



Australian Government

Australian Government response to the  
**Review of the Coal Mining  
Industry (Long Service  
Leave Funding) Scheme**

February 2022



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# Introduction

The Coal LSL Scheme is a portable long service leave scheme that was established in 1949, and since 1992 its operation has been underpinned by Commonwealth legislation. The current enabling legislation is as follows

- *Coal Mining Industry (Long Service Leave) Administration Act 1992 (Administration Act)*
- *Coal Mining Industry (Long Service Leave) Administration Regulations 2018*
- *Coal Mining Industry (Long Service Leave) Payroll Levy Act 1992*
- *Coal Mining Industry (Long Service Leave) Payroll Levy Collection Act 1992*
- *Coal Mining Industry (Long Service Leave) Payroll Levy Regulations 2018*
- *Coal Mining Industry (Long Service Leave) Legislation Amendment Act 2011*
- *Employer Reimbursement Rules 2017*

The corporate Commonwealth entity established by this legislation 30 years ago, the Coal Mining Industry (Long Service Leave Funding) Corporation – better known as ‘Coal LSL’ – regulates and manages long service leave entitlements on behalf of eligible employees in the black coal mining industry. While there are other portable long service leave schemes underpinned by state and territory legislation, the Coal LSL Scheme is unique as the only portable long service leave scheme at the Commonwealth level. The Coal LSL Scheme has over \$2.1 billion in funds under management. There are around 1000 employers registered with the scheme for over 131,000 employees who are accruing and/or have accrued an entitlement.

As a corporate Commonwealth entity, the Coal LSL Corporation is independent of the government of the day. Under the Administration Act the Coal LSL Board is responsible for managing the affairs of the Corporation and administering the Fund. The members of the Board are appointed by the Minister for Industrial Relations, with each Board member representing specific stakeholders, as set out in the Administration Act.

The Australian Government announced an independent review of the Coal LSL Scheme by KPMG on 1 June 2021, to consider potential legislative and non-legislative measures to improve the adequacy and transparency of the Coal LSL Scheme as well as public confidence in it. This decision by the Government recognised the significant shifts in the operating environment and workforce composition in the industry, and that employers, employees, their representative bodies and the Corporation itself had raised issues with the Government about the operation of the Coal LSL Scheme – for example, whether casual employees’ hours worked were reported and calculated in a clear and fair manner. The Government formed the view that there was a need for a holistic review to ensure the Coal LSL Scheme was fit-for-purpose and working effectively to best serve the interests of employees and employers in the black coal mining industry.

Stakeholders were given the opportunity to engage directly with the independent Review through seven focus group discussions, including a public forum in Newcastle NSW (where the Coal LSL Corporation is headquartered). Interested parties were also invited to submit their views in writing. A total of 28 submissions from a representative cross section of key stakeholders were received by the Review.

KPMG provided its report *Enhancing certainty and fairness: Independent Review of the Coal Mining Industry (Long Service Leave Funding) Scheme* on 8 December 2021.

The Government wishes to thank those who took the time to participate in the Review, and thanks KPMG for its professional, comprehensive and independent report.

# Overview of Government Response

The Government welcomes the findings of the independent Review as an important step on the road to ensuring the Coal LSL Scheme operates in a fair, transparent and efficient manner, and that employers and employees have confidence that the levies paid and entitlements accrued are being properly reported to, and administered by, the Coal LSL Corporation.

The independent Review provided an opportunity for all interested groups to share their experiences and views on the future direction of the Coal LSL Scheme. Importantly, this included consultation with employers and employees who have had direct interactions with the Coal LSL Scheme. The six principles set out by the independent Review for the Coal LSL Scheme: certainty, fairness, transparency, accountability, fit-for-purpose and portability, will guide implementation as the Coal LSL Scheme moves into a new phase.

