

Implementation of the Government Response to the Black Economy Taskforce Report

Australian Taxation Office

Department of Home Affairs

Department of the Treasury

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Canberra ACT

19 June 2023

Dear President
Dear Mr Speaker

In accordance with the authority contained in the *Auditor-General Act 1997*, I have undertaken an independent performance audit in the Australian Taxation Office, the Department of Home Affairs, and the Department of the Treasury. The report is titled *Implementation of the Government Response to the Black Economy Taskforce Report*. I present the report of this audit to the Parliament.

Following its presentation and receipt, the report will be placed on the Australian National Audit Office's website — <http://www.anao.gov.au>.

Yours sincerely

A handwritten signature in blue ink that reads 'Grant Hehir'.

Grant Hehir
Auditor-General

The Honourable the President of the Senate
The Honourable the Speaker of the House of Representatives
Parliament House
Canberra ACT

AUDITING FOR AUSTRALIA

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Audit snapshot

Auditor-General Report No.39 2022–23

Implementation of the Government Response to the Black Economy Taskforce Report



Why did we do this audit?

- ▶ This audit was undertaken to provide assurance to the Parliament that the Australian Government's (the Government's) response to the Black Economy Taskforce (the Taskforce) report is being implemented effectively to combat the shadow economy.



What did we find?

- ▶ The Department of the Treasury (Treasury) did not establish a framework to assess the effectiveness of the implementation of the Taskforce report and, as such, it is not evident that outcomes have been achieved.
- ▶ Treasury is not effective in coordinating the implementation of the report.
- ▶ The Australian Taxation Office (ATO) and the Department of Home Affairs (Home Affairs) are largely effective in implementing their recommendations. Treasury is not effective in implementing its recommendations and partly effective with regards to recommendations with shared responsibilities.



Key facts

- ▶ The Taskforce made 80 recommendations to the Government, of which 27 were agreed.
- ▶ More than 15 entities are involved in the implementation of the Taskforce report.
- ▶ The Taskforce found the shadow economy was growing and evolving in step with wider economic, technological and social change.
- ▶ It also found that there was a need for better governance within the Australian Public Service to address shadow economy risks.



What did we recommend?

- ▶ There were four recommendations aimed at improving governance, updating public information, progressing implementation, and enhancing evaluation.
- ▶ Entities agreed to three recommendations and agreed in part with one.

\$12.4 billion

The ATO's estimated value of the tax gap attributed to the shadow economy in 2019–20.

\$921 million

Funding to implement the Taskforce's recommendations between 2017–18 and 2025–26.

44%

12 of the 27 agreed recommendations assessed as implemented (or largely implemented) by the ANAO, as of March 2023.

Summary and recommendations

Background

1. The shadow economy includes a range of economic activities that take place outside the tax and regulatory systems.¹ The Organisation for Economic Co-operation and Development describes the shadow economy as ‘economic activities, whether legal or illegal, which are required by law to be fully reported to the tax administration, but which are not reported, and which therefore go untaxed unlike activities which are so reported’.

2. To combat the shadow economy, in 2016, the Department of the Treasury (Treasury) established the Black Economy Taskforce (the Taskforce). The Taskforce was to develop a whole-of-government strategy and policy agenda to address the shadow economy. In October 2017, the Taskforce finalised its report to the Australian Government (the Government). It made 80 recommendations, directed at many areas of government.

3. In May 2018, the Government: agreed with 27 recommendations; agreed in principle to 21 recommendations; supported six recommendations; noted 18 recommendations; did not support three recommendations; and did not respond to five recommendations.

4. Commencing with the 2018–19 Budget, the Government introduced measures to begin implementation of the Taskforce recommendations. This included: \$12.3 million to Treasury over five years to manage the whole-of-government implementation; \$153 million to the Department of Home Affairs (Home Affairs)² to establish the Illicit Tobacco Taskforce; and \$313.2 million to the Australian Taxation Office (ATO) to strengthen strategies for combatting the shadow economy.

Rationale for undertaking the audit

5. The Taskforce outlined the harm caused by the shadow economy to vulnerable individuals, as well as the potential to penalise those doing the right thing by creating an uneven playing field. It found that the shadow economy was ‘rapidly shifting and evolving in step with wider economic, technological and social changes’.³ It outlined the need for better governance within the Australian Public Service to address risks related to the shadow economy.⁴ It also highlighted the need for sustained focus on the implementation of its strategy.⁵

6. The shadow economy undermines the integrity of the tax system, penalises taxpayers who do the right thing and has the potential to create a culture of non-compliance.⁶ For the ATO, the

1 There are various terms used to refer to the shadow economy including black economy, hidden economy, underground economy, informal economy, grey economy, non-observed economy, and cash economy. The Organisation for Economic Co-operation and Development uses the term ‘shadow economy’. This report also uses the term ‘shadow economy’, although uses ‘black economy’ when directly quoting or when referring to names that have black economy in them.

2 Including the Australian Border Force.

3 Treasury, *Black Economy Taskforce Final Report*, October 2017, p. 1, available from <https://treasury.gov.au/review/black-economy-taskforce/final-report> [accessed 11 April 2023].

4 *ibid.*, pp. 333–336.

5 *ibid.*, p. 335.

6 Treasury, *Black Economy Taskforce Terms of Reference* [Internet], available from <https://treasury.gov.au/review/black-economy-taskforce/terms-of-reference> [accessed 3 April 2023].

shadow economy remains an ongoing risk to the ATO's purpose of fostering willing participation in the taxation and superannuation systems.

7. Treasury, the ATO and Home Affairs have primary responsibility for implementing the Taskforce recommendations and for ongoing management of the whole-of-government response to the shadow economy. This audit provides assurance to the Parliament about whether the Government response to the Taskforce's report is being implemented effectively.

Audit objective and criteria

8. The objective of this audit was to assess the effectiveness of the implementation of the Government response to the Black Economy Taskforce report.

9. To form a conclusion against the objective, the ANAO adopted the following high-level criteria.

- Did Treasury establish effective governance and coordination arrangements supporting the implementation of the Government response to the Black Economy Taskforce report?
- Are the entities effectively implementing the recommendations that they are responsible for?
- Are the entities effectively implementing recommendations where there is more than one entity responsible for implementation (shared responsibility)?

Conclusion

10. Treasury did not establish a framework to assess the effectiveness of the whole-of-government implementation of the Government response to the Taskforce report and, as such, it cannot demonstrate that the objectives of the Taskforce's strategy have been achieved.

11. Treasury did not effectively coordinate the implementation of the Government response to the Taskforce report. It failed to fully establish governance and coordination arrangements, did not adequately monitor and report on progress in implementing the report's recommendations and has not established evaluation arrangements. Treasury's management of information in relation to the implementation of the Taskforce report did not support effective whole-of-government coordination.

12. The ATO and Home Affairs are implementing the recommendations that they have responsibility for in a largely effective manner. Treasury is not implementing the recommendations that it has responsibility for in an effective manner.

13. The ATO and Home Affairs are implementing the recommendations with shared responsibilities in a largely effective manner and Treasury in a partly effective manner. While Treasury, as the coordinating entity, did not establish overarching arrangements to coordinate the implementation of recommendations with shared responsibilities, there were elements of coordination arrangements for some individual recommendations. Arrangements to assess whether recommendations with shared responsibilities have been effectively implemented are not in place. The evaluation arrangements in place focus on entities' individual implementation projects rather than the recommendations.

Supporting findings

Governance and coordination

14. In relation to the implementation of the Government response to the Taskforce report, Treasury's management of information does not support effective governance and coordination. Its management of information impacts its ability to be accountable and transparent. It also creates risks around its ability to provide quality and timely advice and reporting on the shadow economy to the Government, and to create an effective shadow economy policy environment. (See paragraphs 2.5 to 2.10)

15. Treasury has not clearly defined responsibilities and accountabilities for the coordination of the implementation of the Taskforce report. Treasury received \$12.3 million over five years to coordinate implementation, however, fit-for-purpose coordination and governance arrangements were not clearly defined. In March 2020, Treasury de-prioritised the implementation of the Taskforce report due to the COVID-19 pandemic. Four of the 27 (15 per cent) recommendations agreed to by the Government did not have clearly defined implementation arrangements. The ANAO has assessed three of these recommendations as 'not implemented' and one as 'partly implemented'. (See paragraphs 2.11 to 2.39)

16. Treasury did not establish arrangements to effectively undertake its role to coordinate the implementation of the Government response to the Taskforce report. This includes that Treasury did not plan and actively manage whole-of-government implementation timeframes. (See paragraphs 2.40 to 2.51)

17. Treasury did not have fit-for-purpose monitoring, reporting and evaluation arrangements in place. Treasury held data regarding the implementation status of recommendations, however, the ANAO found risks relating to the quality of this data. This impairs the department's ability to accurately assess and report on the whole-of-government implementation of the Taskforce report. It has not established arrangements to evaluate the impact of the Taskforce's strategy in addressing the shadow economy, including to produce a five-year report on the shadow economy which was intended to be completed by June 2023. (See paragraphs 2.51 to 2.84)

Implementation of recommendations with one entity leading implementation

18. Treasury has sole responsibility for implementing seven agreed recommendations. Treasury does not have fit-for-purpose arrangements to support the implementation of its recommendations, increasing the risk of poor implementation outcomes. The ANAO found that of the seven agreed recommendations, Treasury has: largely implemented two; partly implemented one; and not implemented four. (See paragraphs 3.3 to 3.11)

19. The ATO established the Black Economy Program to support the implementation of its recommendations. Governance and processes supporting the program were largely fit for purpose, although the ATO did not always follow its processes. The ATO's program reflected the funding provided through multiple budget measures, however, this did not always directly align with the Taskforce recommendations. The ANAO found that of the six agreed recommendations that the ATO had sole responsibility for implementing, it has: implemented two; largely implemented three; and partly implemented one. (See paragraphs 3.12 to 3.32)

20. Home Affairs had largely fit-for-purpose arrangements to support the implementation of the recommendation that it had responsibility for implementing. Implementation planning could have been improved and implementation assurance could have linked back to the Taskforce recommendation to check that it had been implemented in full. Home Affairs had related performance monitoring and reporting arrangements. These could be improved by developing performance targets. (See paragraphs 3.36 to 3.49)

Implementation of recommendations with shared responsibilities for implementation

21. The ATO established largely fit-for-purpose individual processes for implementing the parts of recommendations it is responsible for. Home Affairs had partly fit-for-purpose arrangements in place, as arrangements were not evident for recommendation 13.1. Treasury has not put in place appropriate arrangements to support its implementation of recommendations. (See paragraphs 4.3 to 4.14)

22. Of the nine recommendations agreed to by the Government with shared responsibilities for implementation, four have been largely implemented and five are in progress. Home Affairs and the ATO have established arrangements to assess the effectiveness of their implementation of their implementation projects. Treasury does not have arrangements in place to assess the effectiveness of its implementation of recommendations. (See paragraphs 4.15 to 4.24)

Recommendations

Recommendation no. 1
Paragraph 2.26 The Department of the Treasury implement policies and procedures to ensure that its governance and information management is fit for purpose, particularly within the context of leading and coordinating the implementation of reviews and inquiries.

Department of the Treasury response: *Agreed in part.*

Recommendation no. 2
Paragraph 2.34 The Department of the Treasury review and update its website content in relation to the shadow economy.

Department of the Treasury response: *Agreed.*

- Recommendation no. 3**
Paragraph 2.83
- In order to progress the implementation of the Black Economy Taskforce report, the Department of the Treasury:
- (a) assess and determine a way forward for the recommendations presented in Table 2.1;
 - (b) review the ANAO's findings in relation to each of Treasury's recommendations (see Table 3.2) and determine what further action can be undertaken to implement these recommendations;
 - (c) produce a five-year report into the shadow economy to evaluate the implementation of the Government response to the Taskforce report, and to assess the emerging risks and trends in the shadow economy (recommendation 16.1 of the Taskforce report); and
 - (d) report (and seek decisions as appropriate) to the Government.

Department of the Treasury response: *Agreed.*

- Recommendation no. 4**
Paragraph 4.24
- The Department of the Treasury and the Australian Taxation Office review the 'ATO — Treasury Protocol' and establish cross-agency monitoring and evaluation arrangements that would further support evidence-based policy and delivery.

Department of the Treasury response: *Agreed.*

Australian Taxation Office response: *Agreed.*

Summary of entity responses

23. The proposed audit report was provided to the ATO, Home Affairs and Treasury. An extract of the proposed report was provided to the Tax Practitioners Board.

24. The ATO, Home Affairs and Treasury provided summary responses and these are below. The full responses of all entities are included at Appendix 1. The improvement observed by the ANAO during the course of this audit is at Appendix 2.

Australian Taxation Office

The ATO welcomes this audit into the Implementation of the Government response to the Black Economy Taskforce Report and considers the report supportive of our approach to combat the shadow economy. The term 'black economy' has now changed to shadow economy. This change reflects the Organisation for Economic Co-operation and Development's (OECD) definition of unreported or dishonest economic activity.

The audit report recognises the efforts the ATO has already taken to implement the Black Economy Taskforce Report recommendations that it has responsibility for, finding the ATO to be largely effective. The audit also identified opportunities for improvement of recommendations where

there are shared responsibilities for implementation. We are supportive of working collaboratively with the Department of Treasury to establish cross-agency monitoring and evaluation arrangements that would further support evidence-based policy and delivery.

The ATO remains committed to continuing a strong and coordinated response to target shadow economy activity, protect revenue and level the playing field for those businesses that are following the rules.

Department of Home Affairs

The Department of Home Affairs (Home Affairs) acknowledges the ANAO assessment that the Department was *largely* effective in implementing the recommendation, for which it has sole responsibility.

Home Affairs notes the opportunity for improvement in relation to performance targets for the Illicit Tobacco Taskforce and will consider the development of specific measurable goals to be reflected in future reporting periods as part of the business planning process.

Home Affairs also notes the opportunity to improve procedures for tracking against revenue estimates associated with Budget measures. The Department undertakes regular revenue analysis for a variety of purposes including internal management reporting, monthly reporting to the Departments of Finance and Treasury, and the annual financial statements. As directed by the Estimates Memorandums issued by the Department of Finance, the revenue estimates are reviewed and updated at the Budget, Mid-Year Economic and Fiscal Outlook, and Additional Estimates Statements processes in collaboration with Treasury.

Home Affairs will continue to actively engage with the Australian Taxation Office (ATO) and Treasury on shared Black Economy responsibilities and issues and participate in whole-of-government initiatives to combat the shadow economy.

Department of the Treasury

The Department of the Treasury (Treasury) notes the review of the implementation of the Government's response to the Black Economy Taskforce Report. Treasury is committed to addressing the findings of the report and agrees with the ANAO's recommendations.

Treasury considers that the audit report could benefit from a greater acknowledgement of the substantial implementation work already completed by the Government^a, the impact of the need to reprioritise departmental resources to support the Government's management of the COVID-19 pandemic^b and how the department has matured its approach to governance since the time covered by the audit.^c

Treasury acknowledges the ongoing need to focus on embedding good governance and information management practices and will continue to mature our approach to governance, program management, information management and record keeping.

ANAO comment on Treasury's summary response

- (a) Overall, the ANAO found that 44 per cent of the recommendations agreed to by the Government had been implemented or largely implemented, as of March 2023. See paragraphs 2.79 to 2.82, Table 2.1, Table 3.2, Table 3.3, Table 3.4 and Table 4.2.
- (b) The reprioritisation of Treasury resources to support the Government's response to the COVID-19 pandemic is discussed at paragraphs 2.19 to 2.20.

- (c) As noted in Treasury's full response at Appendix 1, the 'shadow economy work program was not able to benefit' from the department's activities to improve governance, program management, information management and record keeping. As such, these activities are not within the scope of the audit. Treasury's May 2022 program management framework is discussed at paragraphs 2.42 to 2.45.

Key messages from this audit for all Australian Government entities

25. Below is a summary of key messages, including instances of good practice, which have been identified in this audit and may be relevant for the operations of other Australian Government entities.

Governance and risk management

- Decisions to reallocate funding that has been allocated for a specific purpose should be accompanied by transparent and accountable decision making.

Policy/program implementation

- For cross-entity programs and initiatives, establishing clear governance arrangements that facilitate horizontal collaboration and ensure a clear line of vertical accountability are particularly important for success.
- The likelihood of successfully implementing recommendations is increased by establishing fit-for-purpose arrangements such as: clearly specifying roles and responsibilities; appropriate planning; monitoring, evaluation and reporting arrangements; and a process to assure or check that recommendations have been implemented in full.

Audit findings

1. Background

Introduction

The shadow economy

1.1 The shadow economy refers to the range of economic activities that take place outside the tax and regulatory systems.⁷ The Organisation for Economic Co-operation and Development's (OECD's) definition of the shadow economy focusses on economic activities that are unreported or dishonest (see Box 1).⁸

Box 1: OECD definition of the shadow economy

Economic activities, whether legal or illegal, which are required by law to be fully reported to the tax administration, but which are not reported, and which therefore go untaxed unlike activities which are so reported.

1.2 The OECD estimates shadow economies globally range from one per cent of gross domestic product (GDP) to 20 per cent, and that shadow economies are a significant part of the tax gap in most countries.⁹ For 2019–20, the Australian Taxation Office (ATO) estimates that the shadow economy in Australia accounted for \$12.4 billion (30.6 per cent) of the gross tax gap.¹⁰ The ATO reported that the increase in the 2019–20 tax gap is largely driven by increases in shadow economy estimates for small business income tax and tobacco excise for that year.

- The ATO reported that the shadow economy accounted for 62 per cent (\$8 billion) of the tax gap for the small business market in 2019–20.
- The ATO reported that the tobacco excise gross tax gap increased from \$655 million in 2015–16 to \$2.1 billion in 2019–20. The ATO attributes all of the tobacco excise tax gap to the shadow economy.

1.3 According to the OECD, the shadow economy is a long-standing problem which is constantly changing and adapting. There are several trends impacting the shadow economy including: changes in ways of working and business models; the growth of the digital economy; and wider social changes and globalisation. These are causing new shadow activities to emerge and some existing ones to expand in scale and scope.¹¹

7 Australian Taxation Office, *Shadow economy* [Internet], available from <https://www.ato.gov.au/General/Shadow-economy/> [accessed 29 November 2022].

8 OECD, *Shining Light on the Shadow Economy — Opportunities and Threats* [Internet], 29 September 2017, pp. 8–9, available from <https://www.oecd.org/tax/crime/shining-light-on-the-shadow-economy-opportunities-and-threats.htm> [accessed 6 January 2023].

9 *ibid.*, p. 8.

10 The gross tax gap is the ATO's estimate of the difference between the amount of tax the ATO collects and what it would have collected if every taxpayer was fully compliant with the law. ATO, *Tax gap program summary findings* [Internet], available from https://www.ato.gov.au/about-ato/research-and-statistics/in-detail/tax-gap/australian-tax-gaps-overview/?page=8#Shadow_economy_findings [accessed 9 February 2023].

11 OECD, *Shining Light on the Shadow Economy — Opportunities and Threats* [Internet], p. 3 and p. 8.

1.4 Activities within the shadow economy include: not reporting, or under reporting income; underpayment of wages (like paying for work cash-in-hand); sham contracting; identity fraud; Australian Business Number fraud; illicit tobacco and duty evasion; money laundering; unregulated gambling; motor vehicle fraud; and illegal drugs. In 2017, the Black Economy Taskforce (discussed below) identified 'not reporting or under reporting income' as the most common shadow economy activity in Australia.¹²

1.5 Box 2 outlines potential economic and social impacts of the shadow economy.

Box 2: Economic and social impacts of the shadow economy

In *Shining Light on the Shadow Economy — Opportunities and Threats*, the OECD outlined that the shadow economy can have the following effects.

- It reduces the revenue collected to fund public services.
- It undermines trust in the tax system and the social norms supporting voluntary compliance. This can have a significant impact on compliance attitudes, particularly in the many areas where tax administrators rely on taxpayers to self-declare or self-assess. Where carried out by organised crime, it can also have wider social impacts.
- It can increase other government and business costs, for example social security costs, loss of regulatory fees and compensation to customers who have suffered financial fraud.
- It distorts competition, decreasing the costs of non-compliant businesses compared to their competitors. It can lead to honest businesses failing or a spread of shadow economy activity.
- It can put consumers and other businesses at risk, potentially leaving them exposed to credit risk, lack of insurance and health and safety failures.
- It can lead to the exploitation of workers, for example not paying a minimum wage or lack of contractual protections. Such exploitation can be more extreme the more vulnerable the workers, particularly where organised crime is involved.
- Such activity can also support wider illegal activity, for example the trafficking of people, money laundering and as a source of funding for serious crime.

Source: OECD, *Shining Light on the Shadow Economy — Opportunities and Threats*, 29 September 2017, p. 8.

Black Economy Taskforce

1.6 In 2016, the Board of Taxation found that effort was needed to address the growth of the shadow economy in Australia.¹³ In response, in 2016, the Department of the Treasury (Treasury) received \$1.6 million over two years from 2016–17 to establish the Black Economy Taskforce (the

12 Department of the Treasury, *Black Economy Taskforce Final Report*, October 2017, pp. 12–16, available from <https://treasury.gov.au/review/black-economy-taskforce/final-report> [accessed 6 January 2023].

13 Australian Government, *Tackling the Black Economy: Government Response to the Black Economy Taskforce Final Report*, May 2018, p. 1, available from <https://treasury.gov.au/sites/default/files/2019-03/Government-response-final.pdf> [accessed 30 January 2023].

Taskforce, see Appendix 3 for membership).¹⁴ The Taskforce was to develop a whole-of-government strategy and policy agenda to address the shadow economy. The Government noted that shadow economy activities ‘disadvantage honest taxpayers, undermine the integrity of our tax and welfare systems and reduce the amount of revenue collected by governments’.¹⁵

1.7 In March 2017, the Taskforce released its interim report — *Black Economy Taskforce Interim Report*.¹⁶ The report outlined initial findings on the scope, drivers and risks underpinning shadow economy activities. It made nine recommendations. The interim report noted that few inroads had been made into the shadow economy in recent years and that the shadow economy is not just a taxation issue. Rather, it touches on policy and regulatory settings across government making it a whole-of-government issue.

1.8 In October 2017, the Taskforce produced its final report — *Black Economy Taskforce Final Report*.¹⁷ It made 80 recommendations (62 recommendations and 18 supplementary recommendations) directed at many areas of government. It set out a high-level strategy covering 10 areas (see Appendix 4) and identified 16 high-priority issues and associated recommendations.

1.9 Describing the shadow economy as an ‘urgent, pervasive and damaging problem’, the Taskforce estimated that the size of the shadow economy had grown from 1.5 per cent of GDP¹⁸ in 2012 to three per cent in 2017.¹⁹ The Taskforce’s report highlighted a gap within the Australian Public Service, stating that ‘we do not have a single policy and strategic home for the black economy within government; no central body examines emerging trends and vulnerabilities from a whole-of-economy perspective’.²⁰

Government response to Black Economy Taskforce report

1.10 In the 2017–18 Budget²¹, the Government introduced three measures in response to the Taskforce’s interim report around: banning electronic sales suppression tools²²; reporting on contractors in the courier and cleaning industries; and extending funding for one year for ATO audit and compliance activities.

1.11 In May 2018, the Government responded to the Taskforce’s final report.²³ It agreed that a new approach was needed to bring together multiple arms of government and leverage private sector expertise. Table 1.1 provides an overview of the Government response to the Taskforce’s 80 recommendations.

