification, vary across jurisdictions.

79. In New South Wales, for example, the *Anti-Discrimination Act 1977* (NSW) (**ADA**) adopts different approaches to discrimination and vilification. While the ADA affords protection against discrimination on the basis of race,[77] it does not expressly prohibit discrimination on the basis of religion. Although the definition of racial discrimination extends to discrimination based on "ethno-religious origin",[78] this concept has given

---

72 Impact Economics and Policy for National Legal Aid, Justice on the Brink: Stronger Legal Aid for a Better Legal System (Report, November 2023) 27.
73 Dr Warren Mundy, Independent Review of the National Legal Assistance Partnership (Final Report, March 2024) rec 5.
74 *Australian Human Rights Commission Act 1986* (Cth) s 3(1) ('definition of discrimination').
75 Ibid s 35L, as inserted by the *Anti-Discrimination and Human Rights Legislation Amendment (Respect at Work) Act 2022* (Cth).
76 *Fair Work Act 2009* (Cth) s 351(2).
77 *Anti-Discrimination Act 1977* (NSW) pt 2, div 2-3.
78 Ibid s 4(1) (definition of 'race').

rise to definitional uncertainty and has been held not to extend to certain religious groups.[79] By contrast, the ADA's vilification provisions cover a broader range of conduct, making it unlawful to publicly incite hatred, serious contempt or severe ridicule on the grounds of race,[80] as well as on the basis of, or lack of religious belief or affiliation, or engagement, or lack of engagement, in religious activity.[81] We note that the New South Wales Law Reform Commission is currently undertaking a review of the current scope and operation of the ADA, including consideration of the adequacy of protections against discrimination and vilification.[82]

80. In the recent Victorian Civil and Administrative Tribunal case of *Vorchheimer v Tayeh*,[83] the Tribunal found that initiating a chant of "all Zionists are terrorists" at a rally in 2025 contravened sections 7 and 8 of the *Racial and Religious Tolerance Act 2001* (Vic), in that it was "likely to incite 'hatred, serious contempt, revulsion or severe ridicule' against Jewish people on racial or religious grounds".[84] The tribunal emphasised that the Act was not aimed at outlawing criticism; rather it operated to protect "supporters of the continued existence of a Jewish state" from dangerous hostility.[85] This case was heard over just three days in December 2025, and the decision was published in February 2026.

81. It should be noted that the NSW and Victorian legislation mentioned above is more comprehensive, and provides more accessible remedies, than the RDA.[86] It should also be emphasised that *Vorchheimer* was a civil claim, and that a related criminal proceeding was dismissed on the basis that the necessary intent could not be established.[87]

82. A person who has been discriminated against on the basis of race may also make a complaint to the AHRC under the Australian Human Rights Commission Act. The Law Council recommends sufficient funding for the AHRC to undertake its complaints functions. In its recent 2026–27 pre-Budget submission, the Law Council called for an increase in funding to the AHRC, "particularly for increased provision of conciliators, and to improve efficiency for mediation and pre-mediation processes in discrimination matters".[88] However, the overall funding for the AHRC for 2026–27 was reduced to $67,532,000, from $76,957,000 in 2025–26.[89]

---

79 See e.g., *Khan v Commissioner of Corrective Services* [2002] NSWADT 131 [20]; *Ekermawi v Nine Network Australia Pty Ltd* [2019] NSWCATAD 29 [32], [102].
80 *Anti-Discrimination Act 1977* (NSW) s 20C.
81 Ibid s 49ZE.
82 NSW Law Reform Commission, 'Anti-Discrimination Act Review – Terms of Reference' (Web Page, updated April 2026)
83 *Vorchheimer v Tayeh* [2026] VCAT 134.
84 Ibid [33]-[63].
85 Jeremie Bracka, 'A tribunal has drawn a clear line on antisemitic hate speech. Here's what it said…' *The Conversation* (online, 3 March 2026). NB Mr Vorchheimer also initiated proceedings against Adam Bandt and the Australian Greens, but withdrew that application advisedly. See e.g. *Vorchheimer v Bandt* (Human Rights) [2025] VCAT 954.
86 Note constitutional considerations might well prevent comparable anti-discrimination jurisdiction being conferred on the Federal Administrative Review Tribunal.
87 See "Hash Tayeh cleared of charges over 'Zionists' chant", *The Australian* (Melbourne, 2 June 2026).
88 Law Council of Australia, Submission to the Treasury, *2026-27 Pre-Budget Submission* (6 February 2026) 17.
89 Australian Government, Attorney-General's Portfolio, *Portfolio Budget Statements 2026-27* (Budget Related Paper No 1.2, 12 May 2026) 62.

Recommendations 1–3

Alongside other laws, the role of civil law responses should be considered in combatting antisemitism, as part of a graduated legislative response to different forms of harmful conduct.

The Australian Government should ensure adequate and predictable funding for the Australian Human Rights Commission's advocacy and complaint handling functions.

Federal, state and territory governments should address identified gaps in funding for legal assistance to address civil justice needs.

An ALRC review of race hate and racial vilification laws

83. As illustrated above, at present, criminal offences and civil protections against hate-based and antisemitic conduct, including protections against discrimination and vilification, vary across federal, state and territory levels, and some are subject to active law reform inquiries. A comprehensive review by the ALRC that engages with the complexities described above and below is required to weigh the various public interests at stake in this area of regulation, assessed in accordance with Australia's human rights obligations. This would identify how freedom of expression can best be respected as a cornerstone of a free and democratic society, while also prohibiting harmful conduct as is clearly necessary to protect the rights of others, national security, public order, public health or morals, across civil and criminal laws.

84. Australia's international legal obligations and commitments will be an important reference point for this review. In addition, the UN's *Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence* usefully distinguishes between forms of expression giving rise to criminal, or administrative sanctions.[90] It emphasises that legislative responses to hate incidents should "be narrowly defined to serve the legitimate interest" of protecting the community from harm, and be "necessary in a democratic society to protect that interest".[91] This requires, amongst other things, that relevant legislative measures be not overly broad but rather, clearly and narrowly defined, and constitute the least intrusive measures available to address the relevant harm, with sufficient safeguards to ensure consistency with human rights obligations and to minimise the risk of unintended or unnecessary impacts on activities undertaken for legitimate academic, educational, journalistic or other public purposes.[92] This underlines the need for domestic law responses that are carefully targeted, clearly directed towards specific harms on a graduated scale, and incorporate good faith or public interest exceptions and defences as safeguards.

---

90 Office of the High Commissioner for Human Rights, *Report of the United Nations High Commissioner for Human Rights on the expert workshops on the prohibition of incitement to national, racial or religious hatred* (Rabat Plan of Action) UN Doc A/HRC/22/17/Add.4 (11 January 2013), [12].

91 Ibid [18].

92 Ibid [9]-[18].

85. Currently, the differences between existing Australian criminal and civil frameworks risk producing inconsistent outcomes. For example, in a comparison of Federal and NSW laws, Katharine Gelber and Luke McNamara identified differences including coverage of "ethno-religious" grounds, relevant harm thresholds, and whether incitement forms part of the relevant tests.[93] Gelber and McNamara also noted concerns in respect of the "operational scope of Australia's anti-vilification laws", including that "while they are capable of catching gross expressions of racism, more subtle and sophisticated forms of racism may go under the radar".[94] This is despite the fact that "moderate behaviours, especially cumulatively over time, are just as capable of causing harm to targets as gross epithets".[95] This underlines that there are tensions to be navigated in terms of what kinds of expression should be prohibited under the law, and what should be excluded.

86. The work of the ALRC, in assessing the role of existing criminal and civil laws to respond to graduated forms of harmful conduct, would include whether there are gaps in coverage, having regard to the concerns identified by Gelber and McNamara and other contributors, including respondents to this Royal Commission with lived experience. It would further consider which legal frameworks would be best employed to address any such gaps, and how such laws should then be appropriately calibrated. This would include consideration of, for example, relevant thresholds, exceptions and defences, and how lines are best drawn - including in light of evidence about 'grey areas' in which different actors may be operating. This process could assess how disavowable hate speech is best addressed, as well as the potential role and merit of a federal serious vilification offence.