The Government accepts that as a review designed to identify opportunities for improvement, the consultation process did not focus attention on stakeholders who are satisfied with the current operation of the Coal LSL Scheme. The Government acknowledges data presented to the Review which suggests there are many employers and employees who are content with the Coal LSL Scheme's operation. The Review found that for the majority of employees in the black coal mining industry, the Coal LSL Scheme meets its fundamental objective in connecting each employee with their long service leave entitlements. The Government also notes, however, that the Review identified that the Coal LSL Scheme has areas for improvement, particularly with respect to:

- Employees engaged through newer employment models for the industry (including the treatment of casual employees)
- Employees employed by an employer who operates at coal mines and other sites
- Employees who transfer between roles or employers on site.

Legislative reforms around coverage and eligibility issues for these employees and their employers will make significant steps towards providing certainty and fairness. This will have a positive flow on effect by reducing the need to rely on other tools raised in the context of the Review – such as compliance and enforcement powers and dispute resolution.

The Review made 20 recommendations. The Government has not rejected any of the recommendations.

Ten of the recommendations (1, 2, 3, 4, 5, 6, 7, 8, 9 and 13) were specifically addressed to the Government, as their implementation would require legislative changes to be passed through the Australian Parliament. The Government supports all of these 10 recommendations, and has noted recommendation 10(a).

The remaining recommendations (10(b), 11, 12, 14, 15, 16, 17, 18, 19 and 20) are mainly addressed to the Corporation. The Government finds the evidence and analysis outlined in the report persuasive, and will support the Corporation as required in their implementation of these recommendations.

# Next steps

The Government will take action to legislate based on the clear direction for reform set out by the Review. Of particular importance, the reforms will:

- Provide greater clarity to the definition of eligible employee, while also ensuring that no eligible employee is worse off.
- Deliver clarity and fairness to ensure casual employees are treated equitably with permanent employees.
- Address legacy issues around Coal LSL Scheme coverage to ensure transparency and fairness for employees, registered employers and future registered employers.
- Strengthen decision making, review and dispute resolution processes to enhance accountability, certainty and compliance for all stakeholders.

The Government recognises that these reforms are complex, with many requiring further technical legal advice to ensure that the changes have the desired impact on employees, employers and the Corporation. In the spirit of the Review, the Government will continue to leverage and draw on the benefits of deep industry expertise, and to 'stress test' proposed changes to ensure they are delivering beneficial outcomes without unintended consequences. The Government will work closely and methodically with stakeholders on the technical and implementation details, including provision of exposure drafts of legislative changes where appropriate. Stakeholder liaison on legislative changes will commence as soon as practicable.

Should the Australian Parliament pass legislative amendments, the implementation of these changes, as well as the implementation of other non-legislative recommendations, will ultimately be a matter for the Corporation, including its Board. The Government will seek regular updates from the Corporation on implementation progress.

The recommendations were categorised by the independent reviewer into four themes and the Government responses are also grouped under these themes for ease of reference:

- *Coverage and Treatment*
- *Compliance and Enforcement*
- *Governance*
- *Administrative Processes*



# Theme: Coverage and Treatment

## RECOMMENDATION 1

### Definition of eligible employees

It is recommended that the Commonwealth amend the definition of eligible employee through legislative reform to reduce ongoing uncertainty. The focus of the reform should be to:

- address section 4 of the Coal Mining Industry (Long Service Leave) Administration Act 1992 (Cth) (the Administration Act) and in particular paragraph (b) of the definition of 'eligible employee' definition) with reference to the term 'an employee who is employed in the black coal mining industry'; and

review the occupations presently excluded from the Scheme for alignment with the intention of a best practice future scheme and contemplate legislative reform to address any anomalies.

### Agree.

The Government will bring forward amendments as part of a legislative package to provide greater clarity about when an employee is covered by the Coal LSL Scheme – this is in the interests of employees and employers.

The Government remains committed to the statement in the original terms of reference that it is not within scope to consider any proposal that would result in a reduction in the long service leave entitlement of eligible employees.