14 Australian Government, *Budget Measures: Mid-year Economic and Fiscal Outlook (MYEFO): 2016–17, Commonwealth of Australia*, Canberra, December 2016, p. 196, available from <https://archive.budget.gov.au/2016-17/myefo/2016-17-MYEFO-combined.pdf> [accessed 6 January 2023].

15 *ibid.*, p. 6.

16 Treasury, *Black Economy Taskforce Interim Report*, March 2017, available from <https://treasury.gov.au/review/black-economy-taskforce/interim-report> [accessed 6 January 2023].

17 Treasury, *Black Economy Taskforce Final Report*.

18 The illicit drug industry accounted for a further 0.4 per cent of GDP.

19 Treasury, *Black Economy Taskforce Final Report*, p. 11.

20 *ibid.*, p. 7.

21 Australian Government, *Budget Measures: Budget Paper No. 2 2017–18*, May 2017, pp. 35–36.

22 An electronic sales suppression tool can be a device, software program or other thing that can interfere with a business’ sales records electronically.

23 Australian Government, *Tackling the Black Economy: Government Response to the Black Economy Taskforce Final Report*, May 2018, p. 13.

Table 1.1: Government response to the Taskforce recommendations, May 2018

Government response ^a	Recommendation	Recommendation (supplementary)	Total
Agreed	26	1	27
Agreed in principle	20	1	21
Supported	4	2	6
Noted	9	9	18
Did not support	3	0	3
None ^b	0	5	5
Total	62	18	80

Note a: Generally, if the Government response for a recommendation included multiple types of responses (i.e., agreed in principle to part of the recommendation and noted for another part), the recommendation has been counted towards the higher-level level of agreement. In this case, it would be agreed in principle.

Note b: Five of the supplementary recommendations were not included in the May 2018 Government response. See discussion at paragraph 2.15.

Source: Australian Government, *Tackling the Black Economy: Government Response to the Black Economy Taskforce Final Report*, May 2018, pp. 13–43.

1.12 Commencing with the 2018–19 Budget, through multiple budgets the Government introduced measures to implement the Taskforce’s 80 recommendations set out in its final report. Appendix 5 lists the Budget measures that have been introduced in the context of implementing the Taskforce interim and final reports. These measures were to be delivered primarily by Treasury, the ATO and the Department of Home Affairs (Home Affairs).²⁴ Through these measures, the Government provided \$921 million in funding between 2017–18 and 2025–26.²⁵

1.13 Key measures from the 2018–19 Budget included the following:

- \$318.5 million to the ATO and the Office of the Commonwealth Director of Public Prosecutions to deliver new and enhanced enforcement against the shadow economy;
- \$153.2 million to Home Affairs, the ATO, Treasury and others to deliver a package combatting illicit tobacco, including to establish an Illicit Tobacco Taskforce;
- \$19.3 million to the ATO, the Australian Securities and Investments Commission and the then Department of Industry, Innovation and Science to develop a business case for modernising business registers;
- \$12.3 million to Treasury to establish an implementation team to coordinate the implementation of the whole-of-government response to the Taskforce report and to implement its recommendations; and
- \$3.4 million to the ATO to lead a multi-agency Black Economy Standing Taskforce to facilitate a cross-agency approach to combatting the shadow economy.

24 Including the Australian Border Force.

25 This figure includes extensions to the ATO’s Shadow Economy Program for a total of four years from 2022–23, with an additional \$353.9 million in funding.

Previous audits and review

1.14 A 2012 Inspector-General of Taxation review into the ATO's use of benchmarking to target the shadow economy made eleven recommendations, which included: improving community awareness on benchmarking; improving support for tax practitioners and taxpayers; and enhancing data integrity of benchmark inputs. The ATO agreed with nine recommendations in full and two in part.²⁶

1.15 Auditor-General Report No.27 2015–16 *Strategies and Activities to Address the Cash and Hidden Economy* found that the ATO's strategies were consistent with international practice, however, there were not clearly defined indicators to measure the success of its strategies. The report made two recommendations which the ATO agreed with.²⁷

1.16 Auditor-General Report No.18 2019–20 *Tax Avoidance Taskforce — Meeting Budget Commitments* focussed on the ATO's Tax Avoidance Taskforce.²⁸ It also considered the 2018–19 Budget measure which provided the ATO with \$313.2 million over four years to expand and enhance its existing activities to combat the shadow economy. For the shadow economy program, the audit found that documentation was more detailed in supporting resource estimates. The ATO advised at the time that there was no way to track effort against compliance work undertaken across the ATO. The audit found that the ATO was not able to provide the number of full-time equivalent staff working on the program or what activities the program included. The audit report noted that for the shadow economy program budget measure, the ATO had developed a methodology to estimate actual resourcing and established project codes to track shadow economy case work. The report made two recommendations. The ATO agreed with one recommendation and partly agreed with the other.²⁹

Rationale for undertaking the audit

1.17 The Taskforce outlined the harm caused by the shadow economy to vulnerable individuals, as well as the potential to penalise those doing the right thing by creating an uneven playing field. It found that the shadow economy was 'rapidly shifting and evolving in step with wider economic, technological and social changes'.³⁰ It outlined the need for better governance within the Australian Public Service to address risks related to the shadow economy.³¹ It also highlighted the need for sustained focus on the implementation of its strategy.³²

26 Inspector of Taxation, *Review into the ATO's use of benchmarking to target the cash economy*, IGT, Canberra 2012 available from https://www.igt.gov.au/wp-content/uploads/2021/07/193_benchmarking-to-target-cash-economy.pdf [accessed 15 February 2023].

27 Auditor-General Report No.27 2015–2016, *Strategies and Activities to Address the Cash and Hidden Economy*, pp. 7–10, available from <https://www.anao.gov.au/work/performance-audit/strategies-and-activities-address-cash-and-hidden-economy> [accessed 15 February 2023].

28 The Tax Avoidance Taskforce is focussed on the compliance of multinational enterprises and large public and private business (and associated individuals).

29 Auditor-General Report No.18 2019–20 *Tax Avoidance Taskforce — Meeting Budget Commitments*, pp. 8–9 and 27, available from <https://www.anao.gov.au/work/performance-audit/tax-avoidance-taskforce-meeting-budget-commitments> [accessed 15 February 2023].

30 Treasury, *Black Economy Taskforce Final Report*, October 2017, p. 1, available from <https://treasury.gov.au/review/black-economy-taskforce/final-report> [accessed 11 April 2023].

31 *ibid.*, pp. 333–336.

32 *ibid.*, p. 335.

1.18 The shadow economy undermines the integrity of the tax system, penalises taxpayers who do the right thing and has the potential to create a culture of non-compliance.³³ For the ATO, the shadow economy remains an ongoing risk to the ATO's purpose of fostering willing participation in the taxation and superannuation systems.

1.19 Treasury, the ATO and Home Affairs have primary responsibility for implementing the Taskforce recommendations and for ongoing management of the whole-of-government response to the shadow economy. This audit provides assurance to the Parliament about whether the Government response to the Taskforce's report is being implemented effectively.

Audit approach

Audit objective, criteria and scope

1.20 The objective of the audit was to assess the effectiveness of the implementation of the Government response to the Black Economy Taskforce report.

1.21 To form a conclusion against the objective, the following high-level criteria were adopted.

- Did Treasury establish effective governance and coordination arrangements supporting the implementation of the Government response to the Black Economy Taskforce report?
- Are the entities effectively implementing the recommendations that they are responsible for?
- Are the entities effectively implementing recommendations where there is more than one entity responsible for implementation (shared responsibility)?

1.22 This audit primarily focusses on assessing whether the 27 Taskforce recommendations agreed to by the Government have been effectively implemented (see Table 1.1). For the Taskforce's 53 other recommendations, the Government agreed in principle, supported, noted or did not support these. Where the Government response to these 53 recommendations included a new action to be undertaken, the ANAO sought to verify whether these actions have been undertaken (see paragraph 2.81). For the remaining recommendations, the ANAO sought to rely on Treasury's information for implementation status (see paragraph 2.82).

Audit methodology

1.23 The audit methodology involved:

- examination of entity records, including email records and electronic documentation;
- meetings with officials of Treasury, the ATO and Home Affairs; and
- meetings with other Australian Government entities not subject to this audit.

1.24 The audit was conducted in accordance with ANAO Auditing Standards at a cost to the ANAO of approximately \$562,154.

1.25 The team members for this audit were Nathan Callaway, Dr Leah Farrall, David Willis, Amanda Reynolds, Joanna Giang, Michael Dean, Alyssa McDonald and David Tellis.

³³ Treasury, *Black Economy Taskforce Terms of Reference* [Internet], available from <https://treasury.gov.au/review/black-economy-taskforce/terms-of-reference> [accessed 3 April 2023].

2. Governance and coordination

Areas examined

This chapter examines whether the Department of the Treasury (Treasury) established effective governance and coordination arrangements supporting the implementation of the Australian Government (the Government) response to the Black Economy Taskforce (the Taskforce) report.

Conclusion

Treasury did not effectively coordinate the implementation of the Government response to the Taskforce report. It failed to fully establish governance and coordination arrangements, did not adequately monitor and report on progress in implementing the report's recommendations and has not established evaluation arrangements. Treasury's management of information in relation to the implementation of the Taskforce report did not support effective whole-of-government coordination.

Areas for improvement

The ANAO made three recommendations aimed at: governance and information management; Treasury updating its website; and progressing the implementation of the Taskforce report.

The ANAO also suggested that Treasury introduce processes relating to the reallocation of funding from new policy proposals and consider how its program management framework could be applied to its role in relation to coordinating reviews and inquiries across government.

2.1 For cross-entity initiatives, additional effort is often required to design effective governance arrangements than for single-entity initiatives. These arrangements should be tailored to facilitate horizontal collaboration and ensure a clear line of vertical accountability.³⁴

2.2 The Taskforce report stated that there was a need to have sustained focus on implementation, something that it observed had not happened with previous shadow economy reviews.³⁵ In this context, the Taskforce noted:

We need to leave a lasting institutional legacy, to ensure this problem receives the attention it deserves in future years. This will require changes to the machinery of government, but also new patterns of cooperation with the states and territories and other countries.³⁶

2.3 The Taskforce report also outlined the need to break down agency silos and embrace joint action in relation to the shadow economy.³⁷ The Taskforce argued that clear responsibilities and accountabilities would be needed so that the '[r]eport is not left on the shelf'.³⁸

34 In *Shining Light on the Shadow Economy*, the Organisation for Economic Co-operation and Development outlined the benefits of whole-of-government approaches in dealing with the shadow economy. It noted that these approaches require political commitment, clear objectives and strong governance, p. 39, available from <https://www.oecd.org/tax/crime/shining-light-on-the-shadow-economy-opportunities-and-threats.htm> [accessed 6 January 2023].

35 Treasury, *Black Economy Taskforce Final Report*, October 2017, p. 335, available from <https://treasury.gov.au/review/black-economy-taskforce/final-report> [accessed 27 September 2022].

36 *ibid.*, p. 4.

37 *ibid.*, p. 1.

38 *ibid.*, p. 333.

2.4 Treasury was responsible for managing implementation of the whole-of-government response to the Taskforce report, including reporting back to Government on implementation.³⁹

Does Treasury's management of information support effective governance and coordination?

In relation to the implementation of the Government response to the Taskforce report, Treasury's management of information does not support effective governance and coordination. Its management of information impacts its ability to be accountable and transparent. It also creates risks around its ability to provide quality and timely advice and reporting on the shadow economy to the Government, and to create an effective shadow economy policy environment.

Information management

2.5 The management of information is fundamental to sound public sector administration.⁴⁰ Under the *Archives Act 1983*, the National Archives of Australia sets information management standards for Australian Government agencies.⁴¹ The *Public Governance, Performance and Accountability Act 2013* also includes requirements relating to recording keeping.⁴²

2.6 The ANAO found the following regarding Treasury's management of information relating to the whole-of-government implementation of the Taskforce report.

- Records were not always available to support efficient and continuous business.⁴³
- Records of key decisions were not always documented.⁴⁴
- Records did not always provide evidence of policy and program development and implementation.⁴⁵

39 Australian Government, *Budget 2018–19 — Budget Paper No. 2*, p. 180, available from <https://archive.budget.gov.au/2018-19/bp2/bp2.pdf> [accessed 5 February 2023].

40 National Archives of Australia, *Information management legislation* [Internet], NAA, <https://www.naa.gov.au/information-management/information-management-legislation> [accessed 9 December 2022].

41 The *Information Management Standard for Australian Government* (Information Management Standard) outlines that well-managed business information is a valuable asset that contributes to good government. National Archives of Australia, *Information Management Standard for Australian Government* [Internet], NAA, available from <https://www.naa.gov.au/information-management/information-management-standards/information-management-standard-australian-government> [accessed 30 January 2023].

42 Under the section 37(1) of the *Public Governance, Performance and Accountability Act 2013*, accountable authorities must ensure that records are kept that properly record and explain the entity's performance in achieving its purposes.

43 This included implementation plans, standard reporting, assured systems supporting monitoring and reporting and risks assessments.

44 For example, it was unclear for three of the fully agreed recommendations who was responsible for implementation and sometimes it was unclear who had made decisions throughout the implementation of recommendations.

45 There was a lack of implementation plans, risk assessments, implementation schedules, governance frameworks and performance frameworks. There was also a lack of documented reports on stakeholder consultation and reviews.

- Records did not allow for transparency and accountability.⁴⁶

2.7 Treasury's management of information impaired its ability to support effective governance and coordination in terms of the whole-of-government implementation of the Taskforce report. The impacts of Treasury's poor information management in this regard are discussed throughout this audit report and include: not having clearly defined implementation roles and responsibilities; not having a clearly defined implementation schedule; and not having a sound basis on which to report on the implementation of the recommendations across government.

2.8 Poor information management has also impacted Treasury's ability to demonstrate effective implementation of the Taskforce recommendations that it had responsibility for. These issues are further discussed in Chapters 3 and 4.

2.9 Poor information management creates a range of risks such as not being able to find information when needed and not being able to trust the completeness and accuracy of the information. As Treasury noted in its 2021–22 Corporate Plan, Treasury relies on high quality analysis as well as timely access to information to deliver high quality advice to government. Treasury's Enterprise Information Strategy 2021–2024⁴⁷ draws the connection between well managed information and its ability to create an effective policy environment. Treasury's management of information in relation to the implementation of the Taskforce report impacts its ability to provide accurate and timely advice to the Government (see paragraphs 2.58 to 2.63 for a further discussion on monitoring and reporting).

2.10 As a result of Treasury's poor information management in relation to the implementation of the Taskforce report, the ANAO adopted an information collection methodology which involved the bulk extraction of mailboxes of relevant Treasury officials and a bulk download of components of Treasury's records management systems. There are various references throughout this report to information management issues and the ability of the ANAO to assess Treasury's role in coordinating the implementation of the Government response to the Taskforce report.

Did Treasury clearly define implementation responsibilities and accountabilities?

Treasury has not clearly defined responsibilities and accountabilities for the coordination of the implementation of the Taskforce report. Treasury received \$12.3 million over five years to coordinate implementation, however, fit-for-purpose coordination and governance arrangements were not clearly defined. In March 2020, Treasury de-prioritised the implementation of the Taskforce report due to the COVID-19 pandemic. Four of the 27 (15 per cent) recommendations agreed to by the Government did not have clearly defined implementation arrangements. The ANAO has assessed three of these recommendations as 'not implemented' and one as 'partly implemented'.

46 This included Treasury not being able to provide documentation to the ANAO to support its assertions, providing partial and incorrect information and documentation, providing the documentation of other entities, not answering ANAO questions or not providing documentation directly relevant to questions and providing draft documentation or documentation with unclear purpose and status.

47 Treasury developed its Enterprise Information Strategy 2021–2024 to improve governance and knowledge management within the department.

Development of the Government response and policy proposals

2.11 The Taskforce's report contained 80 recommendations (see Table 1.1). The recommendations were directed across many areas of government with Treasury identifying in March 2018 that at least 15 Commonwealth entities would be involved in the implementation of the recommendations.

2.12 Treasury led the development of the Government response and policy proposals to implement the recommendations of the Taskforce report. This involved engagement across the Commonwealth entities that Treasury had identified as being relevant to develop a whole-of-government position. The Government provided a public response to the Taskforce report in May 2018.⁴⁸

2.13 Treasury advised the Government that 30 recommendations were the responsibility of other Ministers or would require coordination across multiple entities. The Government established a Ministerial Working Group to support a coordinated approach across entities. This group met in February 2018 and included the Attorney-General, the Minister for Finance, the Minister for Home Affairs, the Minister for Jobs and Innovation and the Minister for Social Services.

2.14 The Government responded to the Taskforce recommendations with the following responses: agreed; agreed in principle; supported; noted; or did not support. Treasury did not define each of these categories of response and it is not always clear the difference between agreed in principle, supported, and noted. The Government's response to each recommendation, however, also includes a more elaborated response which sometimes provides greater clarity.

2.15 Due to an 'oversight' by Treasury, there were five supplementary Taskforce recommendations that were not included in the May 2018 Government response. Treasury 'assumed' that the Government would note these recommendations. It is not clear on what basis this assumption was made. In an October 2019 submission to the Government, these recommendations were listed as having been noted. In this submission, Treasury did not outline that these recommendations were not included in the May 2018 Government response and did not specifically seek a response from the Government in October 2019 to these recommendations.

Coordination across government

2.16 Treasury was to lead and coordinate the whole-of-government implementation of the Taskforce recommendations.⁴⁹ In the 2018–19 Budget, the department received \$12.3 million over five years to establish a team to manage whole-of-government implementation and to implement the recommendations for which it had implementation responsibility.⁵⁰ This funding was used to establish the Black Economy Division in July 2018. There were to be 15 (average staffing level)⁵¹

48 Treasury, *Tackling the Black Economy: Government Response to the Black Economy Taskforce Final Report*, Treasury, May 2018, available from <https://treasury.gov.au/sites/default/files/2019-03/Government-response-final.pdf> [accessed 13 December 2022].

49 Treasury, *Treasury Annual Report 2017–18*, p. 38, available from <https://treasury.gov.au/publication/annual-report-2018> [accessed 25 February 2023].

50 Australian Government, *Budget 2018–19 — Budget Paper No. 2*, p. 180, available from <https://archive.budget.gov.au/2018-19/bp2/bp2.pdf> [accessed 5 February 2023].

51 Average Staffing Level is a method of counting that adjusts for casual and part-time staff to show the average number of full-time equivalent employees. It is usually a lower than a headcount of actual employees.

staff allocated to the division in 2018–19 and 2019–20, with this reducing to 13 in 2020–21 and 2021–22 and then eight in 2022–23.

2.17 Treasury noted at the time that, without this staffing, implementation would be significantly delayed. It advised the Government that there was a significant risk of the recommendations not being delivered without a single coordination area leading the consultation both within and outside government. The Black Economy Division was to ensure a whole-of-government approach and to maintain the necessary focus and momentum across government.

2.18 Treasury did not set out a clear plan of action for the Black Economy Division to achieve its objectives. There was a lack of clarity around: the division’s deliverables and outcomes; cross-entity governance; stakeholder engagement; risk management; resource management; and monitoring, review and evaluation.

2.19 In the context of the COVID-19 pandemic, on 23 March 2020, Treasury’s Executive Board agreed to ‘pause’ the work of the Black Economy Division.⁵² Funding was retained by Treasury and redistributed. In June 2020, a paper presented to the Executive Board indicated that Treasury would deliver an abridged shadow economy work schedule and exit strategy from this work. There was no detail of what the abridged work schedule and exit strategy would include.

2.20 While acknowledging that the COVID-19 pandemic required a rapid response from Treasury, Treasury documentation does not provide an assessment of the potential impact of this decision on the implementation of the Taskforce report. This impacts Treasury’s ability to demonstrate ‘the proper use and management of public resources’⁵³ and requirements to document key decisions.⁵⁴

Opportunity for improvement

2.21 Treasury could develop processes around the reallocation of funding that has been allocated for a specific purpose through the Budget process, including by setting out minimum requirements relating to documenting the decision. This would support improved transparency and accountability.

2.22 In September 2020, Treasury advised the Black Economy Advisory Board (discussed at paragraphs 2.29 to 2.33) that ‘the black economy work program is now resuming after being paused in early April’. The Black Economy Division was not re-established and Treasury advised the ANAO in March 2023 that due to the additional workload related to the COVID-19 pandemic, the work related to the implementation of the Taskforce report was resumed in a more limited way than before the pandemic started. It also advised that it has focussed on the implementation of the recommendations that it has responsibility for.

2.23 In October 2020 and June 2021, Treasury provided an update to the Assistant Treasurer on the implementation of the Taskforce report. These briefs did not outline Treasury’s abridged

52 In a November 2021 lessons learned report, Treasury reported that it established 10 new functions in March and April 2020 and stopped five functions, including the Black Economy Division. This report indicated that approximately 16 per cent of its workforce was redeployed internally to assist with the Government’s response to the COVID-19 pandemic.

53 Section 15 of the *Public Governance, Performance and Accountability Act 2013*.

54 The National Archives of Australia’s *Information Management Standard for Australian Government* outlines requirements relating to making records of key decisions to support transparency and accountability.

shadow economy work schedule and exit strategy and did not seek decisions from the Assistant Treasurer.

2.24 Treasury advised the ANAO that, as of December 2022, its work during 2022–23 relating to the shadow economy has mostly involved the cessation of the cash payment limit measure (see Table 3.2) and attendance at Shadow Economy Advisory Forum and Black Economy Standing Taskforce meetings.

Implementation governance

2.25 Treasury made several attempts to develop and define governance arrangements to support the implementation of the Taskforce’s recommendations across government. These arrangements, however, were not fully established. The ANAO requested governance documentation from Treasury and searched Treasury’s records for documentation. A range of draft documentation was found. The following observations relate to those documents.

- There were unclear decision-making roles.
- There were insufficient arrangements to provide strategic direction. There was a proposal to establish a cross-entity governance committee. This was not established. The Black Economy Advisory Board (discussed below) was also identified as being a key strategic governance body.
- There was no inter-agency operational group to support the coordinated implementation of recommendations. Treasury advised the Government in March 2018 that such a group would be established and that it would agree priorities and monitor implementation.

Recommendation no. 1

2.26 The Department of the Treasury implement policies and procedures to ensure that its governance and information management is fit for purpose, particularly within the context of leading and coordinating the implementation of reviews and inquiries.

Department of the Treasury response: *Agreed in part.*^a

2.27 *Since December 2020, Treasury has implemented several changes to enhance our approach to information management. The policies and procedures that underpin this are already in place.*

2.28 *Treasury is focussed on embedding and maturing our approach to governance and information management, including in the implementation of reviews and inquiries. Importantly, this work will involve building a pro-integrity culture where all staff are aware of their responsibilities.*

Note a: ANAO comment — the ANAO sought clarification from Treasury as to which aspect of the recommendation was not agreed to, noting that the department’s summary response presented on page 10 of this report indicates that the department agreed with all recommendations. Treasury advised that it considers that its existing policies meet this recommendation, but that further work is needed to ensure their consistent application.

Black Economy Advisory Board and the Shadow Economy Advisory Forum

2.29 Treasury established the Black Economy Advisory Board, with the board meeting for the first time in September 2018. The board had no executive powers, supervisory functions or decision-making authority. Its role was to provide strategic advice to the Government on the shadow economy in connection with implementation of the Taskforce recommendations, and to identify emerging shadow economy threats. Treasury advised the ANAO that this board was one of the key governance bodies for the implementation of the Taskforce recommendations. Table 3.2 provides further information about this board.