87. In undertaking this work, the ALRC should have particular regard to the evidence before this Royal Commission about the nature and experience of antisemitic conduct, including evidence of actors who operate deliberately below existing legal thresholds and the cumulative harm of conduct that, while falling short of the most serious offences, is nonetheless deeply damaging to individuals and communities. The effectiveness of any legal framework must ultimately be measured against its capacity to provide meaningful protection to those it is designed to serve.

88. State and Territory laws relating specifically to racial vilification are fragmented and do not always cover the same ground. For example, in NSW, only "public acts" can be caught by section 93Z of the *Crimes Act 1900* (NSW), and the term "public act" is defined in subsection 93Z(5). On the other hand, Part 1 Division 2D of the *Crimes Act 1958* (Vic) includes no such restriction. Section 52A of the *Criminal Code Act 1899* (Qld) is also restricted to "public acts".

89. Developing a more complete picture of how racial vilification and violence is criminalised across Australian jurisdictions is further complicated by the availability of offences of general application that might apply to the same conduct. An important difference is that offences of general application rarely require proof of the motivation of the accused to secure a conviction. The motivation of the accused instead becomes important at sentencing.

---

93 See Katharine Gelber and Luke McNamara, "Anti-Vilification Laws and Public Racism in Australia: Mapping the Gaps Between the Harms Occasioned and the Remedies Provided", (2016) 39(2) *University of NSW Law Journal* 488.

94 Ibid, 503.

95 Ibid, 504.

90. In a recent review of the effectiveness of section 93Z of the *Crimes Act 1900* (NSW) to address serious racial and religious vilification, the NSW Law Reform Commission identified that general offences are "more familiar to police, are easier to prove and have higher maximum penalties". This may explain why there have been few charges under more specific hate crimes laws.[96]

91. Considering the differences between racial vilification laws (both civil and criminal) across Australia, and noting that such laws are of general application, the Law Council recommends consideration of a referral to the ALRC for a review of legal frameworks relating to racism and racially motivated hate and violence, with a view to harmonising Federal, State and Territory laws, supporting consistent coverage, avoiding duplication, addressing gaps, and incorporating appropriate exceptions or defences.

92. Any such review should involve close consultation with Jewish communities and other racial and culturally diverse groups affected by such laws. Given the complexity of these issues and the truncated timeframes of the Royal Commission, an ALRC review may provide an appropriate mechanism for addressing cross-jurisdictional complexity while facilitating broader consultation across with affected groups, informed by the findings of the Royal Commission among other reports and inquiries (again noting, in particular, the current inquiry into racism, hate and violence towards First Nations Australians). Given that public opinion on these kinds of reforms is often polarised, this may be a sensible means of methodically assessing laws and developing proposals in this area that have a clear underpinning rationale.

Recommendation 4

The Australian Government should refer an inquiry to the Australian Law Reform Commission into legal frameworks relating to racism and racially motivated hate and violence, with a view to achieving greater harmonisation across federal, state and territory laws.

Regulation of online platforms

93. Online platforms have significantly increased the reach, permanence and intensity of racist abuse and antisemitic hate speech, resulting in considerable harmful impacts. Between 2022 and 2026, the Online Hate Prevention Institute and others have tracked very significant increases in antisemitic material being posted on social media.[97] This has been noted in the Interim Report, with the rise of online extremism and radicalisation featuring in the Royal Commission's hearings.[98]

94. The Royal Commission has also heard distressing accounts of online hatred and abuse since the hearings began. This included a statement on Day 6 of the hearings that online mobilisation is frequently "translating into physical acts" offline and that

---

96 NSW Law Reform Commission, *Serious Racial and Religious Vilification* (Report No 151, September 2024) 8, see also Chapter 3.
97 See Online Hate Prevention Institute, 'Antisemitism' (Web Page, undated).
98 *Royal Commission on Antisemitism and Social Cohesion* (Interim Report, April 2026) 96.

antisemitism and political activism are becoming increasingly intertwined and violent.[99]

95. There is also a growing threat of organised ideologically motivated online extremism. The final report of the Senate Standing Committee on Legal and Constitutional Affairs' inquiry into right-wing extremism in Australia observed that:

> *Mainstream social media platforms and social networking sites remain an important space for right-wing extremists to congregate and organise, and represent opportunities for right-wing extremists within the Australian context to gain exposure to mainstream online discourse, which can afford opportunities to bring about the mainstreaming of extremist discourses. Right-wing extremists are active on a range of mainstream social media platforms, such as YouTube and TikTok, as well as mainstream social networking sites such as Facebook, Instagram and X (previously Twitter).*[100]

96. The Law Council also notes that online antisemitism in Australia is not solely domestically generated. Coordinated inauthentic behaviour, amplification by state-adjacent actors, and content originating from outside Australia's jurisdiction present distinct regulatory challenges that existing frameworks may not be well-equipped to address.[101] Effective platform regulation and law enforcement responses must account for this international dimension, and the Commission may wish to consider whether current arrangements adequately enable cooperation with overseas counterparts and platforms to address coordinated foreign-origin antisemitic content.

97. Australia has endorsed the *Christchurch Call,* which is an important commitment to address online hate.[102] While recent Commonwealth targeted investments, namely an injection of $1 million towards "online safety advice to address antisemitism" and a further $80 million towards establishing a Counter-Terrorism Online Centre, are positive steps, there remain gaps in the current legal framework, [103] in particular with respect to corrective action.

98. A key tool in the regulation of online hate in Australia is the *Online Safety Act 2021* (Cth) which provides important safeguards from abusive and harmful content for users of online platforms. Part 2 of the Act creates the office of the eSafety Commissioner and establishes its functions including the promotion of online safety, administration of a complaints system for cyber bullying and abuse, and coordination of relevant federal government activities.[104]

99. In 2024, the Australian Government undertook a statutory review of the Online Safety Act. In a submission to that review, the Law Council highlighted (among other matters) that the Act does not provide for corrective action against online hate

---

[99] Transcript of proceedings, *Royal Commission on Antisemitism and Social Cohesion* (Hearing Day 6, 7 May 2026) 501 [30].

[100] Senate Standing Committee on Legal and Constitutional Affairs, Parliament of Australia, *Inquiry into Right-Wing Extremism in Australia* (Final report, December 2024) [5.34].

[101] For example, Australian Government, *Statutory Review of the Online Safety Act 2021: Issues Paper* (Issues Paper, April 2024), 33.

[102] *Christchurch call to eliminate terrorist and violent extremist content online: Commitments* (Web page, 2019).

[103] Australian Government, *Budget Measures* (Budget Paper No, 2, 12 May 2026) 68-70.

[104] *Online Safety Act 2021* (Cth) s 26.

targeting individuals or groups based on protected or intersectional characteristics.[105] In its final report, the review accepted that existing complaint schemes are not adequately addressing the scale and nature of online abuse, including high removal thresholds and cumulative harm.[106]

100. The 2024 review recommended:

- that the Act should include a definition of online hate material that is based on protected characteristics while also being considerate of potential exclusions.[107] The Australian Government's response "noted" this recommendation but indicated it requires "further consideration" because it responds to individual incidents rather than a systemic duty-of-care approach;[108]
- that the Act should enable the regulator to issue a removal notice for material that has met the requirements for removal under a prior complaint, where the regulator becomes aware that the material has been reposted,[109] which the Australian Government supports;[110]
- that the Act should include additional powers to require an end user to stop posting cyber abuse about an Australian adult in an end-user notice, subject to a civil penalty for non-compliance,[111] which the Australian Government only noted in its response;[112] and
- increased penalties for social media companies, including with respect to the maximum civil penalty that may be imposed by a court,[113] and penalties for non-compliance with removal notices.[114] The Australian Government supports these recommendations.[115]

101. The Royal Commission should have regard to these recommendations to improve protections against antisemitism in online platforms.

