

Question to be asked by Hon. Meg Webb MLC

Submitted: 15 March 2023

I (*Ms Webb*) tomorrow to ask the Honourable Leader of the Government —

With reference to the independent review of the *Expungement of Historical Offences Act 2017* conducted in 2020, and the review's Final Report and recommendations, can the government:

- (1) Detail the Government's response to each of the 13 recommendations made in the review's Final report,
- (2) Detail any actions that have been taken to implement each of the recommendations made in the review's Final report, including an indication of any that have been fully implemented and a timeline for completing the implementation of any remaining recommendations.
- (3) In regards to any recommendations from the review which the Government does not intend to implement, please provide an explanation for the Government's rejection of those review recommendations.

GOVERNMENT RESPONSE

The *Expungement of Historical Offences Act 2017* included a requirement for the Minister to cause an independent review of the operation of the Act after the second anniversary of its commencement. This review was tabled in both Houses of Parliament in November 2020.

The review made 13 recommendations, including recommendations for legislative and procedural amendments to the application process.

As previously advised, the Department of Justice has implemented, or is in the process of implementing, a number of the operational recommendations including revisions to the application form, updated guidance for applicants, and the introduction of a feedback mechanism for applicants.

A preliminary overview of matters under consideration was tabled in the Legislative Council on 25 October 2021.

While some recommendations are straight-forward, others have some considerable complexities that have taken time to work through and engage with government stakeholders to assess operability.

The Department of Justice has implemented a number of the operational recommendations; recommendations 2, 3, 4 and 6, including revisions to the application form, updated guidance for applicants, and the introduction of a feedback mechanism for applicants.


Recommendation 8 to introduce a specific Disposal Schedule for all records collected or created has been accepted in principle by the Department of Justice. The Department is

adopting a policy to apply for a Destruction Authority from the Archives Office for all relevant records.

In relation to recommendation 12, and efforts to promote the Scheme, the Government acknowledges the need for consultation with LGBTIQ+ community representatives in relation to any appropriate promotional activity of the scheme. Consequently, the Department of Justice is finalising a communications strategy for the Scheme in consultation with the LGBTIQ+ media, Qnews Magazine, Star Observer, the Mercury, the Advocate and the Examiner. The Department will also consult with its LGBTIQ+ Community Reference Group.

Recommendation 13 relating to *ex gratia* payments is a departure from all other Australian jurisdictional schemes for the expungement of historical offences. That is, no jurisdictions provide for compensation. The Department has been consulting with the Department of Treasury and Finance on this recommendation and the Government will provide its formal response after a final position is endorsed.

The review proposed legislative changes in Recommendations 1, 5, 7, 9, 10, and 11. Some of these may already be accommodated in practice, such as continuing protection of confidentiality or further assistance to applicants, while others represent changes and approaches to records management, which are being considered. I look forward to progressing these legislative amendments in due course.



Hon Elise Archer MP
Attorney-General
Minister for Justice

Date **21** March 2022