2.30 By May 2021, a decision was made to disband the Black Economy Advisory Board and transfer its responsibilities to the ATO. Documentation regarding this decision was not available, however, Treasury wrote to the ATO on 11 May 2021 to outline the transition arrangements. Treasury advised the Assistant Treasurer of this change on 21 June 2021 to take effect from 1 July 2021.

2.31 In place of the Black Economy Advisory Board, the ATO established the Shadow Economy Advisory Forum which held its first meeting in September 2021.⁵⁵ This change was to reflect a shifting focus to operational matters. Treasury advised the forum in September 2021 that the ‘whole-of-government implementation of the agreed recommendations had now largely drawn to a close’. Treasury attends the ATO forum to inform tax policy processes (as of January 2023, Treasury had attended each of the forum meetings since its establishment).

2.32 While it continues to have a mix of public and private membership, the forum does not have a role in overseeing the implementation of the Taskforce report or reporting to the Minister on emerging risks and trends within the shadow economy. The forum met six times between 1 July 2021 and February 2023, consistent with its charter.

2.33 Treasury’s website on the Black Economy Advisory Board has not been updated and, as of February 2023, refers to the board as still being in existence. There are several other aspects of Treasury’s website that are not up to date regarding the shadow economy including:

- Treasury still using the term ‘black economy’ rather than ‘shadow economy’;
- the information on the cash payment limit indicating that it is still being introduced, although the Government decided in October 2022 to not progress with this measure;
- consultations related to the shadow economy not being updated; and
- news and media not being updated.

Recommendation no. 2

2.34 The Department of the Treasury review and update its website content in relation to the shadow economy.

Department of the Treasury response: *Agreed.*

2.35 *The website was updated on 24 May 2023.^a*

Note a: ANAO comment — The ANAO notes that Treasury’s 24 May 2023 updates do not address all aspects identified in paragraph 2.33.

⁵⁵ The role of the Shadow Economy Advisory Forum is to collaborate with key industry and business stakeholders to lead, share and advocate matters relating to the shadow economy.

Implementation responsibilities for recommendations

2.36 In most instances, the Taskforce's 80 recommendations were directed to 'the Government' rather than to specific entities. The Government's response to the Taskforce recommendation also did not always identify the entities that would be responsible for implementation.

2.37 In October 2022, Treasury was unable to provide a source of truth to the ANAO in relation to implementation responsibilities for the recommendations. While Treasury developed a spreadsheet to track responsibilities, the most up-to-date information was contained in a spreadsheet that was last modified in September 2019.

2.38 There were inaccuracies within the September 2019 version of the spreadsheet in terms of implementation responsibilities. For the 27 agreed recommendations, the ANAO found that implementation responsibilities were: accurate for fifteen recommendations; partially accurate for eight recommendations; and inaccurate or unclear for four recommendations.

2.39 For the four recommendations where implementation responsibilities were inaccurate or unclear, the ANAO was unable to identify an implementing entity or entities, or specific set of actions for implementation. As shown in Table 2.1, the ANAO has assessed three of these recommendations as 'not implemented'. One recommendation was assessed as 'partly implemented' as the Government agreed to implement the recommendation through existing arrangements, although it was not clear which arrangements were relevant and how these were to meet the intent of the recommendation. Appendix 9 lists the recommendations and presents the full Government response for each recommendation.

Table 2.1: Agreed recommendations that lacked implementation responsibilities

Treasury self-assessment and ANAO assessment, as of March 2023		
Recommendation	Treasury assessment ^a	ANAO assessment ^a
5.1 — development of a shadow economy data strategy	In progress	Not implemented
<p>Summary of actions to be undertaken (based on the recommendation and Government response)</p> <ul style="list-style-type: none"> In the short term: modernising the relevant secrecy provisions; developing a central list of which agency collects which data; and Commonwealth and State and Territory Governments working together to identify specific areas where policy harmonisation or simplification would lead to an alignment of data definitions. In the medium term: improving data and information sharing between States and Territories and the Commonwealth. In the long term: introducing a whole-of-government Data Sharing Act; and considering migrating government records onto block chain technology as the technology matures. <p>The Government response indicated that this recommendation should be implemented as part of the response to the Productivity Commissioner's <i>Inquiry on Data Availability and Use</i>.</p>		

Treasury self-assessment and ANAO assessment, as of March 2023

Reasons for ANAO assessment

Treasury identified the Department of the Prime Minister and Cabinet (PM&C) as the lead entity responsible for implementation of this recommendation.

The ANAO sought clarification from Treasury regarding this recommendation. Following several attempts to identify implementation responsibilities, Treasury advised the ANAO in November 2022 that the Office of the National Data Commissioner (ONDC) was responsible for implementation.

The ONDC advised the ANAO in December 2022 that some of the work that it has undertaken relates to this recommendation, however, it did not consider that it had responsibility for implementation of this recommendation. The ONDC advised in May 2023 that since this recommendation was made, the *Data Availability and Transparency Act 2022*, the National Data Commissioner and the National Data Advisory Council have been introduced. The DATA Scheme includes arrangements for sharing Australian Government data.

In May 2023, the ANAO sought to confirm the ONDC's December 2022 advice, however, due to staffing changes the ONDC was unable to confirm if it had implementation responsibility for this recommendation.

The ANAO assessed this recommendation as not implemented as its methodology for assessing implementation was predicated on clearly defined implementation responsibilities and arrangements. These were not present for this recommendation.

Recommendation	Treasury assessment ^a	ANAO assessment ^a
11.1 — behavioural economics framework	Partly implemented	Not implemented

Summary of actions to be undertaken (based on the recommendation and Government response)

- Individual departments and agencies, working with PM&C, should use behavioural economics principles to identify behavioural biases that incentivise shadow economy behaviour when developing policy and designing administrative processes.

Reasons for ANAO assessment

Treasury identified the Behavioural Economics Team of the Australian Government (BETA) in PM&C as the lead entity responsible for implementation of this recommendation.

The ANAO met with BETA in December 2022 to discuss this recommendation and BETA advised that it did not consider that it had responsibility for the implementation of this recommendation.

There was no implementation plan or similar arrangements for this recommendation. As such, it is difficult to assess implementation. Since this recommendation was made, the ANAO identified several instances where behavioural economics and the shadow economy had been considered by Treasury, the ATO and the Department of Home Affairs (Home Affairs). However, these were not sufficient to consider this recommendation implemented.

Recommendation	Treasury assessment ^a	ANAO assessment ^a
11.2 — campaign to address cultural norms	Partly implemented	Not implemented

Summary of actions to be undertaken (based on the recommendation and Government response)

- A high-profile, national cultural change campaign be undertaken to address the cultural norms and community perceptions that normalise and justify shadow economy behaviour.

Treasury self-assessment and ANAO assessment, as of March 2023

Reasons for ANAO assessment

The Taskforce report outlined social norms as one of the five key drivers of shadow economy behaviour and considered recommendation 11.2 as a high priority recommendation for implementation.

Treasury identified the 'whole of government' as being responsible for implementation of this recommendation. While it was evident that the ATO was doing work in this space, the ANAO was unable to identify whole-of-government arrangements supporting the implementation of this recommendation.

In March 2018, Treasury sought funding to implement this recommendation, however it was not approved.

In March 2020, Treasury went to market with a Request for Quote to find a provider to undertake research to understand the need for communications and to build awareness and knowledge of the shadow economy. This was cancelled in the context of the COVID-19 pandemic.

As part of its role on the Black Economy Standing Taskforce (discussed in Table 3.3), Treasury is responsible for developing an overarching whole-of-government communication strategy to raise awareness of the shadow economy, its associated behaviours and impact on the community.

Recommendation	Treasury assessment ^a	ANAO assessment ^a
12.2 — greater international cooperation between law enforcement agencies	Implemented	Partly implemented

Summary of actions to be undertaken (based on the recommendation and Government response)

- Australian law enforcement agencies should deepen relationships with their international counterparts, particularly the United States Office of Foreign Assets Control.
- In addition to existing forums and means of international cooperation, relationships with overseas partners are continually being developed and grown.

Reasons for ANAO assessment

Treasury identified Home Affairs as the entity responsible for implementation, although other documentation indicated that the Attorney-General's Department and the Australian Federal Police may have had a role. In November 2022, Home Affairs advised that the ANAO it did not have responsibility for implementation and was uncertain of who had responsibility.

It is unclear what action has been undertaken in relation to this recommendation. In October 2019, Treasury requested that the Government agree no further action was required to implement this recommendation due to ongoing engagement through existing channels. The Government agreed to this in December 2019.

Treasury advised the ANAO in December 2022 that it considered that this recommendation was 'implemented automatically through existing BAU [business-as-usual] processes', and advised this recommendation was complete as Australian law enforcement agencies have ongoing engagement through existing channels such the Five-Eyes Law Enforcement Group. Treasury previously indicated that it would write to the Home Affairs Minister to keep abreast of any developments. As of February 2023, this had not occurred.

In March 2023, Treasury further advised the ANAO that 'The Government response did not commit to further action and the intent of the recommendation has been delivered through existing arrangements'. No evidence was provided to demonstrate how the existing arrangements met the intent of the recommendation.

Note a: The description of ANAO assessment categories is at Appendix 6.

Source: *Black Economy Taskforce Report*, October 2017, *Tackling the Black Economy: Government Response to the Black Economy Taskforce Report*, May 2018, and ANAO analysis of entity documentation.

Does Treasury have a framework for coordinating the whole-of-government implementation of the Black Economy Taskforce report?

Treasury did not establish arrangements to effectively undertake its role to coordinate the implementation of the Government response to the Taskforce report. This includes that Treasury did not plan and actively manage whole-of-government implementation timeframes.

Coordination framework

2.40 It was Treasury's responsibility to lead and coordinate the whole-of-government implementation of the Taskforce recommendations. The ANAO found that whole-of-government implementation was not managed as one program, instead, implementation consisted of initiatives, some of which had been established through Budget measures (see Appendix 5).

2.41 Despite not being managed as one program, common elements of program management (such as governance frameworks, implementation planning and performance monitoring and reporting) may have better supported Treasury to establish effective coordination arrangements. Many of these aspects were missing from Treasury's coordination approach as outlined throughout this report.

2.42 A November 2020 internal audit found that Treasury lacked a framework for managing programs and projects. The report identified this gap as a high risk for the department. The audit report noted that the absence of such a framework reduced the likelihood of desired outcomes being achieved and the ability of the department to defend decisions.

2.43 In response, Treasury introduced a program management framework (the Framework) in May 2022. The Framework aims to address concerns around: inefficient and inconsistent practices; vital elements of project management missing; and the department's ability to learn lessons. The Framework includes six program management fundamentals: governance; stakeholder management and engagement; risk management; controls; records management; performance reporting; and evaluation and review.

2.44 Treasury advised the ANAO in December 2022 that if implementation of the Taskforce report commenced now, use of the Framework would not be mandatory, although, staff would be encouraged to use it as appropriate.

Opportunity for improvement

2.45 In terms of its role in coordinating the implementation of reviews and inquiries across government, Treasury could review how its program management framework could be better applied in undertaking this role and provide guidance to staff.

Implementation timeframes

2.46 The Taskforce noted that the shadow economy is 'rapidly shifting' and that 'a sense of urgency is needed from policymakers'.⁵⁶ Its report included 'short-term, urgent measures, addressing the most pressing concerns, but also actions which provide a foundation for later

⁵⁶ Treasury, *Black Economy Taskforce Final Report*, p. 1.

interventions'.⁵⁷ The Taskforce set out an indicative timetable for implementation that included 24 recommendations for early action.⁵⁸

2.47 In March 2018, Treasury advised the Government that a coordinated response was needed to ensure that timing across all entities involved in implementation was optimal and that shadow economy initiatives continued to be prioritised.

2.48 As part of the development of the funding proposals for the 2018–19 Budget, Treasury outlined in February 2018 that implementation of the Taskforce recommendations would occur in two tranches — the first tranche in 1–18 months (2018–19), and the second tranche in 18–36 months (2019 onwards). There was inconsistent information in this advice in terms of which tranche seven of the recommendations would be implemented and 16 of the recommendations, including two fully agreed to by the Government, were not included.

2.49 Of the 24 recommendations prioritised for early action by the Taskforce, 14 were planned to be delivered as part of tranche one, six as part of tranche two, one (recommendation 5.1 — development of a shadow economy data strategy) was not included in either of the tranches and three recommendations were not agreed to by the Government.

2.50 The Black Economy Division was to ensure that timing for implementation was coordinated across government. There was no evidence that Treasury actively monitored and managed the whole-of-government implementation timeframes. This included that there was no evidence of monitoring and reporting against the two tranches that were developed as part of the 2018–19 Budget process.

2.51 Planning of timeframes for individual recommendations is discussed in Chapters 3 and 4.

Does Treasury have fit-for-purpose arrangements to monitor and report on implementation progress, and to evaluate outcomes?

Treasury did not have fit-for-purpose monitoring, reporting and evaluation arrangements in place. Treasury held data regarding the implementation status of recommendations, however, the ANAO found risks relating to the quality of this data. This impairs the department's ability to accurately assess and report on the whole-of-government implementation of the Taskforce report. It has not established arrangements to evaluate the impact of the Taskforce's strategy in addressing the shadow economy, including to produce a five-year report on the shadow economy which was intended to be completed by June 2023.

2.52 Performance planning and reporting should provide meaningful performance information with a clear line of sight between planned and actual performance.⁵⁹ Fit-for-purpose monitoring

57 *ibid.*, p. 4.

58 *ibid.*, dark grey shaded recommendations on pp. vii–xi.

59 Department of Finance, *Commonwealth Performance Framework* [Internet], Finance, 1 February 2023, available from <https://www.finance.gov.au/government/managing-commonwealth-resources/planning-and-reporting/commonwealth-performance-framework> [accessed 11 April 2023].

and evaluation activities should be planned before beginning any program or activity. This includes identifying timeframes, resources, baseline data and performance information.⁶⁰

Implementation monitoring

2.53 In relation to the Taskforce report, Treasury was responsible for tracking the implementation of cross-portfolio initiatives and updating Treasury ministers on progress.⁶¹ Treasury did not have adequate processes to monitor the whole-of-government implementation of the recommendations. There was a lack of clear articulation of what success would look like, what should be monitored and how often. At the whole-of-government level:

- implementation responsibilities were not always clear (see paragraphs 2.36 to 2.39);
- there was no implementation plan, or schedule, on which to base an assessment of implementation and timeliness (see paragraphs 2.46 to 2.51);
- it was unclear how implementation of cross-portfolio projects would be tracked; and
- there were no performance measures.

2.54 Treasury developed a mapping spreadsheet (discussed at paragraph 2.37) with data to monitor implementation of the recommendations. This spreadsheet had not been updated by Treasury since September 2019. In October 2022, Treasury updated the information in this spreadsheet with the aim of providing the ANAO with the current implementation status of all of the recommendations.

Treasury assessment of implementation

2.55 Treasury's assessment of the status of the 80 Taskforce recommendations is as follows.

- As of September 2019, Treasury assessed that: 36 (45 per cent) of the recommendations were in progress; 22 (27.5 per cent) required no further action; and 22 (27.5 per cent) were implemented.
- As of October 2022, Treasury assessed that: 24 (30 per cent) of the recommendations were in progress; 26 (32.5 per cent) were implemented; two (2.5 per cent) were partly implemented; and 28 (35 per cent) were not implemented.

2.56 The ANAO did not verify the completeness and accuracy of the September 2019 data. There was no documented process supporting the collection of data for this spreadsheet. Treasury advised the ANAO that it relied on periodic updates from other entities in terms of their implementation of recommendations and that it did not actively monitor the status of recommendations being undertaken through other government processes.

2.57 There were risks to the quality of the October 2022 data due to the quality of Treasury's information and the ability of the department to seek updates from implementing entities as contact had not been maintained with relevant entities.

60 Department of Finance, *Commonwealth Evaluation Policy* [Internet], Finance, July 2022, available from <https://www.finance.gov.au/government/managing-commonwealth-resources/planning-and-reporting/commonwealth-performance-framework/commonwealth-evaluation-policy> [accessed 26 January 2023].

61 Treasury, *Treasury Annual Report 2017–18*, p. 38.

Implementation reporting

2.58 As part of its coordination role (see paragraphs 2.16 to 2.24), Treasury was to report back to the Government on implementation of the Taskforce report. Treasury did not clearly define reporting arrangements, including the frequency, the content, how to handle emerging issues and risks that arise outside the regular reporting cycle and the audience for reporting.

Reporting to Government

2.59 Between July 2018 and December 2022, Treasury made seven submissions to the Treasurer or Assistant Treasurer providing updates on the whole-of-government implementation of the Taskforce report.⁶² Three submissions were in 2018, three in 2019 and one in 2021.

2.60 The ANAO identified issues relating to the quality of advice to the Government.

- Commencing with the Government response to the Taskforce report, Treasury did not include five of the Taskforce's supplementary recommendations in the submission to Government (as discussed in paragraph 2.15).
- Reporting to the Government over time was in different formats and information varied over time making it difficult to track implementation progress. In January 2019, Treasury reported that 12 of the 80 recommendations had been 'completed'. In this context, 'completed' meant implemented. Then in September 2019, Treasury reported that 53 recommendations had been 'actioned' instead of 'completed'. In this context, 'actioned' included recommendations that were both implemented and being implemented.
- In October 2019, Treasury provided an update on the implementation of recommendations and proposed a strategy for progressing these recommendations. Treasury suggested that several recommendations had been implemented when, according to ANAO analysis, they had not.
- As of February 2023, there have been no updates to Government since June 2021. Data provided to the ANAO by Treasury in October 2022 indicates that 30 per cent of all recommendations were in progress and that 30 per cent of all fully agreed recommendations were in progress at that time.

External reporting

2.61 As of February 2023, Treasury's website includes information about the Taskforce report and the shadow economy, although as noted (see paragraph 2.33), this content is out of date. The ATO's website also included reporting about the implementation of the Taskforce report. This was largely focussed on the ATO's activities rather than the whole-of-government implementation.⁶³

62 Other submissions were made to the Government on implementation of the Taskforce report for other purposes, such as for decisions, for information or briefings ahead of meetings.

63 ATO, *Whole-of-government shadow economy action plan* [Internet], 20 December 2021, available from <https://www.ato.gov.au/General/Shadow-economy/The-whole-of-government-shadow-economy-action-plan/> [accessed 31 January 2023].

2.62 In its *2017–18 Annual Report*, Treasury included a case study about Combatting the Black Economy.⁶⁴ Treasury did not develop an external performance measure relating to the implementation of the Black Economy Taskforce program of work.

2.63 Treasury is also responsible for reporting to the Black Economy Standing Taskforce (discussed in Table 3.3) on the whole-of-government implementation of the Government’s shadow economy agenda. It is unclear how Treasury would be in position to fulfil this role.

Internal reporting

2.64 There was one documented implementation update to the Secretary to the Treasury in October 2018 from the Black Economy Division on the implementation of the Taskforce report.

2.65 Between October 2018 and March 2020, there were approximately fortnightly brief updates from Treasury’s Revenue Group to the Executive Board covering the work of the group, including the Black Economy Division. Between July 2018 and December 2022, in reporting to the Executive Board there were also various references to the funding for the Black Economy Division.

Evaluation

2.66 The Commonwealth Evaluation Policy, introduced in December 2021, outlines that entities should set clear objectives for policies, projects and programs, and measure progress towards achieving these objectives.⁶⁵

Objectives

2.67 In its report, the Taskforce set out a whole-of-government strategy and policy agenda to address the shadow economy, stating that:

This agenda has a clear purpose and objective: to make our society both fairer and more equitable by creating a level playing field. To the extent that this yields a revenue dividend, the Government’s capacity to fund needed services (or provide tax relief or lower deficits) will be greater.⁶⁶

2.68 It also stated that a strategy is required that: ‘addresses underlying causes, not symptoms, while keeping regulatory burdens low; goes beyond tax; and breaks down agency silos and embraces joint action and the intelligent use of data and analytics’.⁶⁷

2.69 The Taskforce’s high-level strategy contained 10 elements (see Appendix 4). The Government response to the Taskforce’s report stated that implementation of its response would seek to address the underlying causes of the shadow economy.⁶⁸

64 Treasury, *Treasury Annual Report 2017–18*, p. 38.

65 Department of Finance, *Commonwealth Evaluation Policy* [Internet], Finance, July 2022, available from <https://www.finance.gov.au/government/managing-commonwealth-resources/planning-and-reporting/commonwealth-performance-framework/commonwealth-evaluation-policy> [accessed 27 February 2023].

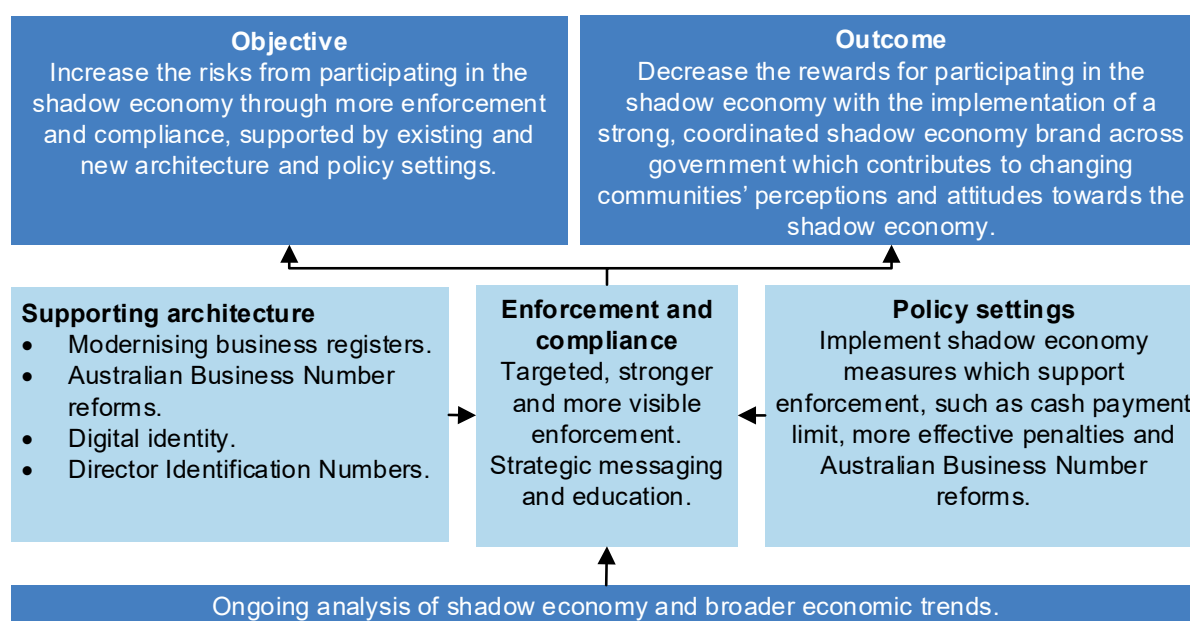
66 Treasury, *Black Economy Taskforce Final Report*, p. 1.

67 *ibid.*, p. 1.

68 The *Black Economy Taskforce Final Report* (pp. 15–18) highlighted five causal factors of the shadow economy: commercial opportunities and pressures when transparency is lacking; tax and compliance burdens; perceptions of risk; perceptions of fairness; and social norms.