102. To progress a key recommendation of the statutory review, on 26 May 2026, the Australian Government published an issues paper on a digital duty of care on online services.[116] The imposition of a duty of care to support broad, risk-based and

---

[105] Law Council of Australia, Submission to Delia Rickard PSM, Reviewer, *Statutory Review of the Online Safety Act 2021* (2 July 2024) [48].
[106] Delia Rickard PSM, *Report of the Statutory Review of the Online Safety Act 2021* (Report, October 2024) 82.
[107] Ibid.
[108] Australian Government, *Government Response to the Independent Review of the Online Safety Act 2021* (Report, 14 April 2026) 8.
[109] Delia Rickard PSM, *Report of the Statutory Review of the Online Safety Act 2021* (Report, October 2024) 22.
[110] Australian Government, *Government Response to the Independent Review of the Online Safety Act 2021* (Report, 14 April 2026) 8.
[111] Delia Rickard PSM, *Report of the Statutory Review of the Online Safety Act 2021* (Report, October 2024) 22.
[112] Australian Government, *Government Response to the Independent Review of the Online Safety Act 2021* (Report, 14 April 2026) 8.
[113] Delia Rickard PSM, *Report of the Statutory Review of the Online Safety Act 2021* (Report, October 2024) 23.
[114] Ibid.
[115] Australian Government, *Government Response to the Independent Review of the Online Safety Act 2021* (Report, 14 April 2026) 11.
[116] Australian Government, *A Digital Duty of Care for Australia—Developing a duty of care framework for online services used by Australians* (Issues Paper, 26 May 2026).

proportionate regulation of online service providers is supported by the Law Council, and there is a need for close consultation with stakeholders on the development and scope of such a measure. For example, further consideration should be given to whether enforceability of any duty should extend beyond reliance on the eSafety Commission, and also include a direct-action model through a private right of action.

103. The above recommendations of the statutory review should also be considered in connection with Recommendation 12 of the AHRC's National Anti-Racism Framework, which is that:

> *Australian governments introduce effective legal protections against online hate, with particular attention given to regulation and enforcement against, and liability of, digital platforms.*[117]

104. We make further comments about online extremism under Terms of Reference (b) and (c) below.

Recommendations 5–6

The Australian Government should respond to the recommendations of the 2024 statutory review of the *Online Safety Act 2021* (Cth), including: (a) inclusion of a definition of "online hate material"; (b) the eSafety Commissioner's power to create mandatory rules on entities' compliance with their duty of care requirements; and (c) increased penalties for social media companies.

The Australian Government should, in developing the Digital Duty of Care framework for online services, give specific consideration to whether enforcement mechanisms should include a private right of action available to individuals harmed by a platform's failure to meet its duty of care obligations, as a complement to the eSafety Commissioner's regulatory functions.

Broader responses

105. The above discussion of legal frameworks should not be considered in isolation from other important measures to address antisemitism in Australia. Broader policy tools should be considered by the Royal Commission, including the role of education, community engagement, security and support, and early intervention, counter-radicalisation programs, improved reporting pathways and data, guidance and training.

106. In 2025, Australia's Special Envoy to Combat Antisemitism (**ASECA**) produced a Plan to Combat Antisemitism,[118] to which the Australian Government has since responded.[119] In the 2026–2027 Budget, the Government announced $207.4 million over five years and $8.1 million ongoing to combat the influence of antisemitism,

---

[117] Australian Human Rights Commission, *The National Anti-Racism Framework: A Roadmap to Eliminating Racism in Australia* (Report, November 2024) 17.

[118] Australia's Special Envoy to Combat Antisemitism, *Special Envoy's plan to combat antisemitism: A policy-oriented framework for government and the Australian Community* (Report, July 2025).

[119] See Australian Government, *Eliminating Antisemitism: Australian Government response to the Special Envoy's Plan to Combat Antisemitism* (Report, 2025).

violent extremism and hate, and to respond to the ASECA's Plan.[120] In a more recent report, the ASECA has set out guidelines for countering antisemitism, drawing on international guidance materials.[121]

107. The AHRC's National Anti-Racism Framework also provides comprehensive recommendations and an action plan for all levels of Australian governments to eliminate racism,[122] to which the Australian Government has not yet responded. The purpose of the Framework is to "serve as a central reference point for a whole-of-society approach to eliminating racism",[123] and to act "as a roadmap for governments, non-government organisations, businesses, and civil society organisations to take anti-racist action across sectors".[124] The Framework is a national action plan covering all levels of government, and calls for better national understanding of racism.[125] In the *Seen and Heard* report, the AHRC noted that:

> *Implementing the Framework as the foundation of all anti-racism work in Australia is an approach supported by the Special Envoy to Combat Antisemitism in Australia and the Special Envoy to Combat Islamophobia in Australia. The Framework recommendations have the capacity to tailor solutions to suit the needs of affected communities including those experiencing antisemitism, Islamophobia, anti-Palestinian racism and anti-Arab racism.*[126]

108. The Law Council echoes the call for the Australian Government to implement the National Anti-Racism Framework, and emphasises the importance of ensuring adequate and predictable funding for the AHRC to support its advocacy and policy functions directed at addressing racism targeted at Jewish Australians and other groups.

Recommendation 7

The Australian Government should implement the Australian Human Rights Commission's National Anti-Racism Framework.

Investment in education and community-based programs

109. We also suggest consideration of long-term and preventative responses that strengthen social cohesion and address pathways to extremism. Early intervention is critical to preventing harm, and civics education and engagement is fundamental to a healthy and functioning democracy, including to help combat misinformation. This was a clear message echoed in the ASECA's *Plan to Combat Antisemitism*,[127] to

---

[120] Australian Government, *Budget Measures* (Budget Paper No 2, 12 May 2026) 68.
[121] Australian's Special Envoy to Combat Antisemitism, *Understanding Antisemitism in Australia* (Report, April 2026).
[122] Australian Human Rights Commission, *The National Anti-Racism Framework: A Roadmap to Eliminating Racism in Australia* (Report, November 2024) 11.
[123] Ibid 10.
[124] Ibid.
[125] Ibid 11.
[126] Australian Human Rights Commission, *The struggle in being seen, the power in being heard: Community insights from the Seen & Heard project* (Report, April 2026) 13.
[127] Australia's Special Envoy to Combat Antisemitism, *Special Envoy's plan to combat antisemitism: A policy-oriented framework for government and the Australian Community* (Report, July 2025) 8.

which Government responded in agreement that Australia must act through education and enforcement to combat antisemitism.[128]

110. In our view, this can be achieved in part through sustained education and community-based programs which specifically address antisemitism and its unique nature and historical underpinnings. In addition to the National Anti-Racism Framework, the Royal Commission may wish to consider the following programs and initiatives, developed by experts in their respective fields:

- the work being undertaken by the Antisemitism Education Taskforce, chaired by David Gonski AC,[129] as part of the Australian Government's response to the Special Envoy's Plan to Combat Antisemitism;
- early intervention programs such as the COMPACT (Community Partnership Action) Program, funded by Multicultural NSW,[130] which aims to unite and enhance resilience amongst marginalised communities through mentoring, youth political engagement and community-building projects; and
- the Step Together Program,[131] which was established in 2020 to strengthen and improve service delivery and coordination of Countering Violent Extremism interventions and provide practical online support to individuals, families, friends and community organisations to limit the risk of involvement in violent extremism.

111. We further note the importance of measures that complement legislative responses to address online hate, including programs aimed at improving digital literacy and the development of alternative positive online spaces to counter extremist content. As mentioned earlier, the 2026–27 Budget committed $1 million in 2025–26 to the Australian Communications and Media Authority for the eSafety Commissioner to provide online safety advice to address antisemitism.

112. More broadly, support for community-based health, wellbeing, housing, sporting and arts programs also foster connection and belonging, as well as community-building, cultural and faith-based initiatives. Improved reporting pathways, data collection and coordinated responses across jurisdictions are also important components of this approach.

113. The Law Council encourages the Royal Commission to pay close attention to education and public awareness recommendations of the AHRC's National Anti-Racism Framework in order to improve racial literacy and culturally safe service delivery across different sectors and services nationwide.