The Government accepts the Review's conclusion that coverage is a key issue that underpins many other issues currently experienced with the Coal LSL Scheme, and that certainty of eligibility will provide a stronger foundation upon which all other aspects will be able to function more effectively.

The drafting of legislative reform will need to consider complex legal and policy matters. The Government will obtain legal advice and work with all relevant stakeholders including employees, employers and the Corporation on the exposure draft to fully understand the implications of any amended definition and the consequential implementation.

## RECOMMENDATION 2

### Addressing legacy issues

In addition to clarifying coverage for the future operation of the Scheme (recommendation 1), to address the legacy issues associated with the past application of coverage provisions, it is recommended that the Minister engage with parties to the Existing Proposals with a view to progressing the proposals, and seeking legal advice concerning the drafting of any amendments. In determining which aspects of the Existing Proposals should progress to legislative amendment, the Minister should have regard to the Option models presented in chapter 6 and any impact on broader stakeholders within the Scheme.

### Agree.

The Government welcomes the proposals put forward jointly by stakeholders representing employers and employees to address legacy issues associated with the past application of coverage provisions, and acknowledges the time and effort put in by parties to negotiate the existing proposals. The Government notes that as part of its consultation process, the independent Review found the parties to the 'Joint Parties Agreement' continue to support this outcome, and were keen to ensure that the foundations laid by the negotiations were harnessed to resolve legacy issues to provide certainty to employees and employers.

Accordingly, the Government will bring forward amendments as part of a legislative package to resolve the legacy coverage issues identified in the Review. Consistent with the Government's approach to consultation on reforms to the Coal LSL Scheme, stakeholders will be provided with the opportunity to review details of the proposed legislative changes and provide feedback on the implementation design.

This approach will provide a fair outcome to allow employers with historical disputes to join the Scheme without unbearable financial cost, and support all eligible employees of these businesses to access their long service leave entitlements from the Scheme.

In conjunction with the commitment in recommendation 1 to clarify the definition of 'eligible employee', the resolution of historical disagreements about coverage provisions will put the Coal LSL Scheme in the best position to move forward with certainty and fairness, particularly to ensure eligible employees can access their entitlements.



## RECOMMENDATION 3

### **Empowering workers: choice of scheme**

It is recommended that to address current issues caused by the interaction between LSL schemes, that the Commonwealth take steps to explore mutual recognition arrangements with the relevant State and Territory LSL schemes to reduce the incidence of employees mistakenly receiving entitlements under two or more LSL schemes, or employees missing out on entitlements (because of not meeting the pre-qualifying service criteria or recognition of service between schemes).

### **Agree in principle.**

Any mutual recognition arrangements would require legislation at the Commonwealth level and in each State and Territory of Australia. While the Commonwealth Government cannot commit states and territories, the Government recognises long service leave laws vary across schemes including states and territories schemes, and it is complex for employers and employees if they are subject to multiple jurisdictions.

The Government will take steps to explore the relevant mutual recognition arrangements with state and territory schemes, including by way of correspondence with the relevant Minister in each State and Territory. This will ensure that each relevant jurisdiction is well appraised of the Review and its recommendations.

Due to the variability between schemes, it would take time to develop any mutual recognition arrangements. The Government's immediate priority is addressing critical issues within the Commonwealth legislative framework, noting that implementation of recommendations 1 and 2 are expected to assist in reducing the incidence of employees missing out on entitlements or mistaken accruals.

The Government will also explore with stakeholders the extent to which mutual recognition arrangements are necessary in view of the other priority changes being implemented. In addition, the Government will encourage the Corporation and relevant state and territory long service leave authorities to explore whether improved education and communication with employers and workers may help address confusion about which long service leave scheme is appropriate, without the need for legislative change.