2.70 In December 2018, Treasury specified a strategic objective and outcome relating to the whole-of-government implementation of the Taskforce report, as shown in Figure 2.1.

Figure 2.1: Whole-of-government strategy for combatting the shadow economy



Source: Treasury documentation.

Assessing the achievement of objectives

2.71 Treasury did not set out an approach for assessing whether the objective and outcome presented in Figure 2.1 were achieved. It advised the ANAO in October 2022 that ‘as a policy agency, not a regulatory agency, Treasury does not undertake whole-of-government evaluation of the success of individual measures, including those that are now managed and implemented by other agencies’. Treasury noted that other entities may have evaluation arrangements for their recommendations.⁶⁹

2.72 Without an evaluation framework at the whole-of-government level, Treasury has been unable to demonstrate the extent to which the implementation of the Taskforce’s strategy, as set out in its report and to be delivered through its recommendations, has achieved its intended objectives.

2.73 The Commonwealth Evaluation Policy includes guidance on planning, undertaking and reporting on evaluations, including around establishing evaluation arrangements to support the development of new policy proposals. This guidance highlights the importance of planning for evaluation and having a structured approach to assessing the achievement of objectives.

2.74 Recommendation 2.1 of the Taskforce report, which was agreed to by Government, was to implement an ongoing shadow economy research program. The Taskforce stated that part of this program could be about measuring the effectiveness of Government responses to the shadow economy. As of February 2023, this recommendation had not been implemented (see Table 3.2).

⁶⁹ The evaluation of the implementation of individual recommendations is discussed in chapters 3 and 4 of this report.

Five-year report

2.75 Treasury expected that implementation would take five years (until 30 June 2023) and that there would be a five-year report on the progress in implementing the recommendations, and on the emerging trends and risks in the shadow economy.⁷⁰ Treasury is responsible for producing the report and part of the rationale for seeking five years of funding for the Black Economy Division (see paragraph 2.16) had been to complete the report by June 2023.

2.76 The Taskforce report suggested that the report would be developed every five years. It outlined that it should be strategic in focus and provided the following view.

In addition to looking at emerging trends and risks, they [the reports] would consider the size of the black economy and factors (policy-related, economic and social) which may be contributing to its growth (or reduction). In doing so, the reports would adopt the same approach as this Taskforce, which has rejected the view that the black economy is merely a tax phenomenon and highlighted its dynamic and changing nature. The reports could be part of the Government's Intergenerational Reports.⁷¹

2.77 Treasury identified the need to plan for the report, stating in October 2018 that during 2019 the structures for the five-year report would be established. There was no evidence of adequate planning in this regard.

2.78 Treasury reallocated funding away from Taskforce activities in the context of the COVID-19 pandemic (discussed paragraph 2.19 to 2.20). However, it still intended to produce the five-year report. It advised the Government in June 2021 that it would have responsibility for the five-year report and would advise the Government on appropriate arrangements, including the ongoing need for a five-year report, in due course. Treasury has not produced the five-year report and has not reported to the Government in relation to the report. In May 2023, Treasury advised the ANAO that it intends to brief the Government on a range of shadow economy matters raised in this audit, including the merits of an evaluation to assess whether the objectives of the whole-of-government strategy have been achieved.

ANAO assessment of the implementation status of recommendations

2.79 As outlined in Table 1.1, the Government responded to the 80 recommendations of the Taskforce in a variety of ways in May 2018. Of the 80 recommendations, the Government:

- did not support or did not respond to eight recommendations;
- agreed with 27 recommendations⁷²; and
- agreed in principle, supported or noted the remaining 45 recommendations.⁷³

2.80 The Government responses to each of these 45 recommendations (agreed in principle, supported or noted) can be further categorised into responses that identify new actions to be undertaken and responses that do not include new actions (for example, by referring to other

70 As part of recommendation 16.1 (advisory board), the Taskforce recommended that a five-yearly report should be prepared on emerging trends and risks in the shadow economy.

71 Treasury, *Black Economy Taskforce Final Report*, p. 337.

72 Appendix 7 lists the 27 recommendations and the ANAO's high-level assessment for each.

73 Appendix 8 lists the 53 recommendations that were agreed in principle, supported, noted, not supported or not responded to by the Government.

reviews or processes already underway). Of the 45 recommendations, the ANAO assessed that the Government responses for:

- 18 recommendations included new actions; and
- 27 recommendations did not include new actions.

2.81 Table 2.2 provides an overview of the ANAO's assessment of the implementation of the 27 recommendations agreed to by the Government.⁷⁴ The table also provides an assessment against the 18 recommendations where the Government response included new actions to be undertaken. The ANAO assessed whether these actions had been completed.

Table 2.2: ANAO assessment of the implementation status of Taskforce recommendations, as of March 2023

Implementation status ^a	Recommendations agreed to by the Government (<i>number and percentage of column total</i>)	Other recommendations with new actions specified in the Government response (<i>number and percentage of column total</i>)	Total (number and percentage of column total)
Implemented	2 (7%)	7 (39%)	9 (20%)
Largely implemented	10 (37%)	–	10 (22%)
Partly implemented	3 (11%)	6 (33%)	9 (20%)
Not implemented	7 (26%)	2 (11%)	9 (20%)
In progress	5 (19%)	2 (11%)	7 (16%)
Unclear	–	1 (6%)	1 (2%)
Total	27 (100%)	18 (100%)	45 (100%)

Note a: Appendix 6 provides the ANAO's categorisation of assessment status.

Source: ANAO assessment of entity documentation.

2.82 For the 27 recommendations that were agreed in principle, supported or noted by the Government and did not include new actions, the ANAO did not verify implementation. For these 27 recommendations, Treasury data indicated that: nine had been implemented; 10 had not been implemented; and eight were in progress.

⁷⁴ Chapters 3 and 4 of this report provide further information on the ANAO's assessment.

Recommendation no. 3

2.83 To progress the implementation of the Black Economy Taskforce report, the Department of the Treasury:

- (a) assess and determine a way forward for the recommendations presented in Table 2.1;
- (b) review the ANAO's findings in relation to each of Treasury's recommendations (see Table 3.2) and determine what further action can be undertaken to implement these recommendations;
- (c) produce a five-year report into the shadow economy to evaluate the implementation of the Government response to the Taskforce report, and to assess the emerging risks and trends in the shadow economy (recommendation 16.1 of the Taskforce report); and
- (d) report (and seek decisions as appropriate) to Government.

Department of the Treasury response: *Agreed.*

2.84 *Treasury will continue to progress the implementation of the black economy Taskforce report, including by reporting to Government and producing a five-year report into the shadow economy to evaluate the Government response to the taskforce report.*

3. Recommendations with one entity leading implementation

Areas examined

This chapter examines whether the Department of the Treasury (Treasury), the Australian Taxation Office (ATO) and the Department of Home Affairs (Home Affairs) are effectively implementing the Australian Government (the Government) response to the recommendations from the Black Economy Taskforce (the Taskforce) report where there is one entity leading implementation.

Conclusion

The ATO and Home Affairs are implementing the recommendations that they have responsibility for in a largely effective manner. Treasury is not implementing the recommendations that it has responsibility for in an effective manner.

Areas for improvement

The ANAO suggested that the ATO could review its oversight over resource reallocations and develop performance measures of efficiency for its Shadow Economy Program. The ANAO suggested that Home Affairs develop performance targets for the Illicit Tobacco Taskforce.

3.1 Effective implementation of recommendations is best supported by fit-for-purpose governance and implementation arrangements.⁷⁵ Effective implementation is ultimately about whether the recommended actions have been undertaken and whether those actions have achieved the intent and outcomes of the recommendation.

3.2 The Taskforce report included recommendations where implementation had either a single entity leading implementation or recommendations with shared responsibilities for implementation.⁷⁶ Table 3.1 provides an ANAO breakdown of the Government's response to single entity-led recommendations.

Table 3.1: Agreed recommendations with one lead entity responsible for implementation

Government response	Treasury	ATO	Home Affairs
Agreed	7	6	1

Source: ANAO analysis of the Government response to the Taskforce report.

75 The ANAO's *Audit Insights — Implementation of Recommendations* publication (30 June 2021) outlines key messages from the ANAO series of audits on implementing recommendations, available from <https://www.anao.gov.au/work/audit-insights/implementation-recommendations-0> [accessed 28 February 2023].

76 Chapter 4 assesses the implementation of recommendations with shared responsibilities.

Is Treasury effectively implementing the recommendations that it has responsibility for?

Treasury has sole responsibility for implementing seven agreed recommendations. Treasury does not have fit-for-purpose arrangements to support the implementation of its recommendations, increasing the risk of poor implementation outcomes. The ANAO found that of the seven agreed recommendations, Treasury has: largely implemented two; partly implemented one; and not implemented four.

Governance and processes supporting implementation

3.3 As outlined in Table 3.1, Treasury led the implementation of seven recommendations that were agreed to by the Government.⁷⁷ These are listed in Table 3.2 below.

Roles and responsibilities

3.4 Treasury established the Black Economy Division (discussed paragraphs 2.16 to 2.24) in July 2018 to coordinate the whole-of-government implementation of the Taskforce report. This division also had responsibility for the implementation of six of the seven recommendations that Treasury was responsible for implementing.

3.5 The ANAO found that Treasury's records did not clearly set out roles and responsibilities for implementing its recommendations, including whether there were oversight arrangements, senior accountable officers and project leads.

Implementation process

3.6 Treasury did not have a documented process for the implementation of its recommendations. As such, the ANAO reviewed available documentation from each recommendation to attempt to identify an implementation process. The ANAO found the following.

- There were no project plans or evidence of fit-for-purpose planning for five of the recommendations. For two recommendations (3.1 and 8.2), there were one page project plans, however, it is unclear if these plans were finalised.
- There was evidence of partly fit-for-purpose planning and management of implementation timeframes for two of the seven recommendations (3.1 and 9.2).
- Treasury had no process in place to assure or confirm that its recommendations had been implemented in full.

Monitoring and reporting on implementation

3.7 Treasury did not have a defined process for monitoring and reporting on the implementation of its seven recommendations. There was also no evidence of regular internal monitoring and reporting to track the implementation of the seven recommendations.

⁷⁷ Treasury shared implementation responsibilities for a further nine recommendations agreed to by the Government (these are discussed in the Chapter 4).

Implementation of recommendations

3.8 Of Treasury's seven agreed recommendations, it self-assessed in March 2023⁷⁸ that it had: 'implemented' one (recommendation 7.1); 'largely implemented' one (8.2); 'partly implemented' two (12.8 and 16.1); and 'not implemented' three (2.1, 3.1 and 9.2).

3.9 As shown in Table 3.2, the ANAO assessed that: two recommendations were 'largely implemented'; one was 'partly implemented'; and four were 'not implemented'. Appendix 5 lists the Budget measures referred to throughout the table. Appendix 9 lists the recommendations and presents the full Government response for each recommendation.

Table 3.2: Treasury's implementation of the Taskforce recommendations

Treasury self-assessment and ANAO assessment, as of March 2023		
Recommendation	Treasury assessment ^a	ANAO assessment ^a
2.1 — a project to measure and track the shadow economy	Not implemented	Not implemented
<p>Summary of actions to be undertaken (based on the recommendation and Government response)</p> <ul style="list-style-type: none"> Australian Bureau of Statistics (ABS) to lead a shadow economy data project to update the most recent estimates, develop measurement techniques and establish arrangements for ongoing monitoring of the shadow economy. 		
<p>Reasons for ANAO assessment</p> <p>While the Government agreed to this recommendation in May 2018, funding for the ABS and the ATO for a measurement and tracking project was not agreed to by the Government as part of the 2018–19 Budget process.</p> <p>In April 2019, Treasury commenced work on a response to recommendation 2.1 on the basis that '[w]hile such a project was not agreed by the Government at the time [referring to the 2018–19 Budget proposal], we expect that this is an area that the government will expect us to do some work on regardless'. Treasury, the ATO and the ABS met in May 2019, however, there was no evidence that this recommendation was progressed.</p> <p>In October 2019, Treasury advised the Government that the recommendation was completed, however that further work was being undertaken and that there was no need for a decision by the Government at this time.</p> <p>As of January 2023, Treasury has not undertaken further actions to progress implementation of recommendation 2.1.</p>		
Recommendation	Treasury assessment ^a	ANAO assessment ^a
3.1 — an economy-wide cash payment limit	Not implemented	Not implemented (<i>the Government reversed this measure in October 2022</i>)
<p>Summary of actions to be undertaken (based on the recommendation and Government response)</p> <ul style="list-style-type: none"> Introduce a cash payment limit of \$10,000 on payments made to businesses, with consultations with industry and the community to be held on best method of implementation, and to determine if exemptions are warranted. 		

⁷⁸ Treasury provided the ANAO with an update of its self-assessments in March 2023.

Treasury self-assessment and ANAO assessment, as of March 2023

Reasons for ANAO assessment

The Government introduced a measure in the 2018–19 Budget to give effect to this recommendation. Treasury consulted with stakeholders on the implementation of this recommendation between May 2018 and July 2018, including whether exemptions were warranted.

In December 2018, the start date for the measure was deferred from 1 July 2019 to 1 January 2020. On 19 September 2019, a bill was introduced into the House of Representatives which included the cash payment limit. The Senate referred the bill to the Senate Economics Legislation Committee for inquiry and report. The bill was introduced into the Senate on 11 November 2019.

In December 2019, Treasury received \$200,000 in funding to undertake a communications and awareness campaign on the cash payment limit. Treasury advised in February 2023 that it did not undertake the campaign. It is unclear why, as the Bill was not discharged from Parliament until December 2020. The ANAO did not locate evidence that Treasury had reported back to the Government on this decision to not undertake the communications and awareness campaign.

In August 2022, Treasury proposed deferring the start date to 1 July 2024. Instead, the Government reversed this measure in the October 2022–23 Budget.

Recommendation	Treasury assessment ^a	ANAO assessment ^a
7.1 — a strategy for consumers	Implemented	Not implemented

Summary of actions to be undertaken (based on the recommendation and Government response)

- An educational campaign was to be created alongside incentives and deterrents to educate consumers on the risks of participating in the shadow economy, and how to become drivers in their own compliance.

Reasons for ANAO assessment

In February 2018, Treasury planned to undertake a communication campaign to increase awareness of the integrity of the Australian tax system and to bring consumers into the discussion on shadow economy issues, with a policy proposal developed for the 2018–19 Budget. An email from September 2019 indicates that Treasury decided that it would no longer seek funding to undertake this campaign. It is not clear why or who made this decision. Treasury advised that ‘there was no specific policy measure to implement for this recommendation’, however it considered that the recommendation had been indirectly implemented through the effects on consumers from other shadow economy measures, and the costs of participating in the shadow economy would be highlighted to consumers as measures were implemented. It was not clearly specified how this would be done and no performance monitoring or evaluation was provided to demonstrate this.

Recommendation	Treasury assessment ^a	ANAO assessment ^a
8.2 — more effective prosecution processes	Largely implemented	Largely implemented

Summary of actions to be undertaken (based on the recommendation and Government response)

- Conduct a review of the provisions that provide civil, criminal, and administrative penalties for shadow economy activity.
- As part of this process, consideration was to be given to: developing more effective prosecution processes; introducing new criminal offences, civil penalties or administrative penalties; and the expansion of the Federal Circuit Court jurisdiction.

Treasury self-assessment and ANAO assessment, as of March 2023

Reasons for ANAO assessment

Treasury undertook consultation between 21 November 2018 and 21 December 2018. A report on this consultation was not produced. Treasury advised the Government in October 2019 that a review had been undertaken into the efficiency and effectiveness of shadow economy enforcement, offences and penalties. Treasury did not produce a report of the review. Treasury proposed in October 2019 to make no changes to the offences and penalties regime. The Government agreed.

In relation to establishing a specialist tax tribunal as part of the Federal Circuit Court, Treasury commissioned PwC Australia to produce a cost-benefit analysis on expanding the Federal Circuit Court. The cost-benefit analysis found that the current judicial system was cost effective. In October 2019, Treasury proposed to Government that no action be undertaken in relation to this aspect of the recommendation. The Government agreed.

Recommendation	Treasury assessment ^a	ANAO assessment ^a
9.2 — supply chain integrity	Not implemented	Not implemented

Summary of actions to be undertaken (based on the recommendation and Government response)

- Establish a national probity standard.
- Consult with industry to develop appropriate standards for supply chains.

Reasons for ANAO assessment

Treasury consulted with Standards Australia Limited (Standards Australia). Standards Australia released a discussion paper in November 2018 titled *Supply chain standards to reduce the black economy^b*, which received feedback from external stakeholders. Standards Australia then published the *Combating the black economy, enabling good practice^c* report [undated] which provided Treasury with six recommendations. Treasury agreed to two recommendations. These were to develop:

- a technical specification to provide clear guidance to businesses on performance requirements to combat the shadow economy; and
- a supply chain handbook to assist businesses deal with the shadow economy.

Treasury and Standards Australia agreed to work together to deliver these two items. The project relating to these items was put on hold for six months in May 2020. Treasury continued to put this on hold due to issues prioritising this recommendation following the COVID-19 pandemic. After the project had been on hold for over 12 months, Standards Australia decided that these projects should be cancelled and emailed Treasury in July 2021 to advise on this decision. Treasury did not provide a counterview and on the 5 August 2021 the project was cancelled through email. Treasury did not take a proposal back to Government for decision.

Recommendation	Treasury assessment ^a	ANAO assessment ^a
12.8 — deem criminal earnings to be offshore profits	Partly implemented	Largely implemented

Summary of actions to be undertaken (based on the recommendation and Government response)

- Examine the feasibility of deeming criminals' offshore earnings to be Australian sourced.
- As part of this, consider whether the Controlled Foreign Company tax rules could be modified to attribute offshore criminal proceeds to Australia for tax purposes.

Treasury self-assessment and ANAO assessment, as of March 2023

Reasons for ANAO assessment

In September 2019, Treasury's Corporate International Tax Division produced internal advice that recommendation 12.8 should not be adopted because 'it faces some severe practicality issues'. It stated that implementation of the recommendation would be inconsistent with the current international tax framework and that the 'practical difficulties [with implementation] would overwhelm any potential benefits'. Treasury did not provide evidence of appropriate clearance of the advice. It submitted a recommendation to Government to not proceed with implementation of the recommendation in October 2019 and the Government accepted this.

Recommendation	Treasury assessment ^a	ANAO assessment ^a
16.1 — advisory board	Partly implemented	Partly implemented

Summary of actions to be undertaken (based on the recommendation and Government response)

- Establish a central agency led advisory board, including both public and private sector representatives, to monitor emerging trends and risks in the shadow economy and the preparation of a five-yearly report.

Reasons for ANAO assessment

Treasury established the Black Economy Advisory Board (the Board) in September 2018 which included private and public sector representatives. At meetings of the Board, member entities provided updates on actions taken to address shadow economy activities. However, there was limited reporting from the Board to Government on emerging risks and trends. The Board had not begun preparing for the development of a five-year report as agreed to by the Government.

In accordance with its charter, the Board held seven meetings with its last meeting in March 2021. In its place, the ATO established the Shadow Economy Advisory Forum [the Forum] and it held its first meeting in July 2021. As part of the transition process, Treasury advised the ATO that 'We consider the role of the BEAB [the Board] as a forum concerned with the oversight of policy implementation has largely reached its end'. The Forum focuses on operational activities undertaken by the Forum's members and does not more broadly monitor emerging trends and risks in the shadow economy with a view to reporting back to the Government. Treasury's records are unclear whether it plans to produce the five-year report, although Treasury advised the Assistant Treasurer in June 2021 that it would retain responsibility.

Note a: The description of ANAO assessment categories is at Appendix 6.

Note b: Standards Australia, *Supply chains standards to reduce the black economy*, undated, available from <https://www.standards.org.au/getmedia/5f797bed-28a2-4cad-871b-92d9d8a609f6/Black-Economy-Discussion-Paper.pdf.aspx> [accessed 23 February 2023].

Note c: Standards Australia, *A Standards Recommendation Report — Combatting the black economy, enabling good practice*, undated, available from <https://www.standards.org.au/getmedia/98116513-5ebe-4fea-9011-9f02031c7a0c/Combating-the-black-economy-Report.pdf.aspx> [accessed 16 February 2023].

Source: ANAO analysis of Treasury documentation.

Assessment of the effectiveness of implementation

3.10 The Taskforce recommendations include both actions to be undertaken and objectives or intent to be achieved. The approach to assessing implementation effectiveness (that is, whether implementation has achieved the recommendation's objective or intent) should be fit for purpose. The Commonwealth Evaluation Policy states that decisions should be made around the scale of effort and resources allocated to an evaluation. An evaluation should be proportional to the value, impact, strategic importance and risk profile of the program or activity.⁷⁹

⁷⁹ Department of Finance, *Commonwealth Evaluation Policy* [Internet], Finance, July 2022, available from <https://www.finance.gov.au/government/managing-commonwealth-resources/planning-and-reporting/commonwealth-performance-framework/commonwealth-evaluation-policy> [accessed 16 February 2023].

3.11 Treasury has not consistently determined an evaluation approach for its seven recommendations, considering what would be fit for purpose within the context of each of the recommendations. The following provide examples where Treasury has given some consideration to assessing the effectiveness of implementation.

- In relation to recommendation 3.1 (an economy-wide cash payment limit), Treasury advised the ANAO that the Shadow Economy Advisory Forum ‘provides an avenue to consider the performance of this measure and other black economy measures’. It is unclear how this is to occur in practice. The Forum’s charter does not identify this role as part of its terms of reference.
- In relation to recommendation 16.1 (advisory board), the Black Economy Advisory Board’s charter included a requirement to review the charter annually. Although the Board has since been dissolved (see Table 3.2), there is no evidence that these annual reviews occurred during its existence.
- Treasury self-assessed recommendation 7.1 (a strategy for consumers) as being ‘implemented’. Treasury again identified the Shadow Economy Advisory Forum as being an avenue to consider the effectiveness of this recommendation, however it was unclear on what basis the Forum would do this.

Is the ATO effectively implementing the recommendations that it has responsibility for?

The ATO established the Black Economy Program to support the implementation of its recommendations. Governance and processes supporting the program were largely fit for purpose, although the ATO did not always follow its processes. The ATO’s program reflected the funding provided through multiple budget measures, however, this did not always directly align with the Taskforce recommendations. The ANAO found that of the six agreed recommendations that the ATO had sole responsibility for implementing, it has: implemented two; largely implemented three; and partly implemented one.

3.12 As outlined in Table 3.1, the ATO led the implementation of six recommendations that were agreed to by the Government.⁸⁰ These recommendations are listed in Table 3.3.

Governance and processes supporting implementation

3.13 In the 2018–19 Budget, the ATO received \$313.2 million over four years to introduce ‘new and enhanced enforcement’ against the shadow economy. Part of this funding was to implement the six Taskforce recommendations for which it had sole responsibility.

3.14 To deliver the Budget measure and implement its recommendations, the ATO established the Black Economy Program (BEP) in July 2018. The initial funding for the BEP ended on 30 June 2022, however, the ATO received extended funding.⁸¹ Over the four years from 2018–19 to

80 The ATO shared implementation responsibilities for a further eight recommendations agreed to by the Government (these are discussed in the Chapter 4).

81 In the *2021–22 Mid-Year Economic and Fiscal Outlook* and the *October 2022 Budget*, the ATO received extended funding for its shadow economy compliance strategies. The program is now called the Shadow Economy Program and funding has been provided until 2025–26.

