
Online consultation with Member States

Survey response 1

Information details

Name of the State:
Australia
The institution responding to the survey:
Permanent Mission of Australia to the United Nations Geneva

Questions

<p>1. What innovative practices did authorities in your state adopt to facilitate civil society's input to decision-making during the COVID-19 crisis, including through online channels? (Maximum limit: approximately 5,000 characters with spaces)</p>
<p>During the COVID-19 pandemic, Australia reported to and appeared before other United Nations (UN) Member States as part of the Universal Periodic Review (UPR). Australia's UPR National Report was submitted to the UN in December 2020, and Australia appeared before the UPR Working Group on 20 January 2021.</p> <p>Prior to the onset of the COVID-19 pandemic, NGOs who attended the Australian Attorney-General's Department's NGO Forum in December 2019 had already commented on an early draft of Australia's National Report. In June 2019, the Australian Government provided \$50,000 to the Human Rights Law Centre to undertake nationwide consultation with key stakeholders and prepare a civil society report to the UN OHCHR.</p> <p>The department released a draft of the National Report for public comment between 1 and 29 July 2020.</p> <ul style="list-style-type: none">• 22 written submissions were received.• The department held two consultation meetings with 16 members of the UPR NGO Coalition.• The department also met with the Australian Human Rights Commission (AHRC).• The UPR NGO Coalition Report was submitted to OHCHR in July 2020 and is available on the Human Rights Law Centre website. <p>After Australia's appearance before the UPR Working Group, the Australian Attorney General's Department held its regular NGO Forum on 18 February 2021 to discuss the recommendations with civil society. The NGO Forum was held online through the department's online teleconferencing platform.</p>
<p>2. Are there innovative practices that authorities in your country used to enable safe and inclusive online participation, which encourages a diversity of participation, with a particular emphasis on underrepresented parts of civil society? (Maximum limit: approximately 5,000 characters with spaces)</p>

3. Do you have examples of good practice in including civil society in designing and implementing strategies to respond to the pandemic? (Maximum limit: approximately 5,000 characters with spaces)

The Australian Government engages state and territory Governments, peak union and employer groups through ongoing consultative forums to consider industrial relations and work health and safety matters of national interest.

In 2020, both employer and union stakeholders worked collaboratively with the Fair Work Commission to introduce flexibilities in awards covering industries heavily impacted by public health responses to the pandemic, such as the accommodation and food services industry. The Fair Work Commission also initiated the introduction of unpaid pandemic leave schedules in most modern awards, provisions which have been extended numerous times and remain in operation until mid-2022 in around 70 modern awards.

As part of the Government's commitment to improving the operation and usability of the industrial relations system to help businesses create jobs, drive wages growth and improve productivity, on 26 May 2020 the Prime Minister announced that the-then Attorney-General would lead a time-bound, dedicated industrial relations consultation process. This announcement was due in part to help Australia's recovery from the economic impacts of COVID-19.

Between June and September 2020, the five working groups comprising of a range of peak union and employer representatives discussed specific aspects with the industrial relations framework. Each of the working groups were chaired by the-then Attorney-General or the Deputy Chair. Working groups met fortnightly, with members also attending out-of-session expert presentations on matters of common application.

After this process, peak union and employer group representatives, state and territory industrial relations officials, and other key stakeholders were consulted on the draft legislation.

The Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Act 2021 ('the Act') that was passed by Parliament in March 2021 provided a statutory definition for casual employment, a process for casual conversion, and clarifying how a court may offset casual loading payments.

4. Do you have examples of innovative steps taken to minimise the impact of measures imposed during the pandemic, including emergency measures, on the free and safe functioning of civil society and on public freedoms (of expression, access to information, assembly, and association) as well as on the protection of personal data and privacy? (Maximum limit: approximately 5,000 characters with spaces)

The Australian Government is closely monitoring – and responding to – issues relating to the impact of the COVID-19 pandemic on vulnerable groups, as well as taking action to respond to the pandemic in a manner consistent with human rights. For example, restrictions on access to remote communities and aged care facilities, as well as the promotion of online learning in schools has sought to protect vulnerable groups from the health impacts of the pandemic. This includes ensuring that measures are a necessary and proportionate response to the COVID-19 crisis.

