

17 October 2022

Temporary Exclusion Orders must be necessary and proportionate

Preventing an Australian citizen from returning home from abroad is a serious action that requires fair and transparent oversight and ongoing evidence of its effectiveness, the Law Council said today.

“A Temporary Exclusion Order (TEO) prevents the return to Australia of any person deemed a security risk without a return permit imposing pre-entry and post-entry conditions,” Law Council of Australia President, Mr Tass Liveris explained.

“These orders can prevent the re-entry into Australia of a citizen, including a minor aged between 14 and 17, if the Minister for Home Affairs considers this will assist in addressing a threat of terrorism, or the Australian Security Intelligence Organisation has assessed the person as a direct or indirect risk to security.”

Speaking at a public hearing of the Parliamentary Joint Committee on Intelligence and Security, the Law Council raised concerns about the lack of evidence on the public record regarding the operation of the Temporary Exclusion Orders regime to demonstrate its necessity and effectiveness.

“There is a suite of other powers available to manage the security risks presented by people in Australia,” Mr Liveris said. “We need to be assured that the TEO regime is required in addition to these.

“If compelling evidence does exist as to the necessity of TEOs, there are still additional safeguards we would like to see put in place.

“One of the core recommendations the Law Council has made in submissions regarding the TEO regime, is that orders should be subject to judicial, rather than Ministerial, issuance.

“If an order is to be made to prevent an Australian citizen from entering Australia, it is the Law Council’s view it should be made by a court, not a Minister, and must not exclude procedural fairness.

“Protecting the community must always be of paramount concern, but we must also ensure national security laws, including the TEO regime, are proportionate and operating according to the rule of law.”

Contact: Kristen Connell, P. 0400 054 227, E. kristen@talkforcemedia.com.au