## RECOMMENDATION 4

### **Equal treatment of casual and permanent employees**

It is recommended that the Commonwealth enact legislative amendments to ensure that casual employees are treated no less favourably than permanent employees in the Scheme.

#### **Agree.**

The Government will develop legislative amendments to deliver clarity and fairness which will ensure casual employees are treated equitably with permanent employees. The Government acknowledges the clear message, from all stakeholders who participated in the Review, that there are inequities between the treatment of casual and permanent employees in the Coal LSL Scheme that should be resolved.

The Government agrees that the current legislated formulas for casuals are complex, making it unnecessarily difficult for the Corporation and employers to ensure accurate reporting of hours worked and meet their legislative obligations.

The Review found a lack of clarity for the definition of base rate of pay and its application to casual employee loading rates is leading to errors in levies reported by employers. The Government acknowledges that participants in the Scheme are not confident that the variable hours of casuals across a roster are being recorded fairly in the system, resulting in some instances of casual employees being treated less favourably than permanent employees.

# Theme: Compliance and Enforcement

## RECOMMENDATION 5

### **Strengthening decision-making, review and dispute resolution processes**

It is recommended that the Commonwealth strengthen decision-making, review, and dispute resolution processes to:

- clarify the Corporation's powers to make decisions concerning eligibility for the Scheme and the relevant assessment criteria for use of those powers;
- provide greater legislative guidance on the operation of the Scheme's internal review and mechanisms;
- create a mechanism for external binding determinations with respect to eligibility, coverage, and LSL entitlements, without recourse to court action.

### **Agree in principle.**

The Government will develop legislative amendments to strengthen decision-making, review, and dispute resolution processes and make them clearer for those who use them. The Government will work with stakeholders on the proposed amendments to ensure employees and employers – regardless of their size – have access to dispute resolution that is low cost, fast, determinative and does not impose undue regulatory burden on participants.

Transparent and well understood processes must underpin any administrative decision-making system. The Government agrees that clearer internal administrative decision-making processes that are publicly available and understood will improve stakeholder confidence and trust in the Coal LSL Scheme.

## RECOMMENDATION 6

### **Resolving liabilities**

It is recommended that the legislation provide a power for liabilities to be settled in certain circumstances to promote employer compliance with the Scheme. Any settlements should have no impact on the ability for employees to receive their accrued entitlement.

### **Agree in principle.**

Improved mechanisms to settle liabilities would lead to more efficient operation of the Coal LSL Scheme and, given the pooled fund nature of the Coal LSL Scheme, would not lead to any reduction in the entitlements of eligible employees. The Government will consider the technical legal options for such powers. A relevant

consideration for the design and exercise of a power to resolve liabilities will be whether the settling of a liability will have a material impact on the payroll levy rate, and therefore employer costs, required to ensure a sound financial position for the Fund.

## RECOMMENDATION 7

### **Resolving liabilities**

It is recommended that the Commonwealth consider the merits of introducing a limitation period for the assessment and collection of levy liabilities within the Scheme to promote timely administration of the Scheme.

### **Agree in principle.**

The Government agrees in principle, that in addition to the resolution of existing liabilities outlined in recommendation 2, there may be a need for a statutory limitation period for the assessment and collection of levy liability as part of future Scheme arrangements. Consideration of this recommendation will be guided by the need to ensure any change will not result in any reduction in the entitlements of eligible employees, nor impose unreasonably long record keeping burdens on employers, and is focussed on providing mechanisms to resolve levy liabilities more fairly and quickly. The Government will work with stakeholders to analyse the legal, technical and implementation issues resultant from any change.

The Government expects that recommendation 2 should be the mechanism for identifying and resolving existing unpaid liabilities. The recommendations package as a whole, particularly around the theme of compliance and enforcement, is intended to significantly reduce the likelihood of uncertainty about levy obligations *in the future*. Combined with a strong focus by the Corporation on constructively engaging with employers and resolving matters quickly, these changes should have a combined impact of significantly reducing the likelihood of situations where employers may have a liability extending over a long period of time.