2021–22, the BEP consisted of 33 projects⁸² and five strategies around: compliance and enforcement activities; using data and tech to better target the shadow economy; prevention strategies; new law and policy measures; and the Black Economy Standing Taskforce.

Roles and responsibilities

3.15 The ATO established governance arrangements for the BEP, which included the: the Black Economy Program Office; the Black Economy Steering Committee⁸³; and the Black Economy Governance Committee.⁸⁴ These three aspects of BEP’s governance have roles regarding program oversight and monitoring the progress of project delivery. Each governance body had SES leadership, and for their respective projects, appointed project teams led by senior accountable officers and project managers.

3.16 The Black Economy Governance Committee is also responsible for approving changes to agreed plans, including changes to the allocation of funding within the BEP. The ATO did not spend all BEP funding (see paragraphs 3.33 to 3.34). During the program, the ATO redirected resources away from BEP work to support other work.

3.17 The ANAO found that the ATO clearly set out roles and responsibilities for the implementation of its six agreed recommendations.

Implementation process

3.18 In December 2018, the ATO developed a project management process for the BEP (the Black Economy Project Pathway) based on its corporate processes. The pathway included key documentation and activities to be undertaken throughout the project’s delivery. The Black Economy Governance Committee was responsible for approving the progression of projects through the five governance gates set out in the pathway.⁸⁵

3.19 The ANAO assessed the ATO’s planning processes and found that the ATO:

- had project or implementation plans for three of its six recommendations, had a plan for one of the two projects to implement recommendation 11.5, had plans for 10 of the 13 projects for recommendation 8.1, however for recommendation 7.4, the ATO did not have a project plan in place; and
- had implementation timeframes in place for five out of the six recommendations, with timeframes partly in place for recommendation 7.4.

3.20 In September 2021, the Black Economy Program Office advised the Black Economy Governance Committee that not all corporate project documentation requirements had been completed for 16 of the BEP’s 33 projects.

3.21 To address issues relating to corporate project documentation, the Black Economy Program Office initiated a retrospective validation process for endorsements and movements between governance gates. The Black Economy Governance Committee was ‘concerned’ about endorsing

82 There were also 11 projects supporting components of projects external to the BEP.

83 The Black Economy Steering Committee was disbanded in September 2022 after the conclusion of the BEP on 30 June 2022. Membership was at the Deputy Commissioner level (SES Band 2) and the committee was to meet every six to eight weeks. It met 11 times during its existence.

84 Membership is at the Assistant Commissioner level (SES Band 1) and the committee is to meet monthly.

85 The five gates are: Gate 0 — Briefing; Gate 1 — Policy Assessment; Gate 2 — Delivery Approval; Gate 3 — Readiness Assessment; and Gate 4 — Operational Acceptance.

retrospective project documentation. It decided it would validate an assessment of documentation to see if delivery of a project had been ‘done well’. For the projects requiring retrospective validation, the Black Economy Governance Committee therefore did not approve the progression of a project through the governance gates.

Monitoring and reporting on implementation

3.22 A single BEP project did not necessarily link to a single recommendation from the Taskforce report. For example, the ATO advised the ANAO that recommendation 8.1 (targeted, stronger and more visible enforcement strategy) was to be implemented through 13 distinct projects.

3.23 The project management process included that regular status reporting would be undertaken for each project. The ANAO found that implementation progress was monitored and reported on for all six of the agreed recommendations.

3.24 At the end of a project, a closure report was to be completed. As of January 2023, the ATO had closure reports for five of the six agreed recommendations. For recommendation 8.1, the ATO provided final closure reports for seven of the 13 projects.

Implementation of recommendations

3.25 Of the ATO’s six agreed recommendations, it self-assessed that it had ‘implemented’ all six.

3.26 The ANAO assessed that the ATO had: ‘implemented’ two of its recommendations; ‘largely implemented’ three of its recommendations; and ‘partly implemented’ one of its recommendations. Table 3.3 sets out the ANAO’s assessment of the implementation status of each of the ATO’s six agreed recommendations. Appendix 5 lists the Budget measures referred to throughout the table. Appendix 9 lists the recommendations and presents the full Government response for each recommendation.

Table 3.3: ATO’s implementation of the agreed Taskforce recommendations

ATO self-assessment and ANAO assessment, as of March 2023		
Recommendation	ATO assessment ^a	ANAO assessment ^a
7.4 — a strategy for tax practitioners	Implemented	Largely implemented
<p>Summary of actions to be undertaken (based on the recommendation and Government response)</p> <ul style="list-style-type: none"> • Additional funding for the Tax Practitioners Board (TPB) to increase shadow economy referrals. • Take more visible action against egregious tax practitioners. • Make clearer a tax practitioner’s ethical responsibility to report suspected illegal activities. • Increase the capacity of the TPB to take action against egregious tax practitioners. 		
<p>Reasons for ANAO assessment</p> <p>The ATO and the TPB received funding in the 2018–19 Budget to implement this recommendation. The ATO developed a Tax Practitioner Risk Model to support early intervention with tax practitioners and its compliance strategies, and developed an early engagement strategy (Intermediary Engagement Strategy) for tax practitioners with certain risk characteristics. The ATO engaged with tax practitioners who had clients outside small business benchmarks and targeted tax practitioners who demonstrated breaches of the professional conduct and standards or promoted inappropriate tax planning arrangements. Through media releases, newsletter articles and web content, the ATO aims to make clear the responsibilities of tax practitioners. The TPB advised in May 2023 that through its guidance</p>		

ATO self-assessment and ANAO assessment, as of March 2023

and educative programs, it encourages tax practitioners to report egregious behaviour within the tax profession, which may include suspected illegal activities.

The ATO evaluated the impact of the activities undertaken to implement this recommendation and found that outcomes were largely achieved. It engaged with 2479 agents against a target of 2400, and it raised wider revenue effects of \$129.5 million against a target of \$44.5 million.

The ATO reported that it did not achieve the other revenue commitments associated with the 2018–19 Budget funding. The ATO raised direct liabilities of \$96.5 million against a target of \$185.5 million and collected \$29 million against a target of \$79.4 million. The TPB advised in May 2023 that it resolved over 600 cases, which resulted in 84 sanctions, including 63 terminations of tax practitioners, and 26 litigation matters.

Recommendation	ATO assessment ^a	ANAO assessment ^a
8.1 — targeted, stronger and more visible enforcement strategy	Implemented	Largely implemented

Summary of actions to be undertaken (based on the recommendation and Government response)

- Implement a multi-pronged strategy to increase the level and visibility of enforcement and prosecutions.
- Funding for the ATO to deliver the new approach to enforcement, which includes new mobile strike teams to target shadow economy behaviours.

Reasons for ANAO assessment

In the 2018–19 Budget, the ATO received funding to implement a new and enhanced enforcement strategy to bring together new mobile strike teams and an increased audit presence, improved government data analytics and educational activities. This enforcement strategy was broken down into strategies and projects. Fifteen of the total 33 projects of the Black Economy Program were related to the implementation of this recommendation.

The ATO reported that it achieved the revenue commitments associated with this recommendation and has not achieved the coverage targets.

- Liabilities raised — the ATO reported it raised \$3.8 billion in taxation liabilities from its compliance activities against a commitment to Government of \$3.1 billion (123 per cent).
- Cash collected — the ATO reported it collected \$2.95 billion against a commitment to Government of \$2.3 billion (128 per cent).
- Coverage — the ATO reported it undertook 824,406 compliance activities against a commitment of 924,924 (89 per cent).

The ANAO reviewed documentation for 13 projects linked to this recommendation (there were a further two projects that were overarching projects rather than discrete projects). The ATO assessed seven of the 13 projects had fully achieved their outcomes. Six projects had partly achieved their outcomes. According to the ATO, the COVID-19 pandemic and natural disasters were the main reasons for outcomes not being achieved.

The Taskforce report stated that an objective of recommendation 8.1 should be to 'make more efficient use of limited resources for enforcement of existing laws'. While it does not materially impact the ATO's implementation of this recommendation, the ATO's performance framework related to this recommendation does not incorporate measures of efficiency.

ATO self-assessment and ANAO assessment, as of March 2023		
Recommendation	ATO assessment ^a	ANAO assessment ^a
11.5 — vocational training tax literacy pilot	Implemented	Partly implemented
<p>Summary of actions to be undertaken (based on the recommendation and Government response)</p> <ul style="list-style-type: none"> Develop tax literacy education for Technical and Further Education (TAFE) and Vocational Education and Training (VET) curriculums, focused on targeting small business owners, youth and migrants to get it right from the start. 		
<p>Reasons for ANAO assessment</p> <p>The ATO received funding in the 2018–19 Budget for new and enhanced ATO enforcement. Part of this included funding to have taxation and superannuation taught in classrooms. While the ATO linked this recommendation with its educational activities for school-age children and migrants (Educating Future Generations of Taxpayers), these activities do not implement recommendation 11.5 which focuses on TAFE and VET.</p> <p>The ATO indicated that it considered this recommendation to be implemented under strategy three of the Black Economy Program. Strategy three focused on preventative strategies designed to change social norms and build knowledge, understanding and skills required to meet regulatory requirements. The ATO identified an online learning suite that it developed — <i>Essentials to strengthen your small business</i> — as being relevant to the implementation of this recommendation. The ATO advised that the education options in this suite are designed to meet VET standards. The ANAO considers that this addresses part of the Government response related to education programs for small business owners.</p> <p>The actions undertaken by the ATO, however, do not address the actions specified in the recommendation which were to incorporate tax literacy education and basic business skills into TAFE and VET curriculums.</p>		
Recommendation	ATO assessment ^a	ANAO assessment ^a
16.2 — standing taskforce	Implemented	Largely implemented
<p>Summary of actions to be undertaken (based on the recommendation and Government response)</p> <ul style="list-style-type: none"> Establish a multi-agency standing Taskforce to identify, respond to and prosecute serious, complex shadow economy fraud led by the ATO and comprising key departments including the Department of Home Affairs, the Department of Human Services and the Department of Jobs and Small Business. 		
<p>Reasons for ANAO assessment</p> <p>In the 2018–19 Budget, the ATO received \$3.4 million over four years to establish and lead a multi-agency Black Economy Standing Taskforce (BEST) from 1 July 2018 to facilitate a cross-agency approach to combatting the shadow economy. A Memorandum of Understanding was signed by all members in October 2019. In addition to the ATO, BEST members include: the Attorney-General's Department; the Australian Criminal Intelligence Commission; the Australian Federal Police; the Australian Transactions Reports and Analysis Centre (AUSTRAC); the Commonwealth Director of Public Prosecutions; the Fair Work Ombudsman; Home Affairs; Services Australia; and Treasury. The ATO is the only entity to receive funding for the BEST.</p> <p>The ATO completed an evaluation in February 2021, finding that the project had been delivered effectively overall. The evaluation noted that the COVID-19 pandemic had impacted the ability of member entities to conduct joint operations and the communications strategy had not been finalised.</p> <p>The recommendation included that the Taskforce should prosecute serious and complex shadow economy fraud. This aspect has not been incorporated into the BEST.</p>		

ATO self-assessment and ANAO assessment, as of March 2023		
Recommendation	ATO assessment ^a	ANAO assessment ^a
16.3 — Ombudsman’s office and hotline	Implemented	Implemented
<p>Summary of actions to be undertaken (based on the recommendation and Government response)</p> <ul style="list-style-type: none"> • Create a hotline for the reporting of shadow economy activity. • Review the effectiveness of these arrangements over time. 		
<p>Reasons for ANAO assessment</p> <p>The ATO received funding in the 2018–19 Budget to rebuild the former Tax Evasion Referral Centre into the Tax Integrity Centre, incorporating a contact point for the community to report information on shadow economy behaviours. The Tax Integrity Centre commenced on 1 July 2019. Through the Tax Integrity Centre, the community can also report other shadow economy behaviours not related to taxation issues, such as identity fraud, unregulated gambling, and counterfeit goods.</p> <p>The ATO advised that it developed a process to securely transfer information between external partner agencies, by engaging with the Department of Finance’s ‘GovLink’. GovLink ‘provides secure, encrypted and trusted communication’ between agencies.</p> <p>The ATO tracks call volumes and tip offs. It advised that it also monitors the conversion rate (the number of calls that result in a tip off) as a measure of effectiveness. Between January 2022 and March 2023, the conversion rate was 20 per cent (the call volume was 19,922 over this period). There is no target associated with this measure. The arrangements have not yet been reviewed and it is not clear how effectiveness will be assessed over time.</p>		
Recommendation	ATO assessment ^a	ANAO assessment ^a
Chapter 6 supplementary recommendation — Single Touch Payroll (STP)	Implemented	Implemented
<p>Summary of actions to be undertaken (based on the recommendation and Government response)</p> <ul style="list-style-type: none"> • Introduce legislation to extend the Single Touch Payroll (STP) to all employers from 1 July 2019. 		
<p>Reasons for ANAO assessment</p> <p>Enabling legislation for this recommendation required employers with less than 20 employees to be included in the STP from 1 July 2019. Since then, STP reporting has been mandatory for all employers. According to the ATO’s December 2022 project closure report, ‘it has proven its capacity to operate successfully including through the ATO’s Tax Time peak transaction period with over 880,000 employers reporting through the STP’.</p>		

Note a: The description of ANAO assessment categories is at Appendix 6.

Source: ANAO analysis of ATO and TPB documentation.

Assessment of the effectiveness of implementation

3.27 The ATO had arrangements in place to assess the effectiveness of the implementation of its projects to implement its recommendations.

- The project plans or similar for four of the six agreed recommendations included arrangements for assessing the effectiveness of the implementation of the recommendations. For recommendation 7.4, the ATO did not have a project plan in place. For recommendation 11.5, one of the projects to implement this recommendation set out arrangements and one did not.

3.28 In October 2019, an ATO internal audit found that the BEP did not have a mechanism to measure and evaluate effectiveness at the program level. It noted the challenges in measuring the program outcomes due to the ‘broad and evolving’ scope and objectives for the program. The internal audit area also advised that the BEP should prioritise the completion of the design of a multi-layered approach for measurement.

3.29 In September 2021, the Black Economy Program Office developed the Policy Program Outcome Management Plan to define program outcomes and to set out arrangements for tracking the achievement of outcomes. As noted in Table 3.3 against the ANAO’s assessment of the implementation of recommendation 8.1, the ATO has not included measures of efficiency in its performance framework for the BEP.

Opportunity for improvement

3.30 The ATO could develop efficiency measures for the Shadow Economy Program in order to determine if limited resources are being used most efficiently in the enforcement of laws.

3.31 As of March 2023, the ATO is finalising an evaluation of the BEP’s effectiveness. It is being undertaken by the Black Economy Program Office using information contained in the closure reports of the BEP projects. The evaluation is being conducted in line with the Policy Program Outcomes Management Plan. It includes an evaluation against financial and non-financial targets and outcomes.

3.32 Previous ANAO audits have identified improvement areas relating to how the ATO tracks expenditure and revenue against Budget measures.⁸⁶ For the BEP, the ATO developed a financial tracking methodology to enable it to track and monitor expenditure against the funding it received in the 2018–19 Budget. This audit has not examined the appropriateness of this methodology. An ATO internal audit completed in June 2021 on the methodology found the design of financial tracking options was satisfactory, however, there was room for improvement in the application of those financial tracking methodologies. The internal audit found that the application of methodologies was labour intensive and identified improvement opportunities.

3.33 As of May 2023, the ATO had completed project closure reports for 30 of the BEP’s 33 projects.⁸⁷ These reports show that the ATO had received \$332.4 million in funding and had expended \$242.2 million. That equates to a \$90.2 million (27 per cent) underspend across the program. Reasons set out in closure reports for underspending included the: reallocation of resources to COVID-19 related programs and activities; pausing of activities, such as compliance activities, due to COVID-19 restrictions; inability to recruit planned staffing; and non-delivery of project deliverables.

86 See Auditor-General Report No. 15 2016–17 *Meeting Revenue Commitments from Compliance Measures*, available from <https://www.anao.gov.au/work/performance-audit/meeting-revenue-commitments-compliance-measures> [accessed 26 February 2023] and Auditor-General Report No. 18 2019–20 *Tax Avoidance Taskforce — Meeting Budget Commitments*, available from <https://www.anao.gov.au/work/performance-audit/tax-avoidance-taskforce-meeting-budget-commitments> [accessed 26 February 2023].

87 This includes projects to implement the recommendations with shared implementation responsibilities that are discussed in Chapter 4.

3.34 The ATO advised in May 2023 that it intends to assess expenditure as part of its evaluation of the BEP, although the draft September 2022 version of the evaluation report did not cover the program underspend.

Opportunity for improvement

3.35 As part of its evaluation, the ATO could review the appropriateness of its oversight over the transferral of resources outside of the BEP.

Is Home Affairs effectively implementing the recommendation that it has responsibility for?

Home Affairs had largely fit-for-purpose arrangements to support the implementation of the recommendation that it had responsibility for implementing. Implementation planning could have been improved and implementation assurance could have linked back to the Taskforce recommendation to check that it had been implemented in full. Home Affairs had related performance monitoring and reporting arrangements. These could be improved by developing performance targets.

3.36 As shown in Table 3.1, Home Affairs led the implementation of one recommendation that was agreed to by the Government. This was recommendation 13.2 — coordinated enforcement to combat illicit tobacco (see Table 3.4).⁸⁸

Governance and processes supporting implementation of recommendation 13.2 — coordinated enforcement to combat illicit tobacco

3.37 In the 2018–19 Budget, the Government introduced a measure for combatting illicit tobacco (see Appendix 5). As part of this measure, the Illicit Tobacco Taskforce (ITTF) was established on 1 July 2018. The Australian Border Force (ABF) led the establishment of the ITTF. The ITTF is a multi-agency taskforce, including: Home Affairs and the ABF; the Australian Criminal Intelligence Commission; the ATO; AUSTRAC; and the Commonwealth Director of Public Prosecutions.

Roles and responsibilities

3.38 In May 2018, Home Affairs established the Illicit Tobacco Taskforce Implementation Working Group. This group's role was to coordinate implementation across Home Affairs and ABF in setting up the ITTF. It met eight times, with its final meeting in September 2018. The meeting minutes of the working group show that this group met approximately fortnightly and discussed relevant planning considerations, such as: a communication and media plan; funding allocation; and the development of the Joint Agency Agreement.⁸⁹ It also monitored implementation during this period with updates from relevant stakeholders.

⁸⁸ It shared implementation responsibilities for a further two recommendations agreed to by the Government (these are discussed in the Chapter 4).

⁸⁹ The Joint Agency Agreement is to give formal agreement for the conduct of multi-jurisdictional investigations, undertaken jointly by the ITTF member agencies.

Implementation process

3.39 In establishing the ITTF, costing agreements were created and signed by each of the partner agencies to secure funding. Funding for the ITTF is provided to Home Affairs. Home Affairs then allocates the funding to entities in accordance with these agreements.

3.40 For this recommendation, there was no project plan or stated implementation timeframes. Once the ITTF was stood up in July 2018, quarterly reports provided updates on ITTF operations, including timeframes. In its 2019–20 annual report, the ITTF noted that some timeframes were impacted due to the COVID-19 pandemic.

3.41 Ongoing governance over the ITTF is through the National Illicit Tobacco Senior Management Group⁹⁰ and the National Illicit Tobacco Management Group.⁹¹ Both groups included members from other agencies, and were responsible for the endorsement of the ITTF's annual reports.

Monitoring and reporting on implementation

3.42 Home Affairs outlined a range of monitoring activities that have been undertaken over the establishment of the ITTF. None of these activities linked back to the Taskforce report to confirm that the recommendation had been implemented. Instead, the arrangements identified by Home Affairs were focused on the ITTF and its status at the time that the activities took place (see paragraph 3.46).

Implementation of recommendation 13.2 — coordinated enforcement to combat illicit tobacco

3.43 Home Affairs' assessed recommendation 13.2 as 'implemented', as of April 2019. This is the date when the Joint Agency Agreement was finalised.

3.44 The ANAO assessed recommendation 13.2 as 'largely implemented' (see Table 3.4). Appendix 9 includes this recommendation and the Government response in full.

90 The National Illicit Tobacco Senior Management Group meetings are to be held biannually and included members from the other agencies on the ITTF. This group is responsible for identifying and labelling potential harmful networks as 'Priority Illicit Tobacco Networks', which become the primary focus for ITTF operations.

91 The National Illicit Tobacco Management Group meetings are to be held monthly and included members from the other agencies on the ITTF. This group is responsible for the ITTF's operational activities and priorities, with decision making to be guided by the ITTF's strategic intent.

Table 3.4: Taskforce recommendation 13.2 — coordinated enforcement to combat illicit tobacco

Home Affairs self-assessment and ANAO assessment, as of March 2023		
Recommendation	Home Affairs assessment ^a	ANAO assessment ^a
13.2 — coordinated enforcement to combat illicit tobacco	Implemented	Largely implemented
<p>Summary of actions to be undertaken (based on the recommendation and Government response)</p> <ul style="list-style-type: none"> Establish a cross agency Illicit Tobacco Taskforce, with clear lines of accountability and lead responsibility for targeting illicit tobacco. Include the department as a ‘law enforcement agency’ for the purposes of the <i>Surveillance Devices Act 2004</i> so that it is able to authorise the use of surveillance devices for enforcement related purposes. Conduct an ‘enforcement blitz’ once improved illicit tobacco legislation has been implemented. 		
<p>Reasons for ANAO assessment</p> <p>To implement this recommendation, Home Affairs stood up the ITTF on 1 July 2018, with the former tobacco strike teams transitioning into the ITTF in July 2018.</p> <p>Home Affairs has not been listed as a law enforcement agency under the <i>Surveillance Devices Act 2004</i>. However, the ITTF is able to access surveillance capabilities through its partner agencies, as well as state and federal law enforcement agencies.</p> <p>Home Affairs advised the ANAO in February 2023 that an ‘enforcement blitz’ was not undertaken due to the COVID-19 pandemic. Subsequently it provided information about having undertaken enforcement activities that received media attention. It was unclear if these enforcement activities had been undertaken in the context of implementing this recommendation.</p>		

Note a: The description of ANAO assessment categories is at Appendix 6.

Source: ANAO analysis of Home Affairs’ documentation.

Assessment of the effectiveness of implementation

3.45 The objective of this recommendation was to provide coordinated enforcement to combat illicit tobacco. The ITTF’s mission is to ‘proactively target, disrupt and dismantle serious actors and organised crime syndicates that deal with Tobacco’.⁹²

3.46 The ITTF produces weekly, quarterly and annual performance reports. The annual reports are produced for the head of each member agency of the ITTF. The 2021–22 report includes quantitative and qualitative reporting on the performance of the ITTF. It includes an overview of key operations, as well case studies outlining the work of the ITTF. The report contains statistics on ITTF detection and seizures. The ITTF reported that in 2021–22:

- it seized 462.6 million cigarettes and 33.5 tonnes of loose leaf and molasses tobacco;
- it located and destroyed approximately 77 acres of domestic illicit tobacco crops;
- the amount of revenue protected increased by 49.5 per cent from 2020–21; and
- over 20 per cent of the ABF’s total illicit tobacco border seizures were due to the ITTF.