114. To prevent radicalisation and extremism, we reiterate our support for resourcing the coordinated delivery of rehabilitation and prevention programs across Federal, State and Territory governments. This includes increased funding for community-based wrap-around programs featuring case-managed assistance in areas like education,

---

[128] Australian Government, *Eliminating Antisemitism: Australian Government response to the Special Envoy's Plan to Combat Antisemitism* (Report, 2025) 2.
[129] Australian Government, *Antisemitism Education Taskforce* (Terms of Reference, 2026).
[130] NSW Government, Multicultural NSW, COMPACT (Web Page, 7 May 2026).
[131] Australian Government, Step Together, (Web Page, 1 June 2026).

health, mental health and housing.[132] An example is the NSW Engagement and Support Program, a holistic program which assists individuals and their families to limit their involvement in violent extremism by developing skills and factors that are protective against radicalisation.[133] We also restate our view that the component of funding under the Federal funding agreement for the Living Safe Together Intervention program should be increased.[134] There is an ongoing need to ensure that there is sufficient resourcing for countering violent extremism through early intervention and diversionary programs with a specific focus on children and young people (aged between 10 and 25).[135] We acknowledge that recent significant funding investment announcements may be directed towards some of these ends.

Recommendation 8

The Australian Government should ensure investments in education programs are comprehensive and evidence-based to address antisemitism and race hate at its earliest stages, as well as investing in programs to combat pathways to radicalisation and extremism.

[132] See for example Law Council of Australia, Submission no. 14.1 to Parliamentary Joint Committee on Intelligence and Security, Parliament of Australia, *Supplementary Submission: Review of post-sentence terrorism orders: Division 105A of the Criminal Code Act 1995 (Cth)* (8 April 2024) 18.

[133] See for example Department of Communities and Justice (NSW), NSW Engagement and Support Program (Web Page, 15 October 2025).

[134] Ibid; see also Law Council of Australia, Submission to Senate Legal and Constitutional Affairs Legislation Committee, Parliament of Australia, *Criminal Code Amendment (Hate Crimes) Bill 2024* (29 November 2024) 6, 15.

[135] Law Council of Australia, Submission to Senate Legal and Constitutional Affairs Committee, Parliament of Australia, *Criminal Code Amendment (Hate Crimes) Bill 2024* 7.

Terms of Reference (b) and (c)—Law enforcement, border control, immigration and security agencies

115. The Law Council is unable to comment on the specific circumstances surrounding the terrorist attack at Bondi. We instead make the following general remarks on the adequacy of relevant powers and, legislative frameworks for law enforcement, border control, immigration, and security agencies to tackle antisemitism.

Adequacy of security and law enforcement powers

116. The Royal Commission's Interim Report recommended that certain aspects of policing practice, counter-terrorism policy, and firearms regulation ought to be adjusted in response to the Bondi attack.[136] The Australian Government has already accepted the recommendations of the Interim Report in its response of May 2026.[137]

117. Regarding the adequacy of the legal frameworks concerning law enforcement and intelligence agencies, we note the observation in the Interim Report that:

> *No material or advice from any agency identified any gap in the existing legal and regulatory frameworks that impeded the ability for law enforcement, border control, immigration and security agencies to prevent, or respond to, an attack of the kind that occurred at Bondi on 14 December 2025. No Commonwealth or state intelligence or law enforcement agency has suggested that it was prevented from taking prohibitive actions before or on 14 December 2025 by the then current legislative and authorising framework.* ***In these respects, no issue requiring urgent or immediate action has been identified****.*[138]
> *[emphasis added]*

118. As Chapter 6 of the Interim Report details, Australia's counter-terrorism architecture has evolved and grown significantly; particularly over the past decade since the 2015 *Review of Australia's Counter-Terrorism Machinery*.[139] Since that time, under the Counter-Terrorism Strategy that resulted, there have been continual reviews and measures to strengthen the national security and counter-terrorism agencies, including the creation of the Department of Home Affairs and Office of National Intelligence.[140] Resourcing for what are now known as the National Intelligence Community agencies has also increased steadily to $14.3 billion in 2024/25.[141] In addition, the Interim Report notes "counter-terrorism has been a sustained law enforcement priority."[142]

119. It may be concluded that any deficiencies in Australia's counter-terrorism arrangements do not result from insufficient support, attention, urgent gaps in legislative powers or resourcing. Where existing frameworks are demonstrably

---

[136] *Royal Commission on Antisemitism and Social Cohesion* (Interim Report, April 2026).
[137] Australian Government, *Australian Government Response to the Interim Report* (As tabled in Parliament, 14 May 2026).
[138] *Royal Commission on Antisemitism and Social Cohesion* (Interim Report, April 2026) 8.
[139] Department of Prime Minister and Cabinet, *Review of Australia's Counter-terrorism Machinery* (Report, January 2015).
[140] *Royal Commission on Antisemitism and Social Cohesion* (Interim Report, April 2026) [6.6]-[6.15].
[141] Ibid [9.30]-[9.31].
[142] Ibid [10.3].

effective, the Law Council's view is that the priority should be ensuring they are adequately resourced, consistently applied, and subject to robust independent oversight — rather than structural reform for its own sake.

120. The Law Council notes there are broad-ranging, expansive investigatory powers and a range of offences relevant to the Royal Commission that are currently available to security and intelligence, law enforcement and other government agencies. In addition to specific counter-terrorism arrangements, these powers are found across a number of other statutes including federal, state and territory criminal law frameworks, the *Australian Security Intelligence Organisation Act 1979* (Cth), *Telecommunications (Interception and Access Act) 1997* (Cth), *Surveillance Devices Act 2004* (Cth) and the *Migration Act 1958* (Cth) (through visa cancellation and refusal powers).[143] At the Federal level, several recent law reforms have expanded other relevant criminal offences, as well as the role and powers of law enforcement and intelligence agencies in addressing conduct including ideologically motivated extremism.[144]

121. The Interim Report identifies that certain non-urgent reforms are either underway or under consideration. These include:

- implementing the recommendations of the Comprehensive Review of the Legal Framework of the National Intelligence Community (**the Comprehensive Review**) regarding electronic surveillance legislation;
- the recently introduced Australian Criminal Intelligence Commission Bill 2026 (Cth) (**ACIC Bill**);
- potential amendment of provisions of the Criminal Code provisions governing control orders, extended supervision orders (**ESOs**) and continuing detention orders (**CDOs**);
- ongoing AFP work in relation to law enforcement powers including the ability to apply for a named person account takeover warrant, as recommended by the Independent National Security Legislation Monitor (**INSLM**);
- reforms to modernise general police powers; and
- a notice to produce power that could be used for non—suspect third parties (eg financial institutions and other corporate entities).

Based on this, the Interim Report further highlights legislative reforms on terrorism-related issues which "might be fairly thought to be non-urgent".[145] These include:

- a new consolidated electronic surveillance Act, as recommended by the Comprehensive Review because the existing framework is outdated, fragmented and opaque;
- firearms regulation; and

---

[143] See in particular section 501 of the *Migration Act 1958* (Cth) and following sections, and Public Interest Criteria 4001 to 4003, set out in Schedule 4 to the *Migration Regulations 1994* (Cth).

[144] See for example the *Surveillance Legislation Amendments (Identify and Disrupt) Act 2021* (Cth); *Counter-Terrorism Legislation Amendment (Prohibited Hate Symbols and Other Measures) Act 2023* (Cth); *Privacy and Other Legislation Amendment Act 2024* (Cth); *Criminal Code Amendment (Hate Crimes) Act 2025* (Cth); *Counter-Terrorism Legislation Amendment (Prohibited Hate Symbols and Other Measures) Act 2023* (Cth); *Combatting Antisemitism, Hate and Extremism (Criminal and Migration Laws) Act 2026* (Cth).