The Australian Human Rights Commission, Australia's National Human Rights Institution, has published guidance online with respect to rights and freedoms and anti-discrimination law considerations that have arisen as a result of the pandemic. This guidance details available supports for vulnerable groups impacted by the COVID-19 pandemic and limitations on rights and freedoms during the pandemic. The guidance is accessible on the Commission's website.

Under the Human Rights (Parliamentary Scrutiny) Act 2011, the Parliamentary Joint Committee on Human Rights is empowered to scrutinise all legislation for compatibility with human rights. The committee has continued to meet regularly by teleconference during the COVID-19 pandemic, and has paid particular attention to scrutinising laws relating to the COVID 19 response to ensure the measures are reasonable and proportionate. States and territories also have legislative scrutiny processes to ensure COVID-19 response measures are reasonable and proportionate.

Protection of personal data and privacy

The Australian Privacy Act 1988 regulates the collection, use, disclosure and handling of personal information, including information about a person's vaccination status.

In recognition of the ongoing importance of personal information protection during the pandemic, Australia's federal privacy regulator, the Office of the Australian Information Commissioner (OAIC), has published a range of guidance for individuals, businesses and the general public on privacy rights in the context of COVID-19. These are available on the OAIC website at: <https://www.oaic.gov.au/privacy/covid-19>.

COVIDSafe app and associated privacy protections

In April 2020, the Australian Government launched the COVIDSafe app. The app uses Bluetooth to look for other devices that also have the app installed, and helps state and territory health officials to quickly identify and contact people who may have been exposed to COVID-19 ('close contacts').

To support the use of the COVIDSafe app, the Government introduced strict privacy protections for users of the app through the Privacy Amendment (Public Health Contact Information) Act 2020.

This legislation clearly defines the very limited circumstances in which COVIDSafe app data can be collected, used or disclosed, as well as prescribing significant criminal and civil penalties for any misuse. That includes jail terms of up to five years, or a fine of 300 penalty units (\$66,600) per offence. It is also a criminal offence under the legislation for anyone to coerce a person to use the app, to store or transfer COVIDSafe app data to a country outside Australia, and to decrypt app data.

Under the legislation, COVIDSafe app data can only be accessed by authorised state and territory health officials for contact tracing purposes after a user who has tested positive to the virus consents to their encrypted data being uploaded. The operation of the legislation is subject to independent oversight by the OAIC.

5. Did authorities in your state implement any innovative measures to protect and facilitate civil society access to resources in the COVID-19 context? (Maximum limit: approximately 5,000 characters with spaces)

Australia's response to COVID-19, included a boost to mental health services, domestic violence support, and social security.

On 29 March 2020, the Prime Minister announced a \$150 million Domestic Violence Support Package to respond to expected increases in demand resulting from COVID 19: As part of this package, \$130 million has been provided to state and territory governments through the National Partnership on COVID-19 Domestic and Family Violence Responses to invest in services to support women and children who are experiencing or at risk of violence during the pandemic.

As part of the 2020-21 Budget, the Government provided the Federal Courts with \$2.5 million over two years to support specialised COVID-19 Lists, established by the family law courts to manage the increase in urgent applications due to COVID-19. The list was established to deal exclusively with urgent family law disputes that have arisen as a direct result of the COVID-19 pandemic. The Lists are Registrar-led and characterised by effective response times, with urgent matters assessed and listed within 72 hours. The Lists operate on a national basis, with most matters able to be allocated and heard safely regardless of social distancing or physical movement restrictions in place.

6. Has your state identified any good practices to identify, and protect civil society from, online intimidation and attacks (e.g. online threats, harassment, organized smear campaigns etc.)? (Maximum limit: approximately 5,000 characters with spaces)

The Australian Government has proposed novel legislation to address the harmful impacts for defamatory comments made online, and the risk of liability under defamation law that has arisen for individuals and organisations for comments made by others. The proposed legislation clarifies that Australians with a social media presence are not responsible for defamatory content published by others. The legislation would also allow aggrieved individuals to determine whether defamatory comments were made in Australia and, if so, to obtain the originator's contact details to facilitate the commencement of defamation proceedings in an Australian court.