3.47 The ITTF has not set performance targets for detections, seizures or revenue evaded. However, its 2021–22 report includes time series data from 2018–19 to 2021–22 on the theoretical

92 ABF, *Illicit Tobacco Taskforce* [Internet], available from <https://www.abf.gov.au/about-us/taskforces/illicit-tobacco-taskforce> [accessed 23 February 2023].

value of revenue (excluding GST) evaded associated with the illicit tobacco located as part of its activities. This shows an increase from approximately \$200 million in 2018–19 to \$632.7 million in 2021–22. There were no targets or performance commitments linked with the funding to create the ITTF.⁹³

3.48 Home Affairs’ approach to performance monitoring and reporting provides largely sufficient evidence into the effectiveness of the ITTF and its operations. The objective of creating a more coordinated enforcement to combat illicit tobacco has been pursued through the establishment of the ITTF. While comparing performance over time provides insights, the ITTF’s quarterly and annual reports do not contain targets that specify what it aims to achieve over the period.

Opportunity for improvement

3.49 Home Affairs could set performance targets for the Illicit Tobacco Taskforce.

93 Australian Government, *Budget 2018–19 — Budget Paper No. 2*, p. 12.

4. Recommendations with shared responsibilities for implementation

Areas examined

This chapter examines whether the Department of the Treasury (Treasury), the Australian Taxation Office (ATO) and the Department of Home Affairs (Home Affairs) are effectively implementing the Australian Government (the Government) response to the recommendations from the Black Economy Taskforce (the Taskforce) report that had shared implementation responsibilities.

Conclusion

The ATO and Home Affairs are implementing the recommendations with shared responsibilities in a largely effective manner and Treasury in a partly effective manner. While Treasury, as the coordinating entity, did not establish overarching arrangements to coordinate the implementation of recommendations with shared responsibilities, there were elements of coordination arrangements for some individual recommendations. Arrangements to assess whether recommendations with shared responsibilities have been effectively implemented are not in place. The evaluation arrangements in place focus on entities' individual implementation projects rather than the recommendations.

Area for improvement

The ANAO made one recommendation for Treasury and the ATO to review their existing working arrangements and consider incorporating fit-for-purpose processes for monitoring and evaluation of cross-entity activities.

The ANAO suggested that Home Affairs develop procedures for tracking revenue estimates associated with Budget measures.

4.1 The Taskforce report included recommendations requiring implementation by more than one entity (shared responsibility). Fit-for-purpose governance arrangements and processes support the effective implementation of recommendations.⁹⁴ Clear implementation planning and scheduling across entities assists with: identifying roles and responsibilities; setting objectives against which to measure success; managing interdependencies; and establishing a baseline for monitoring and reporting.

4.2 There were nine recommendations agreed to by the Government with shared responsibilities. Table 4.1 shows the number of these recommendations where Treasury, the ATO and Home Affairs had responsibility for implementation.⁹⁵ Table 4.2 lists all nine recommendations.

94 The ANAO's *Audit Insights — Implementation of Recommendations* (30 June 2021) outlines key messages from the ANAO's series of audits on implementing recommendations, available from <https://www.anao.gov.au/work/audit-insights/implementation-recommendations-0> [accessed March 2023].

95 The Australian Securities and Investments Commission shared responsibilities with Treasury and the ATO for the implementation of recommendation 4.3 — creation of a single business register.

Table 4.1: Responsibilities for agreed recommendations with shared responsibilities

Government response	Treasury	ATO	Home Affairs
Agreed	9	8	2

Source: ANAO analysis of the Government response to the Taskforce report.

Are there fit-for-purpose arrangements supporting the implementation of recommendations with shared responsibilities?

The ATO established largely fit-for-purpose individual processes for implementing the parts of recommendations it is responsible for. Home Affairs had partly fit-for-purpose arrangements in place, as arrangements were not evident for recommendation 13.1. Treasury has not put in place appropriate arrangements to support its implementation of recommendations.

Arrangements to coordinate the implementation of recommendations with shared responsibilities

4.3 There were nine recommendations agreed to by the Government that either Treasury, the ATO or Home Affairs had shared responsibility for implementing. As shown in Table 4.1:

- Treasury had responsibility for the implementation of all nine of these recommendations;
- the ATO had responsibility for the implementation of eight recommendations; and
- Home Affairs had responsibility for two recommendations.

4.4 As outlined in paragraph 2.16, Treasury was funded in the 2018–19 Budget to lead and coordinate the whole-of-government implementation of the Government response to the Taskforce report.⁹⁶

4.5 Treasury did not establish a cross-entity body to coordinate implementation as it had proposed (see paragraph 2.25). In relation to recommendations with shared responsibilities, Treasury proposed establishing a steering group and six working groups between the ATO and Treasury. These were also not established.

4.6 Treasury did not develop a cross-entity implementation plan. There were also no cross-entity implementation plans for any of the nine recommendations with shared responsibilities.

4.7 Although there was a lack of overarching cross-entity arrangements established to support implementation of the recommendations with shared responsibilities, there were cross-entity arrangements established for four recommendations (4.3, 6.1, 9.1 and 13.4). For example, the Modernising Business Registers program established to implement recommendation 4.3 (creation of a single business register) has joint program governance arrangements, with cross-entity representation.

⁹⁶ Australian Government, *Budget 2018–19 — Budget Paper No. 2*, p. 180.

4.8 In addition to these arrangements, Treasury and the ATO have a framework to coordinate working arrangements. The ATO advised the ANAO that it worked with Treasury in accordance with this protocol in implementing its recommendations. The 'ATO — Treasury protocol' signed on 10 September 2012 outlines that:

These working arrangements apply in designing new policies and laws that form part of these systems, and in the administration of that law once enacted. Treasury has accountability for providing advice to government on policy and law design issues. The ATO's administration of enacted laws includes forming views about the interpretation of those laws, recognising that the courts are the final arbiter on matters of statutory interpretation.⁹⁷

4.9 Treasury, the ATO and Home Affairs each provided the ANAO with information on their own individual approaches for implementing the parts of the recommendations they considered themselves responsible for. Arrangements to identify and clearly set out shared roles and responsibilities for the nine recommendations were not established.

Governance and processes supporting the implementation of recommendations with shared responsibilities

Treasury

4.10 Similar to the recommendations where Treasury was the single entity responsible for implementation (see paragraphs 3.3 to 3.11), the ANAO found that Treasury did not have fit-for-purpose governance and processes supporting the implementation of its nine recommendations with shared responsibilities.

- Treasury has not documented clear roles and responsibilities for implementation and oversight for all nine recommendations.
- For four recommendations, Treasury developed project documentation that provides some timeframes for the implementation of recommendations (6.2, 7.5, 7.6 and 13.1). Treasury did not set out implementation timeframes for four recommendations (4.3, 6.1, 9.1 and 13.4). For one recommendation (4.2 — ABN reforms), Treasury developed a clear project timeframe outlining the work required and the stages of implementation.
- Treasury did not establish systems to monitor and track the implementation of recommendations. For all eight recommendations, Treasury did not establish processes to provide assurance that recommendations were implemented. For one recommendation (9.1 — increasing the integrity of government procurement), Treasury developed a lessons-learned document.

ATO

4.11 The ATO implemented six of its eight recommendations with shared responsibilities as part of its Black Economy Program (discussed paragraph 3.14). Two recommendations (4.2 — ABN reforms and 4.3 — creation of a single business register) were the responsibility of the Modernising Business Registers business line.⁹⁸

97 ATO, *ATO — Treasury protocol* [Internet], April 2012, available from <https://www.ato.gov.au/General/New-legislation/In-detail/ATO---Treasury-protocols/ATO---Treasury-protocol/> [accessed 19 February 2023].

98 The ATO's Modernising Business Registers business line is part of the Enterprise Solutions and Technology group and is responsible for the implementation of the Modernising Business Registers program.

4.12 Similar to the recommendations where the ATO was the single entity responsible for implementation (see paragraphs 3.12 to 3.32), the ANAO found that the ATO had largely fit-for-purpose governance and processes supporting its role in the implementation of the recommendations with shared responsibilities.

- The ATO developed project documentation with clear roles and responsibilities for implementation for its eight recommendations. Arrangements were established for monitoring and reporting on implementation progress.
- For six recommendations, the ATO developed schedules and timeframes. As of March 2023, for two recommendations (6.2 — a sharing economy reporting regime and 7.6 — improving record keeping practices), the relevant legislation passed through the Parliament in December 2022 and implementation projects had not commenced.⁹⁹
- For its eight recommendations, there was monitoring and reporting on timeframes and delivery through regular status reporting.
- Four recommendations, managed as part of the Black Economy Program, were finalised as of March 2023. The ATO developed closure reports for these four recommendations. For recommendation 4.2 — ABN reforms, the ATO advised the ANAO that Treasury was the lead for the consultation and that for a consultation project the ATO is not required to conduct activities to provide assurance that the recommendation was implemented.

Home Affairs

4.13 The ANAO found that for recommendation 13.1 (modernising offences that apply to illicit tobacco), Home Affairs did not establish supporting governance and processes for implementation. Home Affairs did not establish a project to implement recommendation 13.1.

4.14 The ANAO found that Home Affairs had fit-for-purpose governance and processes supporting its role in the implementation of recommendation 13.4 — moving the taxing point for tobacco excise.

- Home Affairs established clear roles and responsibilities for implementation and oversight for recommendation 13.4. It conducted monthly or more frequent project monitoring and reporting and established a working group that included members from Home Affairs and the ATO to discuss and contribute to a range of implementation matters including import, refund, duty free operator and transitional arrangements.
- Clear implementation timeframes were established for recommendation 13.4, with monitoring and reporting on timeframes and delivery through regular status reporting. An end of project evaluation was developed in May 2021.

Have the entities completed the recommended actions and do the actions meet the intent and achieve the expected outcomes?

Of the nine recommendations agreed to by the Government with shared responsibilities for implementation, four have been largely implemented and five are in progress. Home Affairs and the ATO have established arrangements to assess the effectiveness of their

⁹⁹ The Treasury Laws Amendment (2022 Measures No. 2) Bill 2022 received Royal Assent on 12 December 2022.

implementation of their implementation projects. Treasury does not have arrangements in place to assess the effectiveness of its implementation of recommendations.

Implementation of recommendations

4.15 Table 4.2 includes the entities' self-assessments of implementation of the nine recommendations agreed to by the Government with shared responsibilities.

- Treasury assessed that of its nine recommendations: three were 'implemented'; two were 'largely implemented'; and four were 'in progress'.¹⁰⁰
- The ATO assessed that of its eight recommendations: four were 'implemented'; one was 'largely implemented'; and three were 'in progress'.
- Home Affairs assessed that its two recommendations were both 'implemented'.

4.16 The ANAO assessed that of the nine agreed recommendations with shared responsibilities, as of March 2023: five were 'in progress'; and four were 'largely implemented'. Table 4.2 sets out the ANAO's assessment against the recommendations. Appendix 5 lists all Budget measures referred to in the table. The description of ANAO assessment categories is at Appendix 6. Appendix 9 lists the recommendations and presents the full Government response for each recommendation.

100 Treasury provided the ANAO with an update of its self-assessments in March 2023.

Table 4.2: Implementation of Taskforce recommendations with shared responsibilities

Entity self-assessments and ANAO assessment, as of March 2023				
Recommendation	Treasury assessment	ATO assessment	Home Affairs assessment	ANAO assessment
4.2 — ABN reforms	In progress	Implemented	Not applicable (N/A)	In progress
<p>Summary of actions to be undertaken (based on the recommendation and Government response)</p> <ul style="list-style-type: none"> • Consult with stakeholders on the Taskforce’s recommendation to inform the scope of reforms to the ABN system. • Strengthen the integrity of the ABN system to provide confidence in the identity and legitimacy of Australian businesses. 				
<p>Reasons for ANAO assessment</p> <p>The 2018–19 Budget introduced a measure to consult on and design a new regulatory framework. Treasury conducted the consultation in July 2018. Following the consultation with stakeholders, the ATO was funded to introduce reforms to the ABN system. Namely, it was to require ABN holders:</p> <ol style="list-style-type: none"> 1. from 1 July 2021, with an income tax return obligation, to lodge their income tax return; and 2. from 1 July 2022, to confirm the accuracy of their details on the Australian Business Register annually. <p>The measure was estimated to increase taxation receipts by \$25 million between 2020–21 and 2022–23. From July 2020 to December 2022, the ATO conducted design work related to reforms of the ABN system.</p> <p>The Government deferred the start date of the 2019–20 Budget measure in the March 2022 Budget by 12 months, with an estimated reduction of \$5 million in taxation receipts in 2022–23 due to the deferral.</p> <p>Treasury conducted further stakeholder consultation in November 2022 on the exposure draft legislation to give effect to the 2019–20 Budget measure. As of May 2023, Treasury advised that it is continuing to work with the ATO to design arrangements to implement the reforms to the ABN system and that the current design work is focussed on a solution that will mitigate the compliance impacts on business.</p>				
Recommendation	Treasury assessment	ATO assessment	Home Affairs assessment	ANAO assessment
4.3 — creation of a single business register	In progress	In progress	N/A	In progress
<p>Summary of actions to be undertaken (based on the recommendation and Government response)</p> <ul style="list-style-type: none"> • Integrate the Companies Register, Australian Business Register and Business Names Register into a single register maintained by a single agency. • Develop a Director Identification Number. 				

Entity self-assessments and ANAO assessment, as of March 2023

Reasons for ANAO assessment

The ATO, the Department of Industry, Innovation and Science and the Australian Securities and Investments Commission were funded in the 2018–19 Budget to develop a business case for modernising the business registers. A first pass submission of the business case had been submitted to the Government in March 2018. The Second Pass Business Case was finalised in December 2018, providing options to Government relating to the ABR and 31 ASIC business registers.

Further funding was provided in the 2019–20 Mid-Year Economic and Fiscal Outlook, the 2020–21 Budget and the October 2022–23 Budget for the implementation of the multi-year Modernising Business Registers (MBR) program and the introduction of the Director Identification Number. The ATO implemented the functionality for the Director Identification Number in 2022.

In April 2022, a mid-stage review of the MBR program by the Department of Finance found that ‘due to the unexpected complexities, not all of which have yet been discovered, the [MBR] Program has experienced very significant cost and time overrun. The delivery and funding of the Program is at this stage at risk.’ In February 2023, the Government announced an independent review of the MBR program, intended to ‘deliver a comprehensive understanding of the current state of the program and provide recommendations for changes, improvements and strategies to best position it to achieve its intended objectives’. The review is expected to be provided to the Government by 30 June 2023.

Recommendation	Treasury assessment	ATO assessment	Home Affairs assessment	ANAO assessment
6.1 — expansion of reporting systems	Implemented	Implemented	N/A	In progress

Summary of actions to be undertaken (based on the recommendation and Government response)

- Expand the taxable payments reporting system (TPRS) to the security providers and investigative services, road freight transport, and computer system design and related services industries from 1 July 2019.
- Consider if the TPRS should be expanded to other industries, on the basis that it would be assured that compliance is likely to be sustained before the removal of reporting requirements.

Reasons for ANAO assessment

The ATO was funded in the 2018–19 Budget to support the expansion of the TRPS to the security providers and investigative services, road freight transport, and computer system design and related services industries and introduce a new online form for reporting. Enabling legislation was developed by Treasury and took effect from 1 July 2019. The ATO introduced a taxable payment annual report non-lodgement advice form in March 2020 to support the change.

The measure was estimated to have a net gain to the budget of \$605.8 million in fiscal balance terms over the forward estimates period. As of March 2023, the ATO has not tracked against this expectation.

The ATO advised the ANAO that work on exploring the expansion of the TRPS to other industries by the ATO and Treasury is currently in progress. As of March 2023, the ATO and Treasury have not taken any actions related to the expansion of the TRPS.

Entity self-assessments and ANAO assessment, as of March 2023				
Recommendation	Treasury assessment	ATO assessment	Home Affairs assessment	ANAO assessment
6.2 — a sharing economy reporting regime	In progress	In progress	N/A	In progress
<p>Summary of actions to be undertaken (based on the recommendation and Government response)</p> <ul style="list-style-type: none"> Require operators of designated sharing ('gig') economy websites to report payments made to their users to the ATO, the Department of Social Services and other government agencies as appropriate. Raise users' awareness about the potential tax obligations from participation in sharing economy activities. Consult with stakeholders on how this recommendation could be implemented. 				
<p>Reasons for ANAO assessment</p> <p>Treasury consulted with stakeholders between 22 January 2019 and 22 February 2019 on the implementation of this recommendation.</p> <p>The ATO was funded in the 2019–20 Mid-Year Economic and Fiscal Outlook to introduce a third-party reporting regime requiring sharing economy online platforms to report identification and income information regarding participating sellers to the ATO for data matching purposes. The reporting regime was expected to apply to:</p> <ul style="list-style-type: none"> ride-sourcing and short-term accommodation platforms from 1 July 2022 (tranche one); and asset sharing, food delivery, tasking-based platforms, and other platforms (except for marketplaces) from 1 July 2023 (tranche two). <p>Between 6 July 2021 and 2 August 2021, Treasury undertook further consultation with stakeholders on the proposed legislation.</p> <p>The Government decided in the October 2022–23 Budget to defer the introduction of the reporting regime by 12 months, with tranche one commencing from 1 July 2023 and tranche two from 1 July 2024. This was to allow time for policies to be legislated and implemented. The legislation is now in force. The ATO has published web guidance and media releases, as well as commenced public consultation, with the aim of raising awareness about the potential tax obligations from participation in sharing economy activities. The ATO advised the ANAO that it will not consider implementation complete until one full year of reporting is submitted for each of the two tranches. With tranche two to commence in July 2024, finalisation would not be expected until July 2025.</p>				
Recommendation	Treasury assessment	ATO assessment	Home Affairs assessment	ANAO assessment
7.5 — removing tax deductibility of non-compliant payments	Largely implemented	Implemented	N/A	Largely implemented
<p>Summary of actions to be undertaken (based on the recommendation and Government response)</p> <ul style="list-style-type: none"> Business should not be able to claim tax deductions for payments made to employees if they did not report and withhold properly. Payments to contractors should not be deductible if the correct ABN was not provided, the payer has not withheld part of the payment under the 'no ABN withholding' requirements, or there is no invoice. 				

Entity self-assessments and ANAO assessment, as of March 2023

Reasons for ANAO assessment

A measure was introduced in the 2018–19 Budget in response to this recommendation. Enabling legislation was developed by Treasury and took effect from 1 July 2019. The ATO updated its communication materials; policies and procedures; and compliance procedures and criteria in response to the change.

As of March 2023, Treasury and the ATO have not established arrangements for assessing the effectiveness of the implementation of this recommendation.

Recommendation	Treasury assessment	ATO assessment	Home Affairs assessment	ANAO assessment
7.6 — improving record keeping practices	In progress	In progress	N/A	In progress

Summary of actions to be undertaken (based on the recommendation and Government response)

- Make the requirements for tax record keeping clear and simple.
- Require businesses to adhere to strong record keeping practices.
- Consider how these factors are best balanced against the need to keep reporting and compliance costs low.

Reasons for ANAO assessment

The 2019–20 Mid-Year Economic and Fiscal Outlook included a measure to provide the Commissioner of Taxation a discretion to direct taxpayers to undertake an approved record keeping course instead of applying financial penalties. Enabling legislation is now in force and the new requirements for businesses commenced in March 2023 (three months after the date of Royal Assent).

The legislation establishes a direction to educate as an alternative to financial penalties where a business has failed to comply with its tax-related recordkeeping obligations. In May 2023, the ATO advised that it was undertaking activities to implement the direction to educate law change including communication and education activities, developing a record keeping online course and developing internal processes, procedures and correspondence.

There are no arrangements in place for assessing the effectiveness of the implementation of this recommendation. It is unclear how Treasury and the ATO will assess whether the changes meet the intent of the recommendation and the Government response about achieving the right balance between requirements and compliance costs.

Entity self-assessments and ANAO assessment, as of March 2023

Recommendation	Treasury assessment	ATO assessment	Home Affairs assessment	ANAO assessment
9.1 — increasing the integrity of government procurement	Largely implemented	Largely implemented	N/A	Largely implemented

Summary of actions to be undertaken (based on the recommendation and Government response)

- Promote good tax behaviour by excluding businesses with a bad tax record (and convictions of bribery and corruption) from procurement processes. This has two components:
 - Commonwealth contracts should include a clause that requires contractors and their suppliers to comply with all tax legislation and regulation for the duration of the contract; and
 - for large contracts, tenderers must also provide evidence of their tax record as part of the procurement process including adopting Tax Transparency Code requirements.
- Develop and consult on a policy that will make it mandatory for businesses involved in government contracts over \$4 million (inclusive of GST) to provide evidence of a satisfactory statement of tax record (STR). This includes consulting with the Department of Finance.

Reasons for ANAO assessment

The ATO was funded in the 2018–19 Budget to develop and consult on a Procurement Connected Policy. Consultation with stakeholders was undertaken by both Treasury and the ATO in early 2018, with consultation on the draft policy conducted between 19 November and 21 December 2018. Treasury and the ATO consulted the Department of Finance on the development and implementation of this recommendation.

On 1 July 2019, the Shadow Economy Procurement Connected Policy came into force and is mandatory for all non-corporate Commonwealth entities. Under the policy tenderers for Government procurement contracts over \$4 million, and their subcontractors, must provide a statement from the ATO showing they have a satisfactory STR. The ATO established the arrangements to implement the policy, including a new system for applying for and issuing the STR from 1 June 2019.

An annual review of the Shadow Economy Procurement Connected Policy is required by Resource Management Guide 415 on Commonwealth Grants and Procurement Connected Policies. The first review should have been conducted in July 2020, however, was postponed due to the COVID-19 pandemic. Between 12 August 2022 and 23 September 2022, Treasury conducted consultation on the policy, seeking views from stakeholders about the policy's effectiveness in achieving its stated purpose and outcome. Treasury planned to brief the Assistant Treasurer in February 2023 on the consultation outcomes, however, this had not occurred as of 9 May 2023. The policy also states that '[I]earnings from the first year of operation will be assessed and updated guidance may be issued'. This could include whether businesses disclose information under the Tax Transparency Code or there have been convictions or bribery or corruption.