## RECOMMENDATION 8

### **Ensuring the Corporation, as a custodian of the Scheme, has fit-for-purpose tools**

While the adoption of recommendations 1, 2 and 5 should reduce the number of disputes and improve the administration of the Scheme, it is recommended that the Commonwealth consider refining the powers available to administer the Scheme with a focus on:

- the current operation and use of Section 52A of the Administration Act;
- ensuring any non-compliance is addressed proportionately, and to preserve the Corporation's relationship with employers;
- conferring additional powers, where necessary, to an appropriate Commonwealth Regulator with the skills, resources and established culture to oversee regulatory functions.

### **Agree in principle.**

The Government will enhance the regulatory framework to ensure the Scheme is supported by effective and fit-for-purpose regulatory powers. Importantly, the Government is cognisant of the potential for a tension to arise between the Coal LSL Corporation's responsibilities as a custodian and administrator of the Scheme and the centralised powers of compliance and enforcement. Consequently, the Government will consider the compliance and enforcement skills, resources and culture of the Coal LSL Corporation and other existing Commonwealth regulators in order to implement the most efficient and effective regulation of the Coal LSL Scheme.

The Government agrees that any regulatory tools must be proportionate and targeted, and will take account of stakeholder views on how this may be best achieved. The Government remains committed to all employees receiving their full entitlements under Australia's industrial relations system – this commitment applies to entitlements under the Coal LSL Scheme as much as any other such entitlements.

The Government acknowledges the Review's finding that ongoing compliance issues experienced within the Coal LSL Scheme largely result from unresolved coverage issues, combined with the limited number of tools available to the Corporation to administer the Scheme.

The independent reviewer's comment that other recommendations should reduce the number of disputes and improve the administration of the Coal LSL Scheme is consistent with the Government's view. Implementing a package of holistic reforms should ensure that more employers have certainty about their obligations, more employees are receiving their correct entitlements from the outset, and that the Corporation can maintain and strengthen its role as trusted custodian of the Coal LSL Scheme.

## RECOMMENDATION 9

### **Safeguarding of employees' entitlements**

It is recommended that legislative reform occur to enable the Corporation to connect employees more easily with their accrued LSL entitlements within the Scheme, particularly in circumstances involving non-compliance by an employer.

#### **Agree.**

The Government's package of legislative reforms will address non-compliance so that all eligible employees are able to access their entitlements. The Government will consider broadening the permissible circumstances in which the Corporation can pay employees directly if they are unable to receive payment from their employer.

Section 48 of the Administration Act already provides for the Corporation to pay a long service leave entitlement directly to an employee where the employer is insolvent, being wound up or has ceased to exist.

The Government recognises that there was broad consensus from stakeholders that issues needed to be addressed to ensure that eligible employees can access their accrued entitlements, and that Existing Proposals put forward by stakeholders have include legislative amendments to safeguard employees' entitlements.

The Government will work with stakeholders on implementation. The financial implications for the Coal LSL Scheme of any additional direct payment mechanisms will also be considered as part of this process.

This measure would supplement the implementation of a range of interconnected recommendations – around eligibility (recommendation 1), historical employer liabilities (recommendations 2 and 6), measures to prevent potential future employer non-compliance (recommendations 5 and 8), and improved visibility of entitlements and payments (recommendation 10) – which will all significantly reduce the number of potential employees unable to access their entitlements.

## Theme: Governance

### RECOMMENDATION 10

#### Increasing visibility of entitlements and payments

(10a) It is recommended that to improve transparency in the Scheme that the Commonwealth consider introducing an Authority Pays mechanism (rather than a reimbursement model), akin to that used in many portable schemes; or

(10b) It is recommended that the Corporation accelerate implementation of technological solutions (per recommendation 17) to:

- improve employee visibility of entitlements;
- improve employer visibility of levy payments, liabilities and reimbursements; and
- provide more education material on its website as to how funds are managed within the Scheme, to reduce the perception of mismanagement.