[145] *Royal Commission on Antisemitism and Social Cohesion* (Interim Report, April 2026) [8.10]

- online extremism and radicalisation, and in particular, legal frameworks that support engagement in covert online operations by ASIO and the AFP, as well as other agencies, to detect, obtain intelligence about and investigate, and disrupt threats to security and serious criminal activity.[146]

122. We make preliminary remarks on some of these areas below.

123. We understand that the following proposed amendments and significant reviews of relevant legislation are also currently underway or under active consideration:

- the *Australian Security Intelligence Services Amendment Bill (No 2) 2025* (Cth)—in which the Law Council raised significant concerns regarding the expansion and proposed permanency of compulsory questioning powers to the Parliamentary Joint Committee on Intelligence and Security, as well as their application to minors;[147] and
- the INSLM is in the final stages of completing a significant review of Australia's espionage, foreign interference, sabotage and theft of trade secrets offences, relevant to Division 82 and Part 5.2 of the Criminal Code.

124. Law reforms have also occurred at the state and territory level over recent years, as identified in this submission.

125. Against an expanding national framework governing security and intelligence, it is important that such laws remain clear and certain in their scope and application. The implementation of such laws should limit the effects of the discretionary application of intrusive and rights-limiting powers to avoid undermining the rule of law and risking unintended consequences (for example, by capturing unintended conduct or speech which should be permitted even if undesirable, or dealt with under civil laws).

126. As stated earlier in this submission, it is also important to consider the respective roles of various kinds of legislative frameworks concerning antisemitism, recognising in particular that national security and intelligence laws bring exceptional powers with them, which should be carefully reserved for limited purposes, confined to a small number of agencies and subject to appropriate safeguards. Clear lines should be maintained between the respective roles of law enforcement and security and intelligence agencies into the future.

Preliminary views on potential reforms raised in Interim Report

127. With respect to **firearms regulation**, the Law Council supports Recommendation 13, that the Commonwealth and states and territories should prioritise efforts to finalise and implement an updated and nationally consistent National Firearms Agreement.

128. With respect to **electronic surveillance reforms**, the Interim Report notes that the Department of Home Affairs is progressing these reforms, and has undertaken

---

[146] Ibid.

[147] Law Council of Australia, Submission to the Parliamentary Joint Committee on Intelligence and Security, Parliament of Australia, *Australian Security Intelligence Organisation Amendment Bill (No 2) 2025* (20 October 2025).

"extensive work" on the project in collaboration with law enforcement, intelligence and oversight agencies.[148]

129. The Law Council supports measures to consolidate Australia's electronic surveillance laws, noting that the Comprehensive Review regarded the current legislative framework as resembling "something of a patchwork".[149]

130. To this end, in February 2022, the Law Council provided a submission to the Department of Home Affairs in response to a Discussion Paper that highlighted key principles and proposals under consideration as part of the reform.[150] Though the Law Council has not yet been consulted on the most recent work referred to in the Interim Report, its previous efforts have been directed towards:

- maintaining the role of separate warrants to authorise covert access to communications, computer access or the use of a listening or optical surveillance device, rather than a single warrant providing wholesale authorisation for agencies to use all forms of electronic surveillance;
- a focus on maximising clarity and technological neutrality in definitions of key terms within any new legislative framework;
- the need to consistently and clearly incorporate thresholds of necessity and proportionality into the authorisation criteria for all electronic surveillance powers; and
- embedding the conditions for effective oversight in the design of surveillance powers themselves (i.e. oversight by design).

131. The Law Council would welcome further consultation on this issue, and supports these reforms being subject to full and adequate public consultation prior to their introduction to Parliament. A new electronic surveillance Act will contain significant covert and intrusive powers and while these play a legitimate role in intelligence and security operations, it is important that there is appropriate debate and scrutiny beforehand of their provisions.

132. With respect to **online extremism and radicalisation**, as noted under Term of Reference (a), the Law Council appreciates the key points made in the Interim Report that the online environment is rapidly challenging the nature of the threat of terrorism and religious or ideologically motivated extremism in Australia.[151]

133. The powers of ASIO and the AFP, as well as other Commonwealth, state and territory agencies, to undertake covert online investigations to detect, obtain intelligence about, and investigate, and disrupt threats to security and serious criminal activity are raised in this context. These include:

- powers to conduct controlled operations, which enable the AFP to collect evidence about serious crimes in circumstances that would otherwise expose individuals involved in the operations to criminal and civil liability; and

---

[148] *Royal Commission on Antisemitism and Social Cohesion* (Interim Report, April 2026) 84.
[149] Comprehensive Review of the Legal Framework of the National Intelligence Community, Vol 2, (December 2019), 259.
[150] Law Council of Australia, Submission to the Department of Home Affairs, *Reform of Australia's Electronic Surveillance Framework* (18 February 2022).
[151] *Royal Commission on Antisemitism and Social Cohesion* (Interim Report, April 2026) 94.

- powers to conduct special intelligence operations, which enable ASIO to collect intelligence relevant to security in similar circumstances.

134. As noted in the Interim Report,[152] these schemes provide immunity from legal liability for conduct undertaken by participants in the course of authorised operations. We understand that agencies have raised the effectiveness of the legal frameworks that support engagement in covert online operations, including those that allow them to engage in criminal conduct in the course of those investigations.[153]

135. The Law Council's longstanding view is that controlled operations and special intelligence operations provisions confer extraordinary powers on authorising officers, and in some cases civilian informants, to commit otherwise unlawful acts with impunity. In order for the community to accept such extraordinary powers, they must be circumscribed by law, subject to strict authorisation and review procedures and their use limited to the investigation of the most serious offences.

136. The highly intrusive and serious consequences of controlled operations make it necessary to have complete clarity about permitted and excluded conduct, which should be made explicit in legislation. The Law Council has previously noted the importance of ensuring that every effort is be made to remove sources of legal ambiguity or practical confusion in the scope and limits of powers to authorise and conduct controlled operations.[154]

137. It is no small measure to authorise agents of the state to engage in otherwise unlawful conduct. Such provisions create a fundamental tension with the doctrine of the rule of law, under which the law must apply equally to all persons, including the state and the individual officials through whom it acts.

138. While appreciating that agencies have commented on the effectiveness of covert online operations, it is important to proceed carefully and to have sufficient regard to necessity, proportionality and the application of safeguards relating to these measures especially because there is limited scope to challenge the validity powers before they are implemented.

139. In the current context, these provisions raise questions about:

- the adequacy of authorisation processes for covert powers such as those introduced by the *Surveillance Legislation Amendment (Identify and Disrupt) Act 2021* (Cth) (**SLAID Act**), noting the INSLM's observations that reliance on a small number of Administrative Review Tribunal members is 'inadequate and unsustainable';[155]
- the absence of a Public Interest Monitor in the issuing of SLAID Act warrants to act as an effective contradictor in the warrant issuing phase assist a decision-

[152] Ibid, 95.
[153] Ibid.
[154] Law Council of Australia, Submission to the Parliamentary Joint Committee on Intelligence and Security, Parliament of Australia, *Review of the Surveillance Legislation Amendment (Identify and Disrupt) Bill 2020* (9 March 2021), 164.
[155] Independent National Security Legislation Monitor, *Data Disruption, Network Activity and Account Takeover Powers* (Report, 31 July 2025), i.

maker to review the information contained in warrant applications more thoroughly and from more than one perspective; and
- whether the suite of covert surveillance powers are sufficiently limited to, and focussed on, operations in connection with offences that can properly be described as the most serious.[156]

The importance of safeguards

140. The overriding importance of addressing the profound and well-documented harms that antisemitism causes to Jewish Australians, and the damage it does to social cohesion more broadly, must be the central purpose animating any law reform in this area. It follows that safeguards are not obstacles to effective protection, they are the mechanism by which legal responses retain their legitimacy and practical effectiveness. It is with that purpose in mind that the Law Council identifies the following essential safeguards.

141. As noted, in identifying any legislative gaps, it is essential to avoid watering down safeguards that are designed to ensure an appropriate and fair balance between protection against harm and preservation of human rights and democratic freedoms. Responses to the risks posed by antisemitism will require careful balancing of public safety, civil liberties and community trust. Otherwise, laws that are perceived as unfair and unjust may increase feelings of alienation and undermine both trust in the legal system and social cohesion.

142. Again, this will require careful adherence to human rights obligations and core rule of law principles, including fair trial rights and the independent role of the judiciary. Both of these are essential to a just and democratic society, but often attract relatively little public commentary or debate.