Entity self-assessments and ANAO assessment, as of March 2023				
Recommendation	Treasury assessment	ATO assessment	Home Affairs assessment	ANAO assessment
13.1 — modernising offences that apply to illicit tobacco	Implemented	N/A	Implemented	Largely implemented
<p>Summary of actions to be undertaken (based on the recommendation and Government response)</p> <ul style="list-style-type: none"> Enact the tobacco control measures it announced in 2016. 				
<p>Reasons for ANAO assessment</p> <p>In the 2016–17 Budget, the Government announced a measure to improve health outcomes and combat illicit tobacco — the measure increased tobacco excise and excise equivalent customs duties through four annual increases of 12.5 per cent per year from 2017 until 2020. In addition, the Government limited the duty-free tobacco allowance from 1 July 2017. The measure was estimated to have a gain to the Budget of \$4.7 billion over the forward estimates period. There was no evidence that the entities tracked whether this was achieved. At the time of the Taskforce report, legislation had not been introduced to give effect to this measure. Supporting legislation was passed in 2018.</p> <p>Treasury was responsible for progressing the changes to the <i>Taxation Administration Act 1953</i>, the <i>Excise Act 1901</i> and the <i>Income Tax Assessment Act 1997</i>. These changes included: establishing a tobacco offence regime for illicit tobacco that has been domestically manufactured or produced, or for which the origin of production or manufacturing is unknown or uncertain; creating new offences for possession of equipment for producing or manufacturing illicit tobacco; adjusting penalties for existing offences; allowing for a person who possesses illicit tobacco to be issued with an infringement notice instead of being prosecuted for the offence in certain circumstances; clarifying that illicit tobacco for which the origin of production or manufacturing is unknown or uncertain can be seized and forfeited; and defining tobacco to align the meaning for excise and excise-equivalent customs duty purposes.</p> <p>Home Affairs was responsible for bringing forward the changes to the <i>Customs Act 1901</i>. These changes included: inserting new offences for imported tobacco products; extending the powers of arrest related to these offences; and allowing Customs officers to investigate and enforce new illicit tobacco offences set out in the <i>Taxation Administration Act 1953</i> that do not require the origin of the tobacco to be provided.</p> <p>As of March 2023, there are no arrangements in place for assessing the effectiveness of the implementation of the legislative changes.</p>				

Entity self-assessments and ANAO assessment, as of March 2023				
Recommendation	Treasury assessment	ATO assessment	Home Affairs assessment	ANAO assessment
13.4 — moving the taxing point for tobacco excise	Implemented	Implemented	Implemented	Largely implemented
Summary of actions to be undertaken (based on the recommendation and Government response)				
<ul style="list-style-type: none"> Introduce changes to ensure importers pay all duty and tax liabilities for imported tobacco at the border from 1 July 2019. 				
Reasons for ANAO assessment				
<p>The 2018–19 Budget included a measure to give effect to this recommendation. This measure was expected to have a net gain to revenue of \$3.6 billion between 2019–20 and 2021–22. Of this, \$3.34 billion was due to moving the taxing point forward and \$290 million was estimated as additional tax receipts due to the changes in taxation arrangements. There was no evidence that the entities tracked whether this was achieved.</p> <p>Legislation was amended to move the taxing point for tobacco to be at the time that it enters an Australian port. These changes took effect from 1 July 2019.</p> <p>Home Affairs implemented its aspects of this recommendation through the Illicit Tobacco Import Control Project. Home Affairs set out two criteria to measure the Illicit Tobacco Import Control Project's success: establishing a permit system and having an efficient workflow at the border. No evidence of monitoring against the criteria was provided. Home Affairs conducted a Post Implementation Benefits Review. The review assessed that the project did not achieve its full intent, noting that the final phase of the project was not completed, which was related to the capability to complete compliance audits of duty-free stores holdings of tobacco.</p>				

Source: ANAO analysis of Treasury, ATO and Home Affairs documentation.

4.17 Three recommendations (6.1, 13.1 and 13.4) had Budget measures with estimated revenue gains to the Budget. As discussed in relation to the ATO in paragraph 3.32, previous ANAO audits have identified improvement areas relating to how the entities track revenue against Budget measures. After the ATO, Home Affairs is the second largest Commonwealth revenue collector.¹⁰¹

Opportunity for improvement

4.18 Home Affairs could develop procedures for tracking against revenue estimates associated with Budget measures.

Assessment of the effectiveness of implementation

4.19 The Taskforce recommendations include both actions to be undertaken and objectives or intent to be achieved. Effective implementation of recommendations with shared responsibilities includes each entity agreeing on how success will be measured and reported.

4.20 For the nine recommendations with shared responsibilities, Treasury, the ATO and Home Affairs provided the ANAO with actions taken for the parts of each recommendation they had self-assessed responsibilities for.

4.21 Table 4.2 includes discussion around the evaluation arrangements for each of the recommendations with shared responsibilities. The ANAO observed that where evaluation arrangements were established, they were largely focussed on entity-specific individual implementation projects or responsibilities. At the same time, for these recommendations, the ANAO found that implementation activities were interdependent and that more attention could have been given to establishing joint evaluation arrangements. Some examples are as follows.

- Recommendation 6.1 (expansion of reporting systems) — two aspects of this recommendation require ongoing monitoring and reporting. One is about determining whether more industries should be incorporated into the reporting regime and the other is about determining if industries should be removed from the regime as compliance improves. This is likely to require monitoring from the ATO, which holds the relevant data. However, the results should then be fed back to Treasury to inform policy development. Clearly setting out arrangements such as roles and responsibilities, schedules and reporting expectations is likely to increase the effectiveness of these monitoring arrangements.¹⁰²
- Recommendation 6.2 (a sharing economy reporting regime) — as of March 2023, there remains uncertainty around an approach to evaluating the implementation of this measure. While the ATO advised that this will be finalised during implementation, early consideration of monitoring and evaluation (even during policy development) can help with ensuring that governance is in place to support monitoring and evaluation activities.

101 Department of Home Affairs, *2022–23 Corporate Plan*, 2022, p. 52, available from <https://www.homeaffairs.gov.au/commitments/files/corporate-plan-2022-23.pdf> [accessed 18 April 2023].

102 Department of Finance, *Resource Management Guide 130: Evaluation in the Commonwealth*, December 2022, available from <https://www.finance.gov.au/government/managing-commonwealth-resources/planning-and-reporting/commonwealth-performance-framework/evaluation-commonwealth-rmg-130> [accessed 27 February 2023].

Early attention can also help ensure that implementation and evaluation planning properly are addressed as part of Budget and Cabinet processes.¹⁰³

- Recommendation 9.1 (increasing the integrity of government procurement) — as noted above in Table 4.2, as of March 2023, Treasury is conducting a review of the Shadow Economy Procurement Connected Policy. The interdependent nature is evident by the fact that part of the ATO’s reason for closing its project related to implementing this recommendation was the uncertainty due to Treasury’s review being delayed in the context of the COVID-19 pandemic.

4.22 The Commonwealth Evaluation Policy aims to embed a culture of evaluation and learning from experience to underpin evidence-based policy and delivery. The policy is principles based and outlines the need for entities to determine fit-for-purpose arrangements based on the value, impact, strategic importance and risk profile of the program or activity.¹⁰⁴

4.23 As outlined in paragraph 4.8, the ATO and Treasury have a protocol for working together.¹⁰⁵ The protocol is focussed on: the integrated tax design process; quality assurance of new law; revenue costing; and the law and its administration. While the protocol outlines both agencies’ commitment to continuously provide the best possible advice to the Government, it does not address monitoring and evaluation, particularly in the context of when a change to a law has been made.

Recommendation no. 4

4.24 The Department of the Treasury and the Australian Taxation Office review the ‘ATO — Treasury Protocol’ and establish cross-agency monitoring and evaluation arrangements that would further support evidence-based policy and delivery.

Australian Taxation Office response: *Agreed.*

Department of the Treasury response: *Agreed.*



Grant Hehir
Auditor-General

Canberra ACT
19 June 2023

103 Department of Finance, *Commonwealth Evaluation Policy* [Internet], Finance, July 2022, available from <https://www.finance.gov.au/government/managing-commonwealth-resources/planning-and-reporting/commonwealth-performance-framework/commonwealth-evaluation-policy> [accessed 27 February 2023].

104 *ibid.*

105 ATO, *ATO – Treasury Protocol* [Internet], 10 September 2012, available from <https://www.ato.gov.au/general/new-legislation/in-detail/ato---treasury-protocols/ato---treasury-protocol/> [accessed 24 February 2023].

Appendices

Appendix 1 Entity responses

Second Commissioner of Taxation



Australian Government
Australian Taxation Office

Grant Hehir
Auditor-General
Australian National Audit Office
GPO Box 707
CANBERRA ACT 2601

Dear Mr Hehir,

Re: ANAO s19 draft report for the audit into the Implementation of the Government Response to the Black Economy Taskforce Report

Thank you for your letter dated 1 May 2023 and for the opportunity to provide comments on the s19 draft report for the audit into the *Implementation of the Government Response to the Black Economy Taskforce Report*.

The ATO agrees with the one recommendation as presented in the section 19 report and appreciates the ANAO identifying the two opportunities for improvement.

Attached is the ATO response to the recommendation (Annexure 1) and summary of our comments to be included in the report (Annexure 2).

I would like to thank the Australian National Audit Office team for the cooperative and professional manner they have adopted in working with us on this matter. I look forward to continuing the good working relationship developed in this audit.

If you require further information on this matter, please contact Assistant Commissioner Tony Goding.

A handwritten signature in black ink, appearing to read 'Jeremy Hirschhorn'.

Yours sincerely

Jeremy Hirschhorn
Second Commissioner of Taxation

1 June 2023

PO Box 900 Civic Square ACT 2608 Australia ato.gov.au



Australian Government
Department of Home Affairs

Mr Grant Hehir
Auditor-General
Australian National Audit Office
GPO Box 707
Canberra ACT 2601

Dear Mr Hehir

Thank you for the opportunity to provide feedback and comments on the section 19 Report for the *Implementation of the Government Response to the Black Economy Taskforce Report* that was provided to the Department of Home Affairs (the Department) on 1 May 2023.

The Department acknowledges the value of the Australian National Audit Office (ANAO) providing independent analysis of, and insights into, the Department's implementation of the government response to the Black Economy Taskforce report.

The Department welcomes the assessment that Home Affairs has largely implemented the recommendation, for which it has responsibility.

The Department notes the opportunity for improvement in relation to performance targets for the Illicit Tobacco Taskforce and will work to develop specific measurable goals to be reflected in future reporting periods as part of the business planning process.

The Department also notes the opportunity for improvement of procedures for tracking against revenue estimates associated with Budget measures. The Department's Revenue Management Section undertakes regular revenue analysis for a variety of purposes including internal management reporting, monthly reporting to the Departments of Finance and Treasury, and the annual financial statements. As directed by the Estimates Memorandums issued by the Department of Finance, the revenue estimates are reviewed and updated at the Budget, Mid-Year Economic and Fiscal Outlook, and Additional Estimates Statements processes.

The Department has continued to actively engage with the Australian Taxation Office (ATO) and Treasury on shared Black Economy responsibilities and issues. This is represented by our sustained participation in the Black Economy Standing Taskforce (BEST), Shadow Economy Advisory Forum (SEAF) (formally the Black Economy Advisory Board), and their various subcommittees. These fora, with their information sharing arrangements, demonstrate the ongoing commitment to meet the intent of the Government and the Black Economy Taskforce for a holistic whole-of-government/whole-of-economy approach to the shadow economy.

Please find attached the summary response to the report for inclusion in the formal report **Attachment A**. Editorial comments are also provided at **Attachment B**.

We would like to thank the ANAO audit team for their professionalism throughout the audit process.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M. Graham'.

Dr Michelle Graham
Acting Chief Audit Executive

23 May 2023

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Australian Government
The Treasury



Acting Secretary
Luke Yeaman

Mr Grant Hehir
Auditor-General for Australia
Australian National Audit Office
38 Sydney Avenue
FORREST ACT 2603

Dear Mr Hehir

**Response to the Australian National Audit Office (ANAO) proposed report on the
*Implementation of the Government Response to the Black Economy Taskforce Report***

Thank you for providing the Department of the Treasury (Treasury) with the opportunity to comment on the ANAO's proposed report on the *Implementation of the Government Response to the Black Economy Taskforce Report*. Please find enclosed with this letter Treasury's summarised response to the report and response to the recommendations.

I would like to acknowledge and thank the ANAO for their efforts over the past 9 months to conduct this performance audit.

I accept that there were gaps in the use of information management systems by the Black Economy Division and in the proper recording of final decisions regarding governance structures and choices to progress a number of recommendations through business-as-usual processes.

The issues highlighted by the report around information management and appropriate record-keeping practices reinforce the importance of the significant work Treasury has undertaken over the past few years to improve governance and information management practices and processes. The ANAO report reinforces the need to continue embedding the changes we have made to ensure that record-keeping practices continue to improve across the department.

Treasury has significantly matured its governance and information management systems and culture since the shadow economy work program commenced. Since December 2020, the department has implemented an enterprise information strategy, improved the policies for appropriate information storage systems, transitioned to SharePoint Online and introduced mandatory information management awareness training for all staff. A secretariat has also been established which ensures record keeping related to governance committees is managed appropriately and a non-mandatory program management framework developed. Treasury's Information Strategy Committee has an ongoing focus on actions that change the culture around information management practices.

Unfortunately, the shadow economy work program was not able to benefit from these changes, as they were introduced after that work was deprioritised. However, I am confident that the changes, and the continuous improvement in practices they have begun, will ensure

| 1

that Treasury is well placed to improve its management of risks around coordination tasks in the future.

While accepting the findings in the report, I am concerned that the report has the potential to understate the implementation of the Government's response to the Black Economy Taskforce Report.⁶ Some of the most important recommendations were implemented, including a number of reforms aimed at reducing illicit tobacco activities, an expansion of single-touch payroll, recommendations to strengthen enforcement and prosecution for shadow economy activities and reforms to government procurement. Some of the items recorded as not implemented or largely implemented in the report reflect decisions of Government for no further work or to not allocate funding for those activities to occur.⁷

As noted in the report, Treasury engaged constructively in a number of whole-of-Government advisory and coordination bodies, including the Black Economy Advisory Board and the Black Economy Standing Taskforce. In addition, Treasury had regular engagement with implementation agencies. While not part of a formal inter-departmental process – which would have better managed implementation risks – these interactions informed periodic tracking of progress and reporting to Government. I acknowledge that better documentation of arrangements and decisions should have occurred.

The shadow economy work program was impacted by the need to reprioritise departmental resources to support the Government's management of the COVID-19 pandemic. Nonetheless, Treasury has continued to progress agreed recommendations and engage with relevant stakeholders. Treasury still intends to undertake evaluation activities through the 5-year review, though preparations for and the delivery of that review have been delayed by the pandemic. I acknowledge there is a need to provide further updates to the Government on the progress of the shadow economy work program, and to seek decisions where appropriate. Treasury has already started to implement the recommendations arising from the ANAO audit, with the website content updated on 24 May 2023.

I understand that it is not for the ANAO to provide justification for why programs of work were not completed to schedule. However, the decision to reprioritise functions during the COVID-19 pandemic was entirely appropriate given the circumstances. The fact that the shadow economy work program is not yet finalised, as highlighted in this report, should be balanced against other assessments of Treasury's performance in the COVID-19 pandemic.

I would like to again thank the ANAO for the conduct of this performance audit and the lessons it provides.

Yours sincerely



Luke Yeaman

26 May 2023

ANAO comment on the Department of the Treasury response

- (a) Overall, the ANAO found that 44 per cent of the recommendations agreed to by the Government had been implemented or largely implemented, as of March 2023. See paragraphs 2.79 to 2.82, Table 2.1, Table 3.2, Table 3.3, Table 3.4 and Table 4.2.
- (b) Where the Government decided that no further action was necessary, this has been noted in the ANAO assessment. This includes recommendation 3.1 (Table 3.2) and recommendation 12.2 (Table 2.1). Where Treasury sought funding and this was not approved by the Government, this has been noted in the ANAO assessment. This includes recommendation 2.1 (Table 3.2) and recommendation 11.2 (Table 2.1).



29 May 2023

Implementation of the Government Response to the Black Economy Taskforce Report
Australian National Audit Office

By email: OfficeoftheAuditorGeneralPerformanceAudit@anao.gov.au

TPB RESPONSE: Implementation of the Government Response to the Black Economy Taskforce Report

The Tax Practitioners Board (TPB) welcomes the opportunity to respond to the audit report on *Implementation of the Government Response to the Black Economy Taskforce Report*. We note the TPB has only been provided with an extract of the proposed report, specifically Recommendation 7.4. Consequently, our response is limited to issues which are directly related to the TPB.

The TPB received funding of \$5.52 million over the 4 years and applied this funding to address compliance cases (both ATO referred and self-generated) which involved the following shadow economy attributes: reckless reporting, tax avoidance, identity fraud, indirect tax avoidance and criminal activities.

The TPB deployed those funds within its compliance program, undertaking the following activities:

- identifying relevant Black Economy (BE) cases through its own intelligence,
- receiving BE referrals and complaints, including from the ATO,
- risk assessing and applying treatment plans on these cases, and
- managing subsequent litigation relating to BE cases

The TPB resolved over 600 cases, which resulted in 84 sanctions, including 63 terminations of tax practitioners, and 26 litigation matters. Lower risk matters were resolved via direct engagement with tax practitioners resulting in voluntary remediation of black economy risk.

In relation to the specific issue of how the ATO or TPB has made it clearer to tax practitioners their ethical responsibility to report suspected illegal activity on tax evasion, the TPB notes that through our guidance and educative programs, tax practitioners are encouraged to report any egregious behaviour within the tax profession, which may include suspected illegal activities.

Additionally, it recognises a range of reform opportunities that might strengthen the current legal framework for tax practitioners which would support the voluntary reporting of illegal activities, such as Tranche II of the Anti-money Laundering and Counter-Terrorism Financing rules, and extending the Whistleblower laws to allow the TPB to become an “eligible recipient” of relevant information.

1

If you have any questions regarding the TPB's response, please contact Tham Dao on (07) 3213 6965 or by email at tham.dao@tpb.gov.au.

Yours sincerely



Peter de Cure
Chair
Tax Practitioners Board

Appendix 2 Improvements observed by the ANAO

1. The existence of independent external audit, and the accompanying potential for scrutiny improves performance. Improvements in administrative and management practices usually occur: in anticipation of ANAO audit activity; during an audit engagement; as interim findings are made; and/or after the audit has been completed and formal findings are communicated.
2. The Joint Committee of Public Accounts and Audit (JCPAA) has encouraged the ANAO to consider ways in which the ANAO could capture and describe some of these impacts. The ANAO's 2022–23 Corporate Plan states that the ANAO's annual performance statements will provide a narrative that will consider, amongst other matters, analysis of key improvements made by entities during a performance audit process based on information included in tabled performance audit reports.
3. Performance audits involve close engagement between the ANAO and the audited entity as well as other stakeholders involved in the program or activity being audited. Throughout the audit engagement, the ANAO outlines to the entity the preliminary audit findings, conclusions and potential audit recommendations. This ensures that final recommendations are appropriately targeted and encourages entities to take early remedial action on any identified matters during the course of an audit. Remedial actions entities may take during the audit include:
 - strengthening governance arrangements;
 - introducing or revising policies, strategies, guidelines or administrative processes; and
 - initiating reviews or investigations.
4. Within this context, during the course of the audit, the ANAO did not observe changes in the Australian Taxation Office's and the Department of Home Affairs' approach to the implementation of the Government response to the Black Economy Taskforce report.
5. The Department of the Treasury updated its website on 24 May 2023 in response to Recommendation 2 (see paragraphs 2.33 to 2.35).

Appendix 3 List of Commonwealth entities — Black Economy Taskforce

1. The Black Economy Taskforce included the following Commonwealth entities:
 - the Department of the Treasury;
 - the Attorney-General’s Department;
 - the Australian Competition and Consumer Commission;
 - the Australian Federal Police;
 - the Australian Prudential Regulation Authority;
 - the Australian Securities and Investments Commission;
 - the Australian Taxation Office;
 - the Australian Transaction Reports and Analysis Centre (AUSTRAC);
 - the Board of Taxation;
 - the (then) Department of Education and Training;
 - the (then) Department of Employment;
 - the (then) Department of Human Services;
 - the (then) Department of Immigration and Border Protection;
 - the (then) Department of Industry, Innovation and Science;
 - the Department of the Prime Minister and Cabinet;
 - the Department of Social Services;
 - the Digital Transformation Agency;
 - the Fair Work Ombudsman; and
 - the Reserve Bank of Australia.

Appendix 4 Black Economy Taskforce high-level strategy

1. **Move people and businesses out of cash and into the banking system**, which makes economic activity more visible, auditable and efficient (Chapter 3 in the Black Economy Taskforce (the Taskforce) report).
2. **Strengthen the identity underpinnings** of the banking system by introducing a more reliable, safe and modern individual identity credential (initially for interactions with the Commonwealth Government) and reforming the Australian Business Number system (Chapter 4).
3. **Improve agencies' ability to enforce existing laws** by promoting **better sharing of data and more modern data analytics** (Chapter 5). At the same time, closing data gaps by **extending our tax reporting systems** and promoting more data sharing with state governments (Chapters 6 and 15).
4. Improving Commonwealth agencies' effectiveness by **working more closely with other governments** (state, local and international) and **business organisations, community groups and unions** (Chapters 11 and 15).
5. **Tackling behaviours directly by strengthening incentives for consumers and small businesses** including an amnesty and benefits for small businesses which adopt non-cash business models (Chapters 3 and 7).
6. Supporting this with a **dedicated social norms agenda**, including education, public awareness and new-business strategies (Chapter 11).
7. **Making enforcement more visible, better tailored to the offence and more effective** (graduated penalties, greater use of civil law and multi-agency action). Targeting particular problem areas, including phoenixing, sham contracting, visa abuses and vulnerable workers. In the criminal area, **adopting a more strategic approach on illegal tobacco and gambling** (Chapters 8, 10, 12, 13 and 14) and disrupting the proceeds of crime.
8. **Pursuing a new responsible supply chain agenda**, which is an emerging integrity issue, in both the public and private sectors (Chapter 9).
9. **Disrupt crime and illegality**, the sharp end of the black economy, including illegal tobacco and unregulated gambling (Chapters 12, 13 and 14).
10. **Institutional changes** to strengthen, modernise and better marshal our future efforts on the black economy (Chapter 16).

Appendix 5 Budget measures introduced by the Government to implement the Black Economy Taskforce interim and final reports

1. The following table lists the Budget measures that have been introduced in the context of implementing the Government response to the Black Economy Taskforce reports.