#### **10(a) Noted.**

The Government will consider the feasibility of transitioning the Coal LSL Scheme to an 'authority pays' mechanism. The Government recognises that the Review has acknowledged this would be a substantial structural change to the Coal LSL Scheme and is necessarily more long term in nature.

#### **10(b) Support Coal LSL to implement.**

It is important that users of the Scheme, including employees and employers, are able to clearly understand their entitlements and obligations. The Government will support Coal LSL to implement 10(b) to improve transparency and public confidence in the Fund administration.

More contemporary technological solutions will assist employers and employees in understanding and getting timely information about the Coal LSL Scheme. The Government notes that a broad range of stakeholders reported to the Review that they held concerns about the lack of transparency, ownership and visibility of their "money" or entitlements under the Scheme. Providing a direct line of sight and greater real-time accessibility and visibility of levy payments, entitlements and reimbursements would assist in providing comfort and confidence to employers and employees that their payments and entitlements are being appropriately accounted for by the Corporation. Such changes do not require legislative change, and would be funded and implemented by the Coal LSL Corporation as an independent corporate Commonwealth entity. The Government will assist the Corporation in implementation as required.



## RECOMMENDATION 11

### **Improving how decisions are made**

It is recommended that the Corporation improve transparency of decision-making by integrating further procedural fairness elements into the Scheme's decision-making and internal review processes.

### **Support Coal LSL to implement.**

All decision making by Commonwealth entities, including by independent bodies such as the Coal LSL Corporation, should have robust and transparent procedural fairness mechanisms built into their systems. The Government will work with the Coal LSL Corporation to ensure that any legislative changes flowing from other recommendations (such as recommendation 5) are complemented by appropriate changes to internal decision-making processes.

## RECOMMENDATION 12

### **Clarifying expectations and requirements for evidence**

It is recommended that to improve administrative decision-making by the Corporation that the standards for evidence be clarified to clearly set out the type and quantum of evidence required to be produced by employers and employees.

### **Support Coal LSL to implement.**

Clear expectations about acceptable types of evidence and associated standards will improve the quality of, and confidence in, administrative decisions. The Government will support the Corporation as required to ensure it has clear, publicly available guidance for employers and employees, and that the type and quantum of evidence required does not impose an unnecessary regulatory burden, especially for smaller employers.

Clarifying evidence requirements will ensure that the Corporation is able to make fair and defensible administrative decisions, which is particularly important in relation to decisions which directly affect an employee's access to their entitlements.

## RECOMMENDATION 13

### **A modern and representative Board**

It is recommended that the total board composition be increased to approximately 7 or 8 members (inclusive of the Chair), being an appropriate number of directors to oversee the Corporation having regard to the ambit of its responsibilities.

Board arrangements should be reconfigured to reflect contemporary best practices for modern corporations by ensuring:

- a minimum board composition of approximately 20% of independent directors;
- introduction of a skills-based board with the combination of skills to be benchmarked by an external organisation every three years;
- rotation of committee chairs;
- Board composition that is reflective of diversity of skills, age, gender, expertise, and interests; and mandatory refresher training on director duties (including conflict of interest, data security, privacy, and contemporary environmental, social and corporate governance (ESG) principles.

Reconfigurations to the Board composition should include:

- at least one independent director (preferably with expertise in data security; technology or corporate governance); and
- addition of one director representative of Modern Industry Stakeholders.

### **Agree.**

The Government will legislate to ensure the composition and practice of the Board are effective and aligned to the contemporary needs of the Corporation.

These needs have evolved over the years. The number of employers and employees (and the size of the Fund and the workforce of the Corporation) have all increased in recent years, with a commensurate increase in the demands placed on the Board. The nature of employers and the employment arrangements of eligible employees are also more diverse than previously, and it is important that the composition of the Board provides the appropriate skills to address these needs.