143. As the Royal Commission is of course aware (but it may be worth outlining for the public record), essential fair trial safeguards include:

- the prohibition on indefinite detention without trial;
- the right to silence, under which no one should be compelled to testify against him or herself. Where a person is—exceptionally—compelled to provide information to the state, there should be a prohibition on that information, or further information derived from it, being used in proceedings against that person (that is, use *and* derivative use immunity);
- upon arrest and/or charge, a person should be fully and promptly informed of any offence which he or she is alleged to have committed and, at trial and an accused person should be afforded a meaningful opportunity to interrogate and challenge the information which is relied upon against him or her;
- persons awaiting trial should not generally be detained in custody, unless they are a demonstrated flight risk or their release poses a demonstrated risk to the community or ongoing investigation; and

[156] For example, the Law Council has previously noted that for data disruption and network access warrants, 'relevant offences' includes all offences punishable by three or more years of imprisonment, as well as a set of other offences including fisheries offences.

- the state should be required to prove, beyond reasonable doubt, every element of a criminal offence, particularly any element of the offence which is central to the question of culpability for the offence.

144. Other essential safeguards include:

- the right to a legal representative of a person's choice;
- legal professional privilege (better known as client legal privilege);
- upholding privacy and confidentiality in information-sharing arrangements;[157]
- specific obligations for vulnerable persons, including children and young people and persons with disability; and
- respect for human rights, including freedoms of expression, association and assembly. Public interest exceptions and defences are important in this context.

145. Further safeguards in the specific context of coercive powers include:

- prioritising independent warrant issuing processes (noting that warrants should be issued by judges rather than ministers), avoiding internal approval of warranted powers or similar approval processes;
- the role of a Public Interest Monitor at key decision-making points;
- where a person is subject to questioning by an agency, ensuring a substantive right to independent legal representation at all times. The utility of this right ought to be supported by access to sufficient information about warrant conditions, limitations on removal powers, and clear provisions that require questioning not be undertaken without legal representation;
- ensuring that Executive powers are carefully defined in primary legislation and confined in scope. This includes limiting questioning powers to appropriately qualified and senior decision-makers;
- providing for itemised reporting obligations of the use of such powers; and
- periodic independent review of changes to the law, such as that provided by statutory sunset clauses of extraordinary powers.

146. In examining the role and powers available to law enforcement, border control, immigration and security agencies, the focus should naturally extend to the monitoring and oversight of those laws and powers.

147. The Law Council supports robust and proportionate oversight to counterbalance extraordinary powers. Such scrutiny should be independent of the agencies exercising such powers. It is also necessary to ensure that oversight bodies, including parliamentary committees are appropriately skilled, resourced and staffed to perform their functions. Where amendments are proposed expanding law enforcement and intelligence powers or agency resources, appropriate consideration needs to be given to ensuring that the appropriate oversight body receives funding uplifts commensurate with any additional obligations. We note that oversight bodies did not appear to receive significant funding uplifts in the recent federal Budget.

---

[157] See for example Law Council of Australia, Submission to the Independent National Security Legislation Monitor, *Review of Surveillance Legislation Amendment (Identify and Disrupt) Act 2021 (Cth)* (28 January 2025).

Recommendations 9–10

The Australian Government should ensure that responses to identified gaps in powers for agencies to tackle antisemitism are designed with careful regard to different agency functions, confining exceptional powers to justified matters, and incorporating safeguards to protect individuals when those powers are exercised.

The Australian Government should ensure that any expansions of such powers or resources for law enforcement, security and intelligence agencies are accompanied by commensurate expansions of resourcing to the relevant independent oversight bodies for those agencies.

Effective reform

148. For any law reform following thorough consideration of existing Federal, State and Territory legislation, it will be crucial to ensure:

- adequate stakeholder consultation, including with Jewish and other affected communities, to propose and consider options, identify unintended consequences, and develop necessary safeguards. This necessitates commitments to release public exposure draft legislation for proper scrutiny and adequate timeframes for civil society to respond;
- compliance with the Australian Constitution and relevant jurisprudence;
- compatibility with Australia's international obligations, including to ensure appropriate balance between protections against harm and rights to a fair trial, and to freedom of expression and assembly; and
- sufficient training and resourcing to support the implementation of reforms, both by relevant bodies and through community education, supported by review or oversight to evaluate their effectiveness, so that they remain appropriate and proportionate and that the community is confident that those provisions are put to proper use.[158]

149. The Law Council emphasises the importance of proper process in the face of a number of recent laws that have been rushed through parliaments, resulting in a lack of clarity and an uncertain constitutional basis. As noted, the passage of the *Combatting Antisemitism, Hate and Extremism (Criminal and Migration Laws) Act 2026* (Cth) was marked by a lack of meaningful consultation with community and civil society organisations, as highlighted in the Law Council's submission on the Exposure Draft Bill.[159] Laws in New South Wales that restricted the right to protest were similarly enacted on an urgent basis, and later found unconstitutional by the NSW Court of Appeal.[160] Legislating without due consideration of constitutionality or proper windows for public consultation to identify unintended consequences

[158] See further Law Council of Australia, Best Practice Legislative Development Checklist (Policy Statement, 2025).

[159] Law Council of Australia, Submission to Parliamentary Joint Committee on Intelligence and Security, Parliament of Australia, *Combatting Antisemitism, Hate and Extremism Bill* (15 January 2026) [4]-[6]; See also Hannah McGlade, 'If governments are serious about addressing racist hate, they must start listening to Aboriginal people', *National Indigenous Times* (online, 20 January 2026).

[160] See *Jarrett v NSW* [2026] NSWCA 62.

undermines the certainty of such responses and risks the success of prosecutions for conduct that the Parliament intended to proscribe.

150. Ensuring that the existing criminal laws designed to combat hate-based conduct are effectively enforced, including by supporting law enforcement through specialised training and policies in relation to enforcement, will help to build confidence in the community and promote safety amongst Jewish Australians by acting as a deterrent to antisemitism. We note relevant recommendations have already been made in the Commission's Interim Report. The NSW Bar Association also commends the relevant findings and recommendations of the NSW parliamentary inquiry into measures to combat right wing extremism for the Royal Commission's consideration,[161] particularly with respect to training and guidance to NSW Police and other agencies to combat antisemitism, and investments into improved reporting mechanisms and pathways, particularly for minority groups.

151. As noted above, the Interim Report identified that a number of law reforms were underway or under consideration with respect to the powers of law enforcement, security and intelligence. We strongly encourage full public consultation processes ahead of any laws being developed in this area. Public scrutiny, including of exposure draft legislation, is particularly important given the extraordinary nature of these measures and the extensive and often invisible incursion of coercive and covert powers into human rights and freedoms.

152. We also, again, emphasise that legal and regulatory frameworks designed to protect communities from hatred, intimidation and violence do not operate in isolation. Rather, they form part of a broader and interrelated architecture of security and intelligence laws, criminal laws, civil protections and policy measures, as well as programs implemented across government, institutional and community settings. When viewed holistically, and operating fairly and effectively, these elements collectively contribute to community safety and social cohesion. As identified in response to Term of Reference (a), the Law Council also encourages the Royal Commission to consider other evidence-based, non-legislative approaches alongside law reform and enforcement action.

Recommendations 11–12

The Australian Government should ensure full public stakeholder consultation prior to pursuing any law reforms relevant to this Royal Commission. This should extend to public exposure draft legislation for proper scrutiny and ensuring adequate timeframes for civil society to respond.

The Australian Government should ensure adequate training and resources are made available to relevant bodies to support the enforcement of existing legal protections against antisemitism and race hate, with careful regard to the prevalence and nature of those incidents.

[161] Legislative Assembly Committee on Law and Safety, Parliament of NSW, *Inquiry into Measures to Combat Right Wing Extremism in NSW* (Final Report, April 2026) vi.

Term of Reference (d)—Strengthening social cohesion

153. In the Law Council's view, meaningful progress towards strengthening social cohesion depends upon the strength of the institutional settings that underpin Australia's democracy.

The role of the justice system

154. The independence of key institutions in the justice system, in particular an independent judiciary, as the third arm of government (and, as an extension, an independent legal profession, as officers of the court) are crucial to the maintenance of public confidence in Australia's constitutional system and the proper administration of justice. This in turn contributes to social cohesion.

155. Courts provide the vital, independent, impartial decision-making forums in which individual rights can be upheld and other systems of government (Parliament and the Executive) are held accountable within the limits of their powers, including when laws are passed and extraordinary powers are exercised. It is therefore essential that rule of law principles are safeguarded in both institutional design and practice.

156. It is worth underlining the need to ensure that the role of the independent judiciary must be well-respected and continually defended by other arms of government. This encompasses its independent function of determining sentences that ensure that punishment fits the crime in individual circumstances. Mandatory sentences attached to hate and terrorism crimes should therefore be repealed.

157. Appropriate resourcing is also needed to ensure that the courts can perform their complex task of administering justice. It is less common to see significant resourcing injections for the courts, as one arm of government, than it is to see significant resourcing injections for Executive agencies, as another arm of government. However, when new laws are introduced that significantly affect the rights and interests of individuals, they inevitably increase pressures upon an already over-stretched justice system. As noted earlier, the critical role of legal assistance funding, including for court representation, must be continually considered as delivering access to justice for individuals who otherwise lack the means to defend their rights. This in turn strengthens social cohesion, as it contributes to equality before the law.

158. As stated in the AHRC's *Seen and Heard* Report, some parts of the justice system can be perceived as being a site of entrenched racial bias.[162] Where public institutions reinforce racism, including the uneven recognition and protection of religious and racialised communities,[163] broad distrust in the justice system can permeate. For that reason, the Law Council considers that, at the federal level, a Federal Judicial Commission, as a transparent mechanism for complaints about the federal judiciary, is an important means of ensuring ongoing trust and legitimacy in our third arm of government.

---

[162] Australian Human Rights Commission, *The struggle in being seen, the power in being heard: Community insights from the Seen & Heard project* (Report, April 2026) 52.
[163] Ibid.

159. The Law Council also recognises the role of the legal profession in this respect.

160. In addition to requirements under Federal, State and Territory anti-discrimination laws, solicitors have an ethical duty and professional responsibility to not engage in conduct that constitutes discrimination in the course of, or in connection with, legal practice or their profession (Rule 42 of the Australian Solicitors' Conduct Rules 2022 (**ASCRs**)).[164] Solicitors also have fundamental ethical duties to:

- act in the best interests of their client, and be honest and courteous in all dealings in the course of legal practice, avoiding any compromise to their integrity and professional independence and comply with the law (Rule 4.1); and
- not engage in conduct, in the course of legal practice or otherwise that is likely to a material degree to be prejudicial to, or diminish public confidence in, the administration of justice, or bring the profession into disrepute (Rule 5.1.2).

161. Similar requirements exist for members of the Bar. For example, the *Legal Profession Uniform Conduct (Barristers) Rules* (NSW) provide in Rule 123(1)(a) that a barrister "must not in the course of, or in connection with, legal practice or their profession, engage in conduct which constitutes … discrimination". The NSW Bar Association has also produced a Model Best Practice Guideline on Harassment, Discrimination and Bullying.[165]

162. Complaints of conduct that breach professional rules of this kind may be made to State or Territory regulators of the legal profession.

Recommendations 13

The role of the independent judiciary should be consistently recognised and properly resourced as a core institutional mechanism underpinning Australian democracy and social cohesion. Existing mandatory sentencing provisions, including for terrorism and hate crimes, should be repealed.

Recommendation 14

The Australian Government should enact a Federal Judicial Commission.

[164] The current version of the Australian Solicitors Conduct Rules developed by the Law Council can be found at <https://lawcouncil.au/files/pdf/2023%20Nov%20-%20ASCR%20website%20version.pdf>. The version applicable in Uniform Law jurisdictions (New South Wales, Victoria and Western Australia) can be found at <https://legislation.nsw.gov.au/view/whole/html/inforce/current/sl-2015-0244>.

[165] NSW Bar Association, "Model Best Practice Guideline on Harassment, Discrimination and Bullying" (24 March 2022) <https://nswbar.asn.au/uploads/pdf-documents/A_Harassment_Discrimination_BPG.pdf>.

Social cohesion underpinnings

163. As identified throughout this submission, efforts to strengthen social cohesion and counter ideologically and religiously motivated extremism must be grounded in the rule of law, supported by a coherent human rights framework, and reinforced by independent and transparent institutions. Without those foundations, legal and policy responses risk becoming fragmented, reactive and ultimately corrosive of public confidence and social cohesion more broadly.

164. In the recent case of *Jarrett v NSW,* which concerned a "public assembly restriction declaration" (**PARD**) under the *Summary Offences Act 1988* (NSW), the NSW Court of Appeal stated relevantly that:

> *This attempted justification of the law involves **a particular conception of civic life and "social cohesion" that is at odds with the system of representative and responsible government for which the Constitution provides**. The impugned provisions are not directed to the prevention of breaches of the peace or social disorder as conventionally understood. The purpose of the PARD scheme is not confined to protecting people in the vicinity of an assembly, or even further removed, from intimidation or the threat of violence. Instead, underpinning the State's argument, and the logic of the legislature in passing the impugned provisions, is a notion **that the community can and should be protected from political expression by some members of the community because it might be upsetting, inflammatory and divisive for other members of the community**. This includes protecting people, including those physically well removed from a public assembly, from the sense of distress or offence that they may feel about an assembly occurring, and about the potential social repercussions of the assembly. **"Social cohesion" is thus being used in a quite particular sense to signify a degree of calm and protection from dissent and disharmony associated with political activity of others. Where we refer … to the constitutionally illegitimate purpose of the impugned provisions, we are addressing this particular usage of "social cohesion".** Our analysis in that regard should not be understood as signifying that, as a general proposition, maintaining social cohesion is not a legitimate legislative objective.*[166] *[emphasis added]*

165. These judicial observations resonate with those of Senior Counsel Assisting the Royal Commission, as quoted in the early part of this submission.[167] Australia will not achieve social cohesion, by any reasonable definition of that term, simply by prohibiting legitimate protest activity and banning public discussion of controversial themes or membership of certain groups. However well-intentioned, such legal measures are destined merely to push the relevant controversies underground, rather than deprive them of their force. In a plural, multicultural society, there needs to be space even for uncomfortable discourse.

---

[166] *Jarrett v State of NSW* [2026] NSWCA 62, [143] per Bell CJ, Ward P and Free JA.
[167] See "Context" section above.

Civics education

166. In terms of building public confidence, Australia must significantly increase national efforts to promote civics education, including education about the rule of law and human rights, and their importance in maintaining a stable, tolerant society. This is a priority for the Law Council, both in the formal Australian school curriculum and to support the broader Australian public's understanding of key principles that underpin Australia's democratic and legal systems.[168] The Australian Government recently responded to the 2025 *From Classroom to Community* report of the Joint Standing Committee on Electoral Matters,[169] but only "noted" most of its recommendations, supporting just one recommendation and partially supporting another.[170] The Law Council is disappointed by this response, especially in the current environment of falling trust in democracy and government institutions generally.[171]

167. School curriculum requirements should also extend beyond knowledge of institutions and legal rights to address the social and cognitive dimensions of prejudice. This would encompass a range of mechanisms through which prejudice is normalised and sustained within communities, based on social psychology research. For example, this could address conformity pressures that lead individuals to adopt the attitudes of those around them; and how and why individuals who hold minority views self-censor in the face of perceived majority opinion, allowing extreme views to appear more prevalent than they are. Education that equips young Australians to recognise and critically examine these dynamics—in themselves and in their communities—builds genuine resilience against the conditions in which prejudice takes hold and spreads. The Law Council encourages the Royal Commission to recommend that such content be embedded in the national curriculum at secondary level.

Recommendation 15

Civics education should be prioritised which embeds widespread understanding of the key principles and institutions that underpin Australia's democratic and legal systems, including respect for the rule of law and human rights. The school curriculum should include education about the social and cognitive dimensions of prejudice, to equip students to recognise and resist the conditions in which discrimination and hatred take hold.