Table A.1: Budget measures to implement the Black Economy Taskforce interim and final reports

Budget	Budget measure	Entities	Start date	Total funding (\$m)	Year 1 (\$m)	Year 2 (\$m)	Year 3 (\$m)	Year 4 (\$m)
<i>Budget measures resulting from the Black Economy Taskforce Interim Report</i>								
2017–18	Tax Integrity Package — Black Economy Taskforce: one year extension of funding for ATO audit and compliance activities	ATO	1 July 2017	32	32	–	–	–
2017–18	Tax Integrity Package — Black Economy Taskforce: extension of the taxable payments reporting system to contractors in the courier and cleaning industries	Treasury and the ATO	1 July 2018	3.3	ATO: 0.7	ATO: 1	ATO: 1	ATO: 0.6
2017–18	Tax Integrity Package — Black Economy Taskforce: prohibition on sales suppression technology and software	Treasury and the ATO	3 October 2018	–	–	–	–	–
<i>Budget measures resulting from the Black Economy Taskforce Final Report</i>								
2018–19	Black Economy Package — new and enhanced ATO enforcement against the Black Economy	ATO and CDPP ^a	1 July 2018	318.5	ATO: 78.5	ATO: 78.2	ATO: 79.7 CDPP: 1.7	ATO: 76.9 CDPP: 3.6
2018–19	Black Economy Package — combatting illicit tobacco	Home Affairs; the ATO; Treasury; and CDPP ^a	1 July 2018	117.7	Home Affairs: 23.3 ATO: 1.7	Home Affairs: 21.9 ATO: 2.1 CDPP: 0.2	Home Affairs: 22.1 ATO: 9.5 CDPP: 0.3	Home Affairs: 24.1 ATO: 12.2 CDPP: 0.3

Budget	Budget measure	Entities	Start date	Total funding (\$m)	Year 1 (\$m)	Year 2 (\$m)	Year 3 (\$m)	Year 4 (\$m)
2018–19	Black Economy Package — further expansion of taxable payments reporting	Treasury and the ATO	1 July 2019	34.2	ATO: 3.8	ATO: 7.6	ATO: 11.4	ATO: 11.4
2018–19	Delivering Australia's Digital Future — modernising business registers	ATO, ASIC and DIIS ^b	1 July 2018	19.3	ATO: 16.6 ASIC: 1.6 DIIS: 1.1	–	–	–
2018–19	Black Economy Taskforce — Implementation Team	Treasury	1 July 2018	12.3 ^c	3.2	3.0	2.2	2.2
2018–19	Black Economy Taskforce — increasing the integrity of the Commonwealth procurement process	ATO	1 July 2018	9.2	1.6	3.8	2.2	1.6
2018–19	Black Economy Taskforce — Standing Taskforce	ATO	1 July 2018	3.4	0.8	0.8	0.8	0.9
2018–19	Black Economy Package — introduction of an economy-wide cash payment limit	Treasury	1 July 2019	–	–	–	–	–
2018–19	Black Economy Package — removing tax deductibility of non-compliant payments	ATO	1 July 2019	–	–	–	–	–
2018–19	Black Economy Taskforce — consulting on a new regulatory framework for Australian Business Numbers	ATO	1 July 2018	–	–	–	–	–
2018–19 MYEFO ^d	Revised start date for tax measure — introduction of an economy-wide cash payment limit (2018–19 Budget)	Treasury	1 January 2020	–	–	–	–	–
2019–20	Black Economy — strengthening the Australian Business Number system	ATO	1 July 2021	2.8	–	0.2	2.4	0.2

Budget	Budget measure	Entities	Start date	Total funding (\$m)	Year 1 (\$m)	Year 2 (\$m)	Year 3 (\$m)	Year 4 (\$m)
2019–20 MYEFO	Black Economy — introducing a sharing economy reporting regime	ATO and Treasury	1 July 2022	14.6	–	–	ATO: 7.2	ATO: 7.3
2019–20 MYEFO	Black Economy — assisting businesses to meet their reporting obligations	ATO	12 March 2023	–	–	–	–	–
2021–22 MYEFO	Australian Taxation Office – continuation of compliance programs and independent resourcing review	ATO	1 July 2021	111	111	–	–	–
2022–23 (March 2022)	Deferral of Shadow Economy — strengthening the Australian Business Number system measure	ATO	1 July 2022	–	–	–	–	–
2022–23 (Oct 2022)	Extend ATO Compliance Programs — Shadow Economy Program	ATO	1 July 2023	242.9	79.6	81	82.3	
2022–23 (Oct 2022)	Government decision to not proceed with the 2018–19 Budget measure: Black Economy Package — introduction of an economy-wide cash payment limit	Treasury	1 July 2022	–	–	–	–	–

Note a: Office of the Commonwealth Director of Public Prosecutions.

Note b: The Department of Industry, Innovation and Science.

Note c: Five years of funding were provided for this measure. The fifth year of funding was \$1.7 million.

Note d: Mid-Year Economic and Fiscal Outlook.

Source: Australian Government Budget documentation.

Appendix 6 ANAO categories for assessing the effectiveness of the implementation of recommendations

Table A.2: ANAO categories for assessing the implementation of recommendations

Assessment	Explanation
Implemented	There is supporting evidence that the agreed action has been undertaken, and the action met the intent of the recommendation as agreed.
Largely implemented	The action taken was less extensive than the recommendation as agreed as: <ul style="list-style-type: none"> • it fell short of the intent of the recommendation as agreed; and/or • processes were initiated or implemented and there is evidence there was also action taken to achieve the outcome.
Partly implemented	The action taken was less extensive than the recommendation agreed as: <ul style="list-style-type: none"> • it fell well short of the intent of the recommendation as agreed; and/or • processes were initiated or implemented but outcomes not achieved.
Not implemented	There is no supporting evidence that the agreed action has been undertaken, or the action taken does not address the intent of the recommendation as agreed.
In progress	Implementation is underway.

Appendix 7 ANAO assessment of the implementation of the 27 recommendations agreed to by the Government

Table A.3: ANAO assessment of the implementation of agreed recommendations

Recommendation	Lead entity/entities	ANAO implementation assessment	
2.1	A project to measure and track the black economy	Treasury	Not implemented
3.1	An economy-wide cash payment limit	Treasury	Not implemented (<i>the Government reversed this measure in October 2022</i>)
4.2	ABN reforms	Treasury and the ATO	In progress
4.3	Creation of a single business register	Treasury and the ATO	In progress
5.1	Development of a black economy data strategy	Unclear	Not implemented
6.1	Expansion of reporting systems	Treasury and the ATO	In progress
6.2	A sharing economy reporting regime	Treasury and the ATO	In progress
7.1	A strategy for consumers	Treasury	Not implemented
7.4	A strategy for tax practitioners	ATO	Largely implemented
7.5	Removing tax deductibility of non-compliant payments	Treasury and the ATO	Largely implemented
7.6	Improving record keeping practices	Treasury and the ATO	In progress
8.1	Targeted, stronger and more visible enforcement strategy	ATO	Largely implemented
8.2	More effective prosecution processes	Treasury	Largely implemented
9.1	Increasing the integrity of Government procurement	Treasury and the ATO	Largely implemented
9.2	Supply chain integrity	Treasury	Not implemented
11.1	Behavioural economics framework	Unclear	Not implemented
11.2	Campaign to address cultural normal	Unclear	Not implemented
11.5	Vocational training tax literacy pilot	ATO	Partly implemented
12.2	Greater international cooperation between law enforcement agencies	Unclear	Partly implemented
12.8	Deem criminal earnings to be offshore profits	Treasury	Largely implemented
13.1	Modernising offences that apply to illicit tobacco	Treasury and Home Affairs	Largely implemented
13.2	Coordinated enforcement to combat illicit tobacco	Home Affairs	Largely implemented
13.4	Moving the taxing point for tobacco excise	Treasury, the ATO and Home Affairs	Largely implemented

Recommendation		Lead entity/entities	ANAO implementation assessment
16.1	Advisory board	Treasury	Partly implemented
16.2	Standing Taskforce	ATO	Largely implemented
16.3	Ombudsman's office and hotline	ATO	Implemented
Supp	Single touch payroll	ATO	Implemented

Source: Department of the Treasury, *Black Economy Taskforce Final Report*, October 2017, available from <https://treasury.gov.au/review/black-economy-taskforce/final-report> [accessed 27 September 2022] and ANAO analysis.

Appendix 8 Recommendations that were agreed in principle, supported, noted, not supported or not included in the Government response

1. The following table provides a list of the 53 recommendations that were not fully agreed to by the Government. The Government response, linked at the footnote, includes the full list of recommendations and the Government’s response to each recommendation.¹⁰⁶

Table A.4: Recommendations that were not fully agreed to by the Government

Recommendation		Government response
3.2	Mandating the payment of salary and wages into bank accounts	Agree in principle
3.3	The future direction of interchange fees	Supports
3.4	Bringing down the costs of debit card transactions for businesses	Supports
3.5	Incentives to move to a non-cash business model	Agree in principle
3.6	Gaining a better understanding of the use and role of high-value banknotes	Supports
3.7	ABN verification in electronic payments	Agree in principle
4.1	An identity solution for the modern economy	Agree in principle
5.2	Improving government data analytics	Agree in principle
7.2	A strategy for small business	Agree in principle
7.3	Amnesty for businesses	Does not support
8.3	Reverse onus of proof	Notes
8.4	The introduction of new black economy offences	Agree in principle
8.5	Transparency of beneficial ownership	Agree in principle
10.1	Tackle phoenix behaviour	Agree in principle
10.2	Change the Alienation of Personal Services Income (APSI) rules and strengthen enforcement	Does not support
10.3	Bolster the sham contracting penalty provisions	Agree in principle
10.4	Black economy activities by visa holders	Notes
10.5	Labour hire	Notes
10.6	Strategy to counter the exploitation of vulnerable workers	Notes
10.7	Markets and food trucks	Notes
10.8	Strengthen charities oversight	Agree in principle
11.3	New-to-business program	Agree in principle
11.4	Industry, community group, advocacy and union partnerships	Supports

¹⁰⁶ Australian Government, *Tackling the Black Economy: Government Response to the Black Economy Taskforce Final Report*, May 2018, available from <https://treasury.gov.au/sites/default/files/2019-03/Government-response-final.pdf> [accessed 30 January 2023].

Recommendation		Government response
12.1	National Criminal Database	Agree in principle
12.3	Strengthen anti-money laundering laws	Agree in principle
12.4	Boosting the ATO's powers	Agree in principle
12.5	Harmonisation of anti-bikie gang laws	Notes
12.6	Sanctions for serious tax evasion by non-citizens	Notes
12.7	Reform proceeds of crime laws	Notes
13.3	Tracing cigarettes	Does not support
13.5	Shisha tobacco	Notes
14.1	Enforcing existing laws	Agree in principle
14.2	Implement recommendations set out in the Review of Offshore Gambling	Agree in principle
14.3	Separating unregulated gambling from legitimate activity	Agree in principle
14.4	Better use of gambling data	Agree in principle
14.5	Prevent gambling being used to shelter tax evasion	Agree in principle
Supp	Non-cash wagering reform	Notes
Supp	Internet scraping	Supports
Supp	Further opportunities for third-party data such as escrow	Supports
Supp	Airbnb and GST	Notes
Supp	Trade discount	Notes
Supp	Enforcement — Check-ins, bonds and suspended penalties	Notes
Supp	Resourcing for the ATO and Fair Work Ombudsman	Agree in principle
Supp	Use of estimates to value business transactions	Notes
Supp	Correct deficiencies in the prosecution process	Notes
Supp	Blockchain / distributed ledger pilot	Notes
Supp	Accountability of procurement officers	Notes
Supp	Supply chain reporting obligations	Notes
Supp	Supporting payment term reforms	Notes ^a
Supp	Other supply chain initiatives	Notes ^a
Supp	Withholding arrangements for visa holders	Notes ^a
Supp	More awards should be available in app form	Notes ^a
Supp	Review tax literacy education	Notes ^a

Note a: These recommendations were not included in the May 2018 Government response, however, were subsequently categorised as being noted.

Source: Australian Government, *Tackling the Black Economy: Government Response to the Black Economy Taskforce Final Report*, May 2018.

Appendix 9 Recommendations agreed to by the Government

Table A.5: Recommendations agreed to and the Government response for each

Recommendation	Government response
<p>2.1 — A project to measure and track the black economy</p> <p>The ABS should lead a black economy data project to update the most recent estimates, develop measurement techniques and establish arrangements for ongoing monitoring of the black economy.</p>	<p>The Government agrees that improved information about the size and scope of the black economy will assist in understanding its impacts on the economy and in developing further measures to effectively combat black economy activity. The establishment of a Black Economy Standing Taskforce and a hotline (refer to the Government’s response to recommendations 16.2 and 16.3) will provide additional information on the potential size of the black economy.</p>
<p>3.1 — An economy-wide cash payment limit</p> <p>The Government should introduce a cash payment limit that removes the ability of any individual or business to make a single transaction in cash in excess of \$10,000. The limit should apply to all payments made to businesses for goods and services. Transactions in excess of this amount would need to be made through the banking system.</p>	<p>The Government agrees to introduce a cash payment limit of A\$10,000 on payments made to businesses. Consultation will be held with the community and industry on the most effective way to implement this limit. Consultation will also consider whether exemptions are warranted.</p>
<p>4.2 — ABN reforms</p> <p>The Government should strengthen the integrity of the ABN system to provide confidence in the identity and legitimacy of Australian businesses. Action should be through a number of immediate measures to improve the integrity of the current ABN system, including provision of TFN on application; removing entitlement from specific groups since they are not entitled to carry on an enterprise (as required for eligibility); periodic renewal; more timely cancellations; and better data matching. A number of medium term reforms should then be progressed, such as introducing an ABN renewal fee and ensuring that there is a single issuer of ABNs and one consolidated business registry.</p>	<p>The Government agrees that the ABN system needs to be as robust as possible in order to ensure the integrity of the tax system. The Government will consult with stakeholders on the Taskforce’s recommendation to inform the scope of reforms to the ABN system. This will include issues such as regular renewals of an ABN, when an ABN should be revoked and the potential for a registration and renewal fee.</p>

Recommendation	Government response
<p>4.3 — Creation of a single business register</p> <p>The Government should integrate the Companies Register, Australian Business Register (ABR) and Business Names Register into a single register maintained by a single agency. In the interim, agencies must continue their efforts to improve the integrity of the separate registers. Other business registers should be progressively integrated over time.</p>	<p>The Government agrees and is currently exploring delivery approaches to modernise business registers, including establishing a whole-of-government registry platform that will deliver modernised business registration and licensing services for the Australian community. A detailed business case to modernise and combine the business registers administered by the Australian Securities and Investments Commission and the Australian Business Registrar will be developed in 2018–19. Modernising the business registers will make it easier for businesses to interact with government, and forms part of the National Business Simplification Initiative. The Government is also developing a Director Identification Number (DIN) as part of the Modernising Business Registers program.</p>
<p>5.1 — Development of a black economy data strategy</p> <p>The Government should implement a black economy data strategy which includes:</p> <ul style="list-style-type: none"> • In the short term: Modernising the secrecy provisions of relevant agencies; developing a central list of which agency collects which data; and Commonwealth and State and Territory Governments working together to identify specific areas where policy harmonisation or simplification would lead to an alignment of data definitions. • In the medium term: Improving data and information sharing between States and Territories and the Commonwealth. • In the long term: Introducing a whole-of-government Data Sharing Act; and considering migrating government records onto block chain technology as the technology matures 	<p>The Government agrees that improved data sharing across key agencies, including with State and Territory Governments is an important mechanism for combatting the black economy. As part of the response to the Productivity Commission’s Inquiry on Data Availability and use, the Government has announced it will:</p> <ul style="list-style-type: none"> • Establish a National Data Commissioner to implement and oversee a simpler, more efficient data sharing and release framework. • Introduce legislation to improve the sharing, use and reuse of public sector data while maintaining the strong security and privacy protections the community expects. • Establish a new National Data Advisory Council to advise the National Data Commissioner on ethical data use, technical best practice, and industry and international developments.

Recommendation	Government response
<p>6.1 — Expansion of reporting systems</p> <p>To reduce the transparency gap in our reporting arrangements, the Government should:</p> <ul style="list-style-type: none"> progressively expand the TPRS to further high risk industries and sectors; extend the third party reporting regime applying to some government entities to all government entities; and allow for the removal of TPRS reporting obligations from industries which have increased their reporting compliance and are meeting benchmarks. 	<p>The Government agrees and will expand the taxable payments reporting system (TPRS) as well as allowing for fillable online forms. The TPRS will be expanded to the following industries which have been identified as being at higher risk of not declaring their income: security providers and investigative services, road freight transport, and computer system design and related services. This will apply from 1 July 2019. The Government will further consider if TPRS should be expanded to other industries. The Government would need to be assured that compliance is likely to be sustained before considering removing the reporting requirements. The Government considers that the current third-party reporting regime strikes the right balance between increasing transparency and compliance risks while maintaining consistency of reporting obligations across the private and public sector.</p>
<p>6.2 — A sharing economy reporting regime</p> <p>Operators of designated sharing ('gig') economy websites should be required to report payments made to their users to the ATO, DSS and other government agencies as appropriate. The Government should also continue to raise users' awareness about the potential tax obligations from participation in sharing economy activities.</p>	<p>The Government agrees that there needs to be greater transparency of payments made through sharing economy websites and will consult with stakeholders on how this recommendation could be implemented. Given the potential for growth in this area of the economy, it is important that participants in the sharing economy and the gig economy are complying with their obligations at this early stage of a growing industry.</p>
<p>7.1 — A strategy for consumers</p> <p>Consumers should be encouraged, through an educational campaign as well as specific incentives and deterrents, to become drivers of compliance and not be complicit in black economy activities. They need to recognise the risks of participating in the black economy</p>	<p>The Government agrees that consumers need to understand the risks associated with participating in the black economy as well as the loss of revenue which could otherwise be spent on essential government services. Actions such as the cash payment limit will highlight to consumers that there are costs to the community of participating in the black economy</p>
<p>7.4 — A strategy for tax practitioners</p> <p>The Government should:</p> <ul style="list-style-type: none"> take action against implicated advisers and promoters; take more visible action against egregious tax practitioners and make clearer their ethical responsibility to report suspected illegal activities and tax evasion; and increase the capacity of the Tax Practitioners Board (TPB) to take sufficient effective action against egregious tax practitioners by increasing its resources and interactions with the ATO. 	<p>The Government agrees that the Tax Practitioners Board (TPB) plays an important role in combatting the black economy. The TPB will receive additional funding to allow it to receive a greater number of black economy referrals arising from increased compliance on black economy activity</p>

Recommendation	Government response
<p>7.5 — Removing tax deductibility of non-compliant payments</p> <p>Businesses should not be able to claim tax deductions for payments made to employees if they did not report and withhold properly. Similarly, payments to contractors should not be deductible if the correct ABN was not provided, the payer has not withheld part of the payment under the 'no ABN withholding' requirements, or there is no invoice.</p>	<p>The Government agrees and will remove the ability to claim a tax deduction where businesses disregard their withholding requirements. This will ensure that businesses not doing the right thing are not given the same benefits as those that do.</p>
<p>7.6 — Improving record keeping practices</p> <p>The requirements for tax record keeping practices should be clear and simple. The Government should require businesses to maintain records that include key features of all transactions. This could include the item sold, what was paid for it, underlying GST, the amount, date, ABN, and preferably time. Penalties for breaches of these rules should be designed so that the ATO has a range of administrative sanctions available at its discretion.</p>	<p>The Government agrees that the requirements for tax record keeping should be clear and simple and that businesses should adhere to strong record keeping practices. The Government will consider how these factors are best balanced against the need to keep reporting and compliance costs low.</p>
<p>8.1 — Targeted, stronger and more visible enforcement strategy</p> <p>The Government should implement a multi-pronged strategy to increase the level and visibility of enforcement and prosecutions, covering tax, industrial relations, welfare and immigration and financial regulatory compliance. The strategy needs to make better use of intelligence and be focused on problem areas.</p>	<p>The Government agrees that targeted, stronger and more visible enforcement and prosecutions are important in highlighting that participation in the black economy is against the law and has detrimental effects across the community. The Australian Taxation Office will be funded to deliver a new approach to enforcement. This will include new mobile strike teams targeting black economy behaviours supported by an audit force with broader coverage and reach into all areas of Australia. This will be complemented by contemporary tax and business education programs. The existing high levels of cooperation between agencies will be further supported by the Government's new multi-agency Black Economy Standing Taskforce (refer to the Government's response to recommendation 16.2) and the Illicit Tobacco Taskforce (refer to the Government's response to recommendation 13.2).</p>
<p>8.2 — More effective prosecution processes</p> <p>Prosecution processes should be made more effective by designating the ATO as a criminal law enforcement agency; giving the ATO powers to obtain bank information; and reviewing the evidence gathering powers of other regulators. A specialist tax tribunal should be created as part of the Federal Court</p>	<p>The Government agrees to conduct a review of the current provisions that provide civil, criminal and administrative penalties for black economy activity. As part of this process, consideration will be given to developing more effective prosecution processes and introducing new criminal offences, civil penalties or administrative penalties. The Government will consider the expansion of the jurisdiction of the federal courts to deal with black economy matters as part of this review.</p>

Recommendation	Government response
<p>9.1 — Increasing the integrity of Government procurement</p> <p>The Government should promote good tax behaviour by excluding businesses with a bad tax record (and convictions of bribery and corruption) from its procurement processes. This has two components: Commonwealth contracts should include a clause that requires contractors and their suppliers to comply with all tax legislation and regulation for the duration of the contract. For large contracts, tenderers must also provide evidence of their tax record as part of the procurement process including adopting Tax Transparency Code requirements.</p>	<p>The Government agrees with this recommendation. The Government will develop and consult on a policy that will make it mandatory for businesses involved in government contracts over \$4 million (inclusive of GST) to provide evidence of a satisfactory tax record. The Government wishes to lead by example in ensuring responsible supply chain management and require businesses to satisfy general compliance with their tax obligations. The Australian Taxation Office will consult with the Department of Finance and stakeholders in implementing this measure.</p>
<p>9.2 — Supply chain integrity</p> <p>The Government should establish national probity standards that private supply chain certification credentials should comply with to ensure responsible supply chain management practices are followed. This would include minimum standards, use of trusted trader certification, and publication of misconduct.</p>	<p>The Government agrees and will consult with industry to develop appropriate standards for supply chain practices. Further action to ensure supply chain integrity will build on current integrity measures already in place such as the Voluntary Tax Transparency Code, OECD country-by-country reporting obligations and Commonwealth Procurement Framework requirements. Action in response to recommendation 9.1 will also support private sector supply chain integrity. The Department of the Treasury will consult on and develop a national standard which industry associations can use to develop schemes suitable for their industries.</p>
<p>11.1 — Behavioural economics framework</p> <p>Commonwealth departments should use behavioural economics principles to identify behavioural biases that incentivise black economy behaviour when developing policy and designing administrative processes. Consideration should also be given to the need to address these biases in the development of policy and administrative reforms taking account of broader policy objectives. Departments should also incorporate robust high quality evaluation techniques to identify the behavioural impacts of policy and administrative decisions to determine where current approaches need to be changed.</p>	<p>The Government agrees that government departments and agencies should use behavioural economic principles where applicable to identify behavioural biases when developing policy and designing administrative processes. Individual departments and agencies are best placed to determine when and how to use behavioural economic principles, including working with the Department of the Prime Minister and Cabinet and leveraging off the work of agencies already operating under these principles.</p>
<p>11.2 — Campaign to address cultural norms</p> <p>The Government should undertake a high profile, national cultural change campaign to address the cultural norms and community perceptions that normalise and justify black economy behaviour.</p>	<p>The Government agrees it is important that efforts to address black economy activity are carried out across all levels of the economy and society. The Government will look at strategic opportunities to raise awareness of the black economy, as well as long-term solutions to educate consumers on the risks in participating in these activities.</p>

Recommendation	Government response
<p>11.5 — Vocational training tax literacy pilot</p> <p>Tax literacy education and basic business skills should be incorporated into Technical and Further Education (TAFE)/Vocational Education and Training (VET) curriculums through required industry certification skill sets for courses of study in fields where black economy activity or lack of tax literacy has been identified.</p>	<p>The Government agrees with this recommendation. The Australian Taxation Office will develop appropriate tax literacy education and basic business skills with a focus on industries where black economy activity or a lack of tax literacy has been identified. The program will focus on contemporary tax and business education programs targeted at small business owners, youth and migrants to help them get it right from the start, using a range of channels including industry groups, financial institutions, business mentor and support groups and the vocational education and training sector. The program will draw on recent research about the needs of small business and the causes of tax compliance problems to build knowledge and business acumen. The education program will complement the Government's Financial Literacy Strategy.</p>
<p>12.2 — Greater international cooperation between law enforcement agencies</p> <p>Australian law enforcement agencies should deepen relationships with their international counterparts, particularly the US Office of Foreign Assets Control.</p>	<p>The Government agrees that international cooperation between law enforcement agencies is important. The ACIC and other law enforcement agencies participate in the Five-Eyes Law Enforcement Group, which facilitates cooperation across law enforcement agencies. In addition to existing forums and means of international cooperation, relationships with overseas partners are continually being developed and grown.</p>
<p>12.8 — Deem criminal earnings to be offshore profits</p> <p>The Government should examine the feasibility of deeming criminals' offshore earnings to be Australian sourced. The Controlled