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Australian Government  
Department of Home Affairs

## Submission

For decision

PDMS Ref. Number MS18-001556

**To** Assistant Minister for Home Affairs

**Subject** Government response to modern slavery parliamentary inquiries

**Timing** Approval by 27 July 2018 will allow timely consideration by other Ministers and facilitate tabling in Parliament in the Spring 2018 sittings. This timeframe has been approved by <sup>s. 22(1)(a)(ii)</sup> [redacted] in your Office.

### Recommendations

That you:

1. approve the draft Government response to the July 2017 Parliamentary Joint Committee on Law Enforcement's inquiry report at Attachment C approved / not approved  
<sup>s. 22(1)(a)(ii)</sup> [redacted]

2.

3.

Assistant Minister for Home Affairs

Signature.....

Date 27 / 7 / 2018

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Recommendations

That you:

1. approve the draft Government response to the July 2017 Parliamentary Joint Committee on Law Enforcement's inquiry report at Attachment C approved / not approved
2. <sup>s. 22(1)(a)(ii)</sup> approved / not approved
3. signed / please discuss

Assistant Minister for Home Affairs

Signature.....

Date...../...../2018

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Minister's Comments				
<b>Rejected</b> Yes/No	<b>Timely</b> Yes/No	<b>Relevance</b> <input type="checkbox"/> Highly relevant <input type="checkbox"/> Significantly relevant <input type="checkbox"/> Not relevant	<b>Length</b> <input type="checkbox"/> Too long <input type="checkbox"/> Right length <input type="checkbox"/> Too brief	<b>Quality</b> Poor 1.....2.....3.....4.....5 Excellent <b>Comments:</b>

### Key Issues

1. On 18 July 2017, the Parliamentary Joint Committee on Law Enforcement (PJCLE) released its report, 'An inquiry into human trafficking, slavery and slavery-like practices' (**Attachment A**).

2. s. 22(1)(a)(ii)

3. Both inquiries considered a range of issues that cut across multiple portfolio responsibilities. The Department of Home Affairs has coordinated the whole-of-government responses to the reports (**Attachments C** and **D**), in consultation with relevant agencies.

- The PJCLE report includes 20 recommendations for Government consideration. Subject to ministerial approvals, the Government will accept 13 of the recommendations in full, in part or in principle, and will note the remaining seven recommendations which do not align with Australia's frameworks.

- s. 22(1)(a)(ii)

4. This submission seeks your approval of the draft Government responses at **Attachments C** and **D**, and your signature on letters to relevant ministers at **Attachment G** seeking their agreement to the text in the draft responses pertaining to their portfolio responsibilities.
5. Summary tables of the draft Government responses have been prepared at **Attachments E** and **F**.

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6. <sup>s. 22(1)(a)(ii)</sup> the PJCLE response recommendations do not sit within their portfolio responsibilities. For all other relevant ministers (Attorney-General and Ministers for Foreign Affairs and Trade, Social Services, Jobs and Innovation, and Education and Training), approval is sought for both the PJCLE <sup>s. 22(1)(a)(ii)</sup> responses.
7. Once both Government responses have been approved by all relevant ministers, the Department will separately provide you with a letter to the Prime Minister seeking approval to table the responses in the Parliament in the Spring 2018 sittings.

### Consultation – internal/external

8. **Internal:** Australian Border Force, Caseload Assurance Branch, Community Protection and Border Policy Branch, International Policy Division, Legal Division, Media Operations, Strategy and Capability Division.
9. **External:** Department of Foreign Affairs and Trade, Department of the Prime Minister and Cabinet, Department of Jobs and Small Business, Department of Social Services, Department of Education and Training, Department of Finance, Attorney-General's Department, the Treasury, Australian Charities and Not-for-profits Commission, Fair Work Ombudsman, Australian Federal Police, Australian Institute of Criminology, Australian Criminal Intelligence Commission, Commonwealth Director of Public Prosecutions, Australian Taxation Office, and Australian Securities and Investments Commission.

### Consultation – Secretary

10. The Secretary was not consulted in the preparation of this ministerial submission.

### Sensitivities

11. There are political and civil society stakeholder sensitivities associated with not accepting several of the PJCLE <sup>s. 22(1)(a)(ii)</sup> recommendations, notably the recommendations to:
- establish an Independent Anti-Slavery Commissioner
  - <sup>s. 22(1)(a)(ii)</sup>
  - establish a national compensation scheme for victims of modern slavery, and
  - completely de-link access to the Support for Trafficked People Program from participation in the criminal justice process.