---

[168] For examples of the Law Council's recent advocacy on these principles, see Tania Wolff, 'What do Australians value?', *Lawyers Weekly* (online, 23 April 2026) and Law Council of Australia, 'Stronger justice, safer democracy and defence of the rule of law' (Media Release, 18 May 2026).

[169] Joint Standing Committee on Electoral Matters, *From Classroom to Community*: Civics education and political participation in Australia (Final Report, January 2025).

[170] Australian Government, "Australian Government Response to the Joint Standing Committee on Electoral Matters: From Classroom to Community: Civics Education and Political Participation in Australia" (7 May 2026).

[171] See for example Australian Public Service Commission, "Satisfaction with Democracy in Australia" (Pulse Report, March 2026).

Protecting human rights

The necessity of a Human Rights Act

168. A comprehensive human rights framework is required in a modern, liberal democracy respecting the rule of law. We agree with the recent remarks made by the AHRC President Hugh de Kretser, that a federal Human Rights Act would promote social cohesion in Australia.[172] The lack of a cohesive national human rights legal framework undermines reform efforts in response to significant rights abuse crises in recent years, which have led to several emergency Royal Commissions,[173] including the one on foot.

169. A Federal Human Rights Act remains necessary and extraordinarily overdue as a meaningful national mechanism to promote social cohesion.

170. In 2023–24, the Parliamentary Joint Committee on Human Rights (**PJCHR**) inquired into Australia's Human Rights Framework. Consistently with the Law Council's relevant policy position,[174] the PJCHR's primary recommendation in its final report of May 2024 was:

> *The committee recommends that the government re-establish and significantly improve Australia's Human Rights Framework, which should include:*
> - *comprehensive and effective protection of human rights in legislation, through the establishment of a Human Rights Act;*
> - *a significant and ongoing commitment to national human rights education;*
> - *requirements for public servants to fully consider human rights in the development of legislation and policies;*
> - *enhancements to human rights parliamentary scrutiny;*
> - *enhancements to the role of the Australian Human Rights Commission;*
> - *review of Australia's legislation, policies and practices for compliance with human rights; and*
> - *measures to monitor progress on human rights.*[175]

171. At the time of writing—two years later—the Government has yet to respond to the PJCHR report. In a response published in May 2026 to a 2024 report of the Senate Legal and Constitutional Affairs Legislation Committee (which contained a minority recommendation for the adoption of a Human Rights Act),[176] the Government stated that it is (still) "considering" such an Act in the context of the PJCHR report.[177]

172. A comprehensive human rights framework, though sorely needed, has not been treated as a priority. Australia's previous National Human Rights Framework of

---

[172] Hugh de Kretser, *Australian Human Rights Assessment 2026* (Speech, National Press Club, 29 April 2026).
[173] Law Council of Australia, Submission to the UN Committee on Economic, Social and Cultural rights, *Australia's* Sixth Periodic Report: Parallel Report (9 January 2026) 4.
[174] Law Council of Australia, *Federal Human Rights Charter* (Policy Statement, 17 November 2020).
[175] Parliamentary Joint Committee on Human Rights, *Inquiry into Australia's Human Rights Framework* (Final Report, May 2024), Recommendation 1.
[176] Senate Legal and Constitutional Affairs Legislation Committee, *Criminal Code Amendment (Hate Crimes) Bill 2024 [Provisions]* (Final Report, December 2024).
[177] Australian Government, *Response to the Senate Legal and Constitutional Affairs Committee Report on the Criminal Code Amendments (Hate Crimes) Bill 2024* (Tabled 22 May 2026), 4.

2010,[178] which included measures such as human rights education for public servants and the establishment of the PJCHR itself,[179] was insufficient when it was announced, and remains so to this day.[180]

173. The Law Council acknowledges that a Human Rights Act is not a panacea. As Attorney-General Rowland noted on the occasion of the 50th anniversary of the RDA in 2025, "legislation itself is not enough to change cultural attitudes … [b]ut attitudes have changed [since 1975], and the RDA has been an important mechanism for civil redress".[181] However, as well as informing community debate, a legislative human rights framework is necessary to inform authorities' understanding of the rights impacts of introducing, for example, further national security powers, as well as limitations on rights such as freedom of expression and association.

174. The enactment of a Federal Human Rights Act would also be consistent with recommendation 8 of the AHRC's National Anti-Racism Framework. Existing anti-discrimination laws—particularly the *Sex Discrimination Act 1984* (Cth) (**SDA**) with its positive duty to eliminate sex-based discrimination[182]—are important in combating discrimination, but the RDA has not been updated for some time, does not protect against some forms of religious discrimination,[183] and contains no positive duty akin to that in the SDA.

175. A comprehensive Human Rights Act protecting against discrimination on all grounds recognised under international human rights law would enable those who have been discriminated against, but who currently fall outside the protection of the four federal anti-discrimination Acts, to have an avenue of redress through the AHRC and the courts.

Recommendation 16

The Australian Government should enact a Federal Human Rights Act.

International treaty frameworks

176. A range of international human rights obligations have been highlighted throughout this submission. Article 20(2) of the ICCPR and Article 4(a) of the CERD are highly relevant to the Royal Commission's inquiry as they require the prohibition by law of various acts of race hate, violence and discrimination. The Law Council has previously stated that Australia should consider withdrawing its declaration on

---

[178] Australian Government, *Australia's Human Rights Framework* (Report, April 2010).
[179] Ibid 3.
[180] See eg Adam Fletcher, *Australia's Human Rights Scrutiny Regime* (Melbourne University Publishing, 2018), Chapters 1-2.
[181] Attorney-General Michelle Rowland, *Racial Discrimination Act 50th Anniversary* (Speech, 30 October 2025).
[182] *Sex Discrimination Act 1984* (Cth), s 47C. See further Australian Human Rights Commission, 'The positive duty in the Sex Discrimination Act' (Web page, updated 2026).
[183] See Australian Human Rights Commission, *Guide to protections for freedom of religion* (Factsheet, July 2019).

Article 4(a) of the CERD and its reservation to Article 20 of the ICCPR,[184] and we reiterate that recommendation in this submission given its relevance to combatting antisemitism and racial discrimination. The UN Committee on the Elimination of Racial Discrimination has called for Australia to reconsider its position and withdraw its interpretive declaration with respect to Article 4(a) noting that it "negatively impacts the sanctioning of racial hatred and redress for victims".[185] The same recommendation was made during Australia's Second Cycle Universal Periodic Review in 2015.[186]

Recommendation 17

The Australian Government should review its reservation to Article 20 of the International Covenant on Civil and Political Rights and its interpretative declaration to Article 4(a) of the Convention on the Elimination of All Forms of Racial Discrimination.

[184] Law Council of Australia, Submission no 150 to Parliamentary Joint Committee on Intelligence and Security, Parliament of Australia, *Review of the Counter-Terrorism Legislation Amendment (Prohibited Hate Symbols and Other Measures) Bill 2023* (14 August 2023), [39].

[185] United Nations Committee on the Elimination of Racial Discrimination, *Concluding Observations on the Eighteenth to Twentieth Periodic Reports of Australia*, UN Doc CERD/C/AUS/CO/18-20 (26 December 2017), [9]-[10].

[186] United Nations Human Rights Council, *Report of the Working Group on the Universal Periodic Review – Australia*, (UN Doc A/HRC/31/14, 13 January 2016) 15.

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:

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

Through these bodies, the Law Council represents more than 110,000 Australian lawyers.

The Law Council is governed by a board of 23 Directors: one from each of the constituent bodies, and six Executive members elected by Directors. 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. In 2026, the Law Council Executive comprises:

- Ms Tania Wolff, President
- Ms Elizabeth Shearer, President-elect
- Mr Lachlan Molesworth, Treasurer
- Ms Jennifer Ball, Executive Member
- Mr Justin Stewart-Rattray, Executive Member
- Mr Ante Golem, Executive Member

The Chief Executive Officer of the Law Council is Dr James Popple.

The Law Council's Secretariat is based in Canberra. Its website is www.lawcouncil.au.