The Government supports the comments of the Review regarding the indicative features of a best practice modern board, drawn from the Australian Institute of Company Directors, and reflected in the text of the recommendation. These features are important and the Government will be guided by them in making any legislative changes to the composition of the Board and in appointing members to fill any vacancies.

The heightened need for expertise in corporate issues that are not confined solely to the black coal mining sector, such as the increasing role of technology in service delivery, would also be supported by the addition of independent directors to the Board. The Government will legislate to expand the size of the Board, including the addition of at least one independent Director.

## RECOMMENDATION 14

### Mitigating conflicts of interests

Noting the Board composition consists of industry representatives; it is recommended that the Board's risk management practices regarding conflict of interest are made publicly available. These policies should include mitigation strategies to prevent use of information obtained in the course of Board duties being used in broader contexts, external to the operation of the Scheme.

### **Support Coal LSL to implement.**

The Minister for Industrial Relations has ultimate responsibility for the appointment (and termination) of Board members, and expects that all members uphold the highest standards, including their obligations as officials under the Administration Act, *Public Governance, Performance and Accountability Act 2013* (PGPA Act) and associated legislative instruments.

Within this framework, the Government expects the Coal LSL Corporation and the Board to have transparent policies for ongoing risk management of real or perceived conflicts of interest. The Government notes the Review's comments that while the Corporation endeavours to comprehensively adhere to its PGPA Act requirements and expectations of the community regarding accountability, there is currently a lack of visibility of the processes and policies used by the Corporation to manage conflicts of interest.

The Government expects that such policies should be publicly available and are an important element in maintaining the confidence of the public – and their representatives in the Australian Parliament – in the operation of the Coal LSL Scheme.

## RECOMMENDATION 15

### **Safeguarding the Scheme from fraud**

It is recommended that to safeguard against fraud (including the under-reporting of hours) that:

- the Corporation's fraud management policies be reviewed to ensure alignment with the Commonwealth's fraud control requirements and be made public to increase transparency of the Corporation's compliance with its obligations;
- visibility of employee's accrued entitlements be provided through an online platform to allow discrepancies to be identified quickly by employees, consistent with recommendation 17; and
- simplified reporting requirements be implemented for employee's hours in a uniform manner across casual and permanent employees, consistent with recommendation 4.

### **Support Coal LSL to implement.**

The Government is pleased to note that the Review found no evidence to substantiate allegations of systematic and deliberate financial fraud, nor was there any evidence of the involvement of criminal organisations. The Government also notes that the Review considered the Corporation's Fraud Guidelines in comparison to the Commonwealth Fraud Guidelines and found that its policies broadly meet the expectations of the Corporation as a corporate Commonwealth entity. Nevertheless, the Government's view is that it is important that strong safeguards are maintained and visibility of processes is enhanced. The Government encourages the Corporation to make its fraud control policies public to increase transparency of how the Corporation is complying with its obligations under the Commonwealth Fraud Control Framework.

The Government also notes unintentional and intentional underreporting of hours is an important integrity issue for the Coal LSL Scheme. The implementation of recommendations 4 and 17 will assist to further safeguard the Coal LSL Scheme against fraud.

## RECOMMENDATION 16

### **Conduct consistent with a custodian of the Scheme**

It is recommended that the Corporation review its approach to compliance and enforcement activities and stakeholder communications to position the Corporation as the trusted custodian of the Scheme by advancing initiatives designed to support stakeholders navigate, and comply with, the Scheme.

### **Support Coal LSL to implement.**

The Government has agreed as part of recommendation 8 to consider the compliance and enforcement powers available to administer the Coal LSL Scheme. It is the Government's view that the approach to administration by any Commonwealth entity necessarily reflects a mix of both the appropriate use of powers available to the entity and how the staff of the entity choose to engage with stakeholders. The Government notes the Review's observation that there is significant goodwill from stakeholders and a shared desire to see the Coal LSL Scheme work effectively.

The Government will encourage the Corporation to ensure its approach to stakeholders, including during and after the implementation of any legislative changes, is consistent with its role as custodian of the Coal LSL Scheme. The Government expects that the Corporation, as custodian of the Scheme, will have a focus on high quality and timely administration, that is underpinned by open, transparent and collaborative engagement with employers and employees to assist, educate and ensure compliance. Cognisant of the array of stakeholders associated with the Scheme, the Government will specifically consider, and engage with, small businesses to ensure they are properly supported. This will include consideration of reducing the impost placed on small businesses by providing greater flexibility as outlined in Recommendation 20.

## Theme: Administrative Processes

### RECOMMENDATION 17

#### **Accelerated adoption of technology**

It is recommended that the Corporation's digital transformation and technology enablement should be accelerated to bring the Corporation in line with contemporary best practice for modern corporations as soon as practicable. The aim should be to provide greater automation of administrative processes, providing employees and employers with a clear line of site between levy payments and employee entitlements. This includes:

- continued development of technology platforms, such as Levy Loader, to provide real time access to employee entitlements, employer levy payments and reimbursements; and
- implementation of measures to increase alignment between the Corporation's and employers' systems, through stakeholder consultation to identify common practice between employers in the industry.

#### **Support Coal LSL to implement.**

The Commonwealth Digital Service Standard is that digital services should be simple, clear and fast. The Government encourages the Corporation to ambitiously accelerate its digital transformation program to improve the experience for employers and employees and notes that an enhanced technology platform will provide an important foundation to complement successful implementation of other recommendations such as 3, 4, 5, 8, 9, 10b and 15.

### RECOMMENDATION 18

#### **Protection of data and privacy**

It is recommended that the Corporation should implement and publish data security and privacy practices consistent with best practices standards provided by the Office of the Australian Information Commissioner (OAIC).

#### **Support Coal LSL to implement.**

As services offered by Commonwealth entities increasingly move online, the importance of data security is heightened. To help build and maintain the confidence of the public and the Australian Parliament in the Scheme, the Government encourages the Coal LSL Corporation to publish its data security and privacy practices, and ensure they remain up to date and aligned with OAIC best practice.

## RECOMMENDATION 19

### Validation of data

It is recommended that validation processes be incorporated into the Scheme's operations, including:

- identification of validation process undertaken in like organisations;
- identification and evaluation of areas within the Scheme which could most benefit from enhanced validation;
- use of existing mechanisms such as ABNs (and TFNs if permitted) which may be leveraged to provide greater accountability and validation within the Scheme; and
- greater data sharing with other Commonwealth agencies, to the extent permitted by law, to increase integrity in the Scheme and reduce the likelihood of underreporting of hours by employers.

### Support Coal LSL to implement.

The Government, through the Attorney-General's Department, will assist the Corporation to develop relationships with other Commonwealth entities who have relevant experience with data sharing and data validation.

## RECOMMENDATION 20

### Reducing audit impost on small business employers

It is recommended that the Scheme support employer compliance by offering greater certainty of audit requirements for employers, by:

- clarifying the existing requirements through the provision of guidance material; and
- providing greater flexibility for small business employers in how they demonstrate compliance with the audit requirement.

### Support Coal LSL to implement.

The Government remains a strong supporter of small business across all areas of the economy – including the coal mining industry, where small businesses play crucial role as service providers to the large production focussed companies. Simplifying the way small businesses participate in the Coal LSL Scheme will reduce the administrative burden on them and help them grow their businesses within the coal mining sector, as well as reducing barriers to entry for new businesses. The Government agrees that simple and consistent guidance material from the Corporation would assist employers in understanding what a best practice audit encompasses. Importantly this will not and should not result in any reduction in employees' entitlements.