### Media implications

12. The responses are likely to receive media attention. Subject to your views, the Department will work with your office to prepare a media release to announce tabling in the Parliament.
- This media release could coincide with the 10 year anniversary and next ministerial level meeting of the National Roundtable on Human Trafficking and Slavery, which will be held on 16 August 2018 at Parliament House.

## Attachments

**Attachment A** PJCLE inquiry report: 'An inquiry into human trafficking, slavery and slavery-like practices'

**Attachment B**

s. 22(1)(a)(ii)

**Attachment C** Draft Government response to PJCLE report (for tabling)

**Attachment D**

s. 22(1)(a)(ii)

**Attachment E** Summary table of PJCLE response

**Attachment F**

s. 22(1)(a)(ii)

**Attachment G** Letters to the Treasurer, Attorney-General, and Ministers for Foreign Affairs, Social Services, Jobs and Innovation, Education and Training, and Finance

### Authorising Officer

Cleared by:

s. 22(1)(a)(ii)

Hamish Hansford  
First Assistant Secretary  
National Security and Law Enforcement Policy Division

Date: 19 / 7 / 2018

Ph: s. 22(1)(a)(ii)

**Contact Officer** s. 22(1)(a)(ii) Director, People Smuggling and Trafficking Section, Ph: s. 22(1)(a)(ii)

**CC** Minister for Home Affairs and Immigration and Border Protection  
Minister for Law Enforcement and Cyber Security  
Secretary  
Deputy Secretary Policy Group  
Deputy Secretary Executive Group  
Deputy Secretary Immigration and Citizenship Services  
Commissioner Australian Border Force  
Commissioner Australian Federal Police

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**PJCLE - Summary of Government Response to the inquiry into human trafficking, slavery and slavery-like practices**

Assistant Minister for Home Affairs: 16 Recommendations

Minister for Jobs and Innovation: 2 Recommendation

Minister for Foreign Affairs: 1 Recommendations

Minister for Social Services: 1 Recommendations

Other agencies who have provided input: AFP, AIC, DSS, FWO, CDPP, Education

Other agencies who were consulted: ASIC, ACNC, ACIC, ATO, PM&C, Finance

**Key:** **Accept** **Accept in part** **Accept in principle** **Note**  
7 0 6 7

No.	Recommendation	Lead Minister	Government Response
1	The Committee recommends that member agencies of the Interdepartmental Committee on Human Trafficking and Slavery strengthen their coordination and engagement with each other, and that frontline Commonwealth agencies strengthen existing relationships with state and territory frontline agencies.	Assistant Minister for Home Affairs	s. 47C(1)
2	The Committee recommends that the Commonwealth government funds the <i>National Action Plan to Combat Human Trafficking and Slavery 2015–19</i> so that it may be fully implemented, with a human rights-based approach to its implementation.	Assistant Minister for Home Affairs	
3	The Committee recommends that the Commonwealth government increases the number of Australian Federal Police officers with specialised human trafficking and anti-slavery training in all states and territories.	Assistant Minister for Home Affairs	
4	The Committee recommends that the Commonwealth government: <ul style="list-style-type: none"> <li>a) expands training for frontline staff employed by the Australian Federal Police, the Department of Immigration and Border Protection and the Fair Work Ombudsman with respect to the Commonwealth offences at Divisions 270 and 271 of the <i>Criminal Code Act 1995</i></li> <li>b) works with its state and territory counterparts to ensure that state and territory police also receive adequate training with respect to the Commonwealth offences at Divisions 270 and</li> </ul>	Assistant Minister for Home Affairs	

	271 of the <i>Criminal Code Act 1995</i> , and c) ensures that this training includes reference to non-government organisations working on human trafficking, slavery and slavery-like practices so that they can refer victims for support and assistance offered through non-government organisations.		
5	The Committee recommends that the Commonwealth government commits to continuous funding of overseas anti-trafficking programs, including AAPTIP and the work undertaken by the International Labour Organization with respect to migrant workers in the ASEAN member states.	Minister for Foreign Affairs	s. 47C(1)
6	The Committee recommends the Commonwealth government de-links access to the Support for Trafficked People Program (STPP) from compliance with criminal investigations.  The Committee recommends that the Commonwealth government facilitates and expedites family reunification for victims of trafficking, slavery and slavery-like offences.	Assistant Minister for Home Affairs  (Consultation from Minister for Social Services)	
7	The Committee recommends the establishment of a national compensation scheme for victims of human trafficking, slavery and slavery-like offences to be funded by proceeds of crime.	Assistant Minister for Home Affairs	
8	The Committee recommends that the Commonwealth government considers ways in which to make the existing reparation orders available under section 21B of the <i>Crimes Act 1914</i> more accessible to victims of trafficking, slavery and slavery-like offences.	Assistant Minister for Home Affairs	



9	The Committee recommends that the Commonwealth government considers appointing an Anti-Slavery and Trafficking Commissioner to: <ul style="list-style-type: none"> <li>a) monitor the implementation of the <i>National Action Plan to Combat Human Trafficking and Slavery 2015–19</i></li> <li>b) provide recommendations, advice and guidance to government agencies on the exercise of their functions</li> <li>c) oversee the effectiveness of Commonwealth legislation and policies intended to reduce the prevalence of human trafficking, slavery and slavery-like practices and respond to corresponding offences, and</li> <li>d) collect and request data and information on these practices.</li> </ul>	Assistant Minister for Home Affairs
10	The Committee recommends that the Commonwealth government: <ul style="list-style-type: none"> <li>a) expands the pre-departure briefings and information currently available through the Seasonal Worker Program to a wider range of pre-departure countries and other categories of visa holders eligible to work in Australia, and</li> <li>b) introduces post-arrival briefings to ensure migrant workers are provided with relevant information from the Fair Work Ombudsman.</li> </ul>	Minister for Jobs and Innovation  (Consultation from Assistant Minister for Home Affairs)
11	The Committee recommends that the Commonwealth government strengthens visa protections where a visa holder has been subject to trafficking, slavery and slavery-like offences.	Assistant Minister for Home Affairs
12	The Committee recommends that the Commonwealth government establishes a licensing regime for labour hire companies.	Minister for Jobs and Innovation

s. 47C(1)



13	The Committee recommends that the Commonwealth government commission balanced and constructive research into the prevalence of sex trafficking into and within Australia.	Assistant Minister for Home Affairs	s. 47C(1)
14	The Committee recommends that the Commonwealth government strengthens visa systems to prevent involuntary human trafficking into the sex industry in Australia.	Assistant Minister for Home Affairs	
15	The Committee recommends that Australian governments support and fund initiatives to inform migrant sex workers about their legal rights and obligations both pre-departure and post-arrival in Australia.	Assistant Minister for Home Affairs  (Consultation from Minister for Jobs and Innovation)	
16	The Committee recommends that the Commonwealth government investigates the adequacy of current legislative provisions and criminal offences to address 'cybersex trafficking' and makes legislative amendments as necessary where current arrangements, including the provisions of the <i>Criminal Code Act 1995</i> , are ineffectual.	Assistant Minister for Home Affairs	
17	The Committee recommends that the Commonwealth government considers extending the application of protection orders relating to forced marriage to people over 18 years of age.	Assistant Minister for Home Affairs	
18	The Committee recommends that the Commonwealth government continues to fund organisations and programs that engage in outreach, education and awareness-raising activities on forced marriage issues.	Assistant Minister for Home Affairs	

19	The Committee recommends that Australian Governments consider the inclusion of education on forced marriage in school curricula.	Assistant Minister for Home Affairs  (Consultation with Minister for Education and Training)	s. 47C(1)
20	The Committee recommends that information on forced marriage is consistently and routinely provided to newly arrived migrants in Australia through their engagement with government officials and agencies, as well as appropriate community groups and programs.	Minister for Social Services	



**THE HON ALEX HAWKE MP**  
**ASSISTANT MINISTER FOR HOME AFFAIRS**

Ref No: MS18-001556

The Hon Christian Porter MP  
Attorney-General  
Parliament House  
CANBERRA ACT 2600

Dear Attorney-General

I am writing to seek your agreement to the draft Australian Government responses to two related Parliamentary inquiry reports:

- the Joint Committee on Law Enforcement's (PJCLE) report, *An inquiry into human trafficking, slavery and slavery-like practices*, released on 18 July 2017; and
- s. 22(1)(a)(ii)

The PJCLE report made 20 recommendations s. 22(1)(a)(ii) for Government action in relation to Australia's response to human trafficking and slavery. Recommendations included action on labour exploitation, orphanage tourism, forced marriage, and support for victims of modern slavery.

The draft Government responses were prepared by the Department of Home Affairs in consultation with relevant agencies, including the Attorney-General's Department and the Commonwealth Director of Public Prosecutions.

I have written in similar terms to the Treasurer and the Ministers for Foreign Affairs, Social Services, Jobs and Innovation, Education and Training, and Finance. Subject to your agreement, I will then seek the Prime Minister's agreement to table the Government response in the Parliament in the 2018 Spring sittings.

To ensure a timely response to the Committee, I would be grateful for your reply at the earliest opportunity and at the latest by 6 August 2018.

Should your office require any further information, the responsible adviser for this matter in my office is s. 22(1)(a)(ii) who can be contacted on 02 6277 4430.

Thank you for your assistance with this matter.

Yours faithfully

ALEX HAWKE

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**THE HON ALEX HAWKE MP**  
**ASSISTANT MINISTER FOR HOME AFFAIRS**

Ref No: MS18-001556

The Hon Julie Bishop MP  
Minister for Foreign Affairs  
Parliament House  
CANBERRA ACT 2600

Dear Minister

I am writing to seek your agreement to the draft Australian Government responses to two related Parliamentary inquiry reports:

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The draft Government responses were prepared by the Department of Home Affairs in consultation with relevant agencies, including the Department of Foreign Affairs and Trade.

I have written in similar terms to the Treasurer, Attorney-General, and the Ministers for Social Services, Jobs and Innovation, Education and Training, and Finance. Subject to your agreement, I will then seek the Prime Minister's agreement to table the Government responses in the Parliament in the 2018 Spring sittings.

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**THE HON ALEX HAWKE MP**  
**ASSISTANT MINISTER FOR HOME AFFAIRS**

Ref No: MS18-001556

The Hon Dan Tehan MP  
Minister for Social Services  
Parliament House  
CANBERRA ACT 2600

Dear Minister

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**THE HON ALEX HAWKE MP**  
**ASSISTANT MINISTER FOR HOME AFFAIRS**

Ref No: MS18-001556

Senator the Hon Michaela Cash  
Minister for Jobs and Innovation, Minister for Women  
Parliament House  
CANBERRA ACT 2600

Dear Minister

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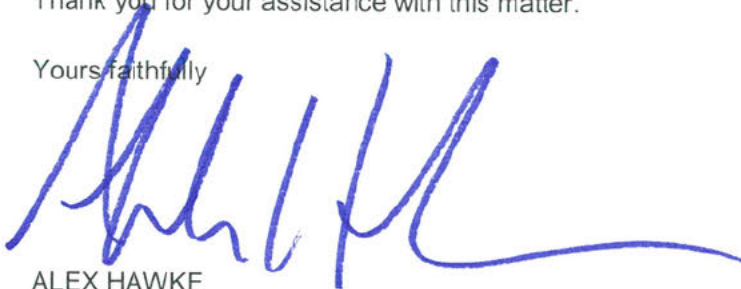
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**THE HON ALEX HAWKE MP**  
**ASSISTANT MINISTER FOR HOME AFFAIRS**

Ref No: MS18-001556

Senator the Hon Simon Birmingham  
Minister for Education and Training  
Parliament House  
CANBERRA ACT 2600

Dear Minister

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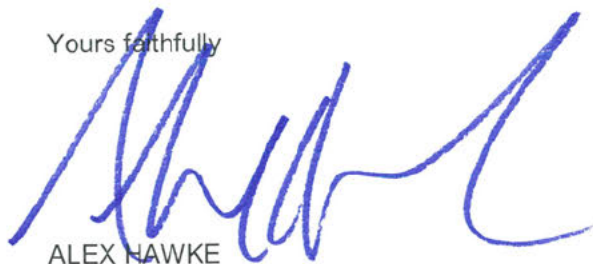
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## GOVERNMENT GETS TOUGH ON SLAVERY AND HUMAN TRAFFICKING

XX November 2017

The Government has today tabled its response to the report of the Parliamentary Joint Committee on Law Enforcement's *Inquiry into Human Trafficking, Slavery and Slavery-like Practices*.

The Committee's report followed an extensive inquiry into slavery, slavery-like conditions and human trafficking in Australia. In its report, the Committee made twenty recommendations relating to Australia's whole-of-government strategy to combat human trafficking and slavery.

s. 47C(1)



The response tabled today highlights the Government's commitment to continually improving Australia's strategy to combat human trafficking and slavery, including ensuring it continues to meet the needs of trafficked people.

In particular, the response highlights the Government's efforts at addressing the problem of forced marriage. Since 2013, the Government has made significant efforts to prevent and address this harmful practice. Key measures have included:

- strengthening the legislative provisions by broadening the definition of forced marriage and increasing the associated penalties
- expanding specialist Australian Federal Police investigative teams and Government-funded support for victims
- conducting awareness-raising activities, including by developing the *Forced Marriage Community Pack* and delivering nation-wide training workshops
- providing practical support to specialist NGOs undertaking outreach, support and education initiatives, and
- launching *My Blue Sky*, Australia's first national information portal, referral mechanism and free legal advice service dedicated to forced marriage.

The Government will continue to consider new and innovative ways to prevent and deter forced marriage and other forms of trafficking and modern slavery.



DETAILS	DRAFTED BY	TIME/DATE
<i>Questions relating to the tabling of the Government response to the PJCLE inquiry report and recommendations</i>	s. 22(1)(a)(ii), Director, People Smuggling and Trafficking, s. 22(1)(a)(ii)	24/10/2017

## GOVERNMENT RESPONSE TO PJCLE INQUIRY REPORT MEDIA Q+A

### **Resourcing of the National Action Plan [Rec 2]**

#### **Why won't the Government commit additional funding to implement the National Action Plan to Combat Human Trafficking and Slavery 2015-19?**

The National Action Plan is being effectively implemented using existing resources, with the exception of the Government's Support for Trafficked People Program, which receives annual funding. The Support Program is a matter for the Minister for Social Services.

### **'De-Linking' victim support from criminal justice process [Rec 6]**

#### **Why won't the Government completely 'de-link' victim support from the criminal justice process?**

Australia's whole-of-government strategy to combat human trafficking and slavery is designed to balance three equally important needs: to prevent human trafficking and slavery; to detect and prosecute the offenders; and to provide support and protection to the victims. This is consistent with Australia's international obligations under the *UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children*.

All suspected trafficked people referred to the Government's Support for Trafficked People Program automatically receive a minimum of 45 days' intensive support, regardless of whether they are willing or able to assist with the criminal justice process. Children receive 90 days intensive support. All clients exiting the Support Program receive a further 20-day transition period, which may be extended on a case-by-case basis. This level of support is consistent with international standards and best-practice guidance.

Completely de-linking victim support from the criminal justice process may adversely impact the success of prosecutions and securing convictions, and therefore potentially undermine the deterrent effect of Australia's robust legislative framework.

Further questions about changes to the structure of the Support Program are a matter for the Minister for Social Services.

#### **What were the findings of the Department of Social Services' internal review of the Support Program?**

This is a matter for the Minister for Social Services and his department.

### **Does the Government intend to ‘de-link’ the Support Program for forced marriage clients?**

The Government remains committed to ensuring victims of human trafficking and slavery-related offences, including forced marriage, are afforded appropriate support.

The Government is currently considering options to improve access to the Support Program to meet the complex needs of people in, or at risk of, forced marriage.

Further questions about changes to the structure of the Support Program are a matter for the Minister for Social Services.

### **Victims’ compensation [Rec 7 and Rec 8]**

#### **Why won’t the Government establish a national compensation scheme for victims of human trafficking and slavery?**

Victims’ compensation is traditionally a matter for the states and territories. Each Australian jurisdiction already has a victims’ compensation scheme, which a number of trafficked people have successfully accessed in the past.

My Department is currently exploring ways to improve access to reparation orders under the Commonwealth Crimes Act for victims of human trafficking and slavery

#### **Why aren’t reparation orders used more often?**

I have asked my Department to brief me on options to improve access to reparation orders for victims of Commonwealth crime, including human trafficking and slavery.

### **Anti-Slavery Commissioner [Rec 9]**

#### **Why won’t the Government appoint an Anti-Slavery and Trafficking Commissioner?**

The Government’s Interdepartmental Committee on Human Trafficking and Slavery carries out the same functions proposed for an Anti-Slavery and Trafficking Commissioner, including collecting data and monitoring the implementation of the National Action Plan.

My Department is currently undertaking an extensive public consultation process to refine the Government’s proposal to require large businesses to report annually on their actions to address modern slavery in their operations and supply chains.

The Government will carefully consider options for an independent oversight mechanism through this consultation process with business and civil society.

### **Support for migrant sex workers [Rec 15]**

#### **Why has the Government de-funded NGOs undertaking crucial work to support migrant sex workers (Scarlet Alliance and Project Respect)?**

In July this year, I awarded four NGOs a total of \$500,000 over 2017-18 following a targeted competitive, merits-based grants round. This approach is consistent with the *Commonwealth Grants Rules and Guidelines*, the *Public Governance, Performance and Accountability Act 2013* and best-practice grants administration, and ensures better outcomes and value for money.

Given the quantum of funding available, the four NGOs with the most competitive applications were awarded funding on this occasion.

The Government remains committed to supporting anti-trafficking NGOs and is actively exploring options for future funding.

### **'Cybersex trafficking' [Rec 16]**

#### **Will the Government introduce an offence to criminalise 'cybersex trafficking'?**

Existing offences in the Criminal Code already criminalise sexual activity with a child—both physical and online offending, and offending that takes place in or outside Australia.

These offences have been carefully drafted to ensure that the sexual abuse of children, both through physical contact or online, is able to be prosecuted—irrespective of whether the abuse occurs in Australia or overseas.

The definition of 'engaging in sexual activity' specifically and intentionally includes sexual activity that occurs through visual or auditory communications, such as online or over a mobile phone.

#### **Why does the Government refer to 'cybersex trafficking' as 'live-streamed child abuse'?**

The Government does not support the use of the term 'cybersex trafficking'.

The conduct being referred to is not trafficking in the context of human trafficking. 'Trafficking' includes the recruitment, transportation, transfer, harbouring or receipt of persons. The term is not clear and does not serve to communicate the seriousness of the conduct.

The preferred term is 'live-streamed child abuse'.

### **Forced marriage protection orders [Rec 17]**

#### **Will the Government introduce civil forced marriage protection orders, similar to those available in the UK?**

The Government is committed to ensuring vulnerable people are afforded adequate protection from the harmful practice that is forced marriage.

Between May and August this year, I asked my Department to hold nation-wide consultations with relevant state and territory government agencies to consider

options for strengthening Australia's response to forced marriage, including the need to enhance civil protection measures to complement our robust criminal offences.

I am now carefully considering the findings of these consultations.

### **NGO funding [Rec 18]**

#### **Will the Government continue to provide ongoing funding to NGOs working to prevent and address forced marriage?**

Since 2008, anti-trafficking NGOs have received more than \$5.3 million in Government funding to combat human trafficking and slavery-related crimes, including forced marriage.

Most recently, on 30 July 2017, I awarded a total of \$500,000 over 2017-18 to four NGOs, three of which are using their grant to deliver projects specifically targeting forced marriage. This is in addition to the almost \$500,000 I awarded to three NGOs over 2014-17 to progress outreach, education and awareness-raising activities on forced marriage.

Funding for anti-trafficking NGOs has always been provided on a time-limited basis, for specific projects.

The Government remains committed to funding specialist NGOs working to prevent and address forced marriage, and is actively exploring options for future funding.

### **Forced marriage education in school curriculum [Rec 19]**

#### **Will the Government include education on forced marriage in school curricula?**

The Government is committed to raising awareness of forced marriage issues in the education sector.

In July 2014, I awarded more than \$60,000 to the Australian Catholic Religious Against Trafficking in Humans to develop the *My Rights – My Future: Forced Marriage* resource toolkit for secondary school teachers, support staff and students, which was piloted voluntarily in nine across NSW, Victoria and South Australia.

In July 2017, I awarded ACRATH a further \$125,000 to undertake a range of anti-trafficking initiatives, including rolling out their forced marriage toolkit in at least 40 schools across Australia.

State and territory government and non-government education authorities are responsible for the day-to-day delivery of education programs.

Further questions about the curriculum should be directed to the Minister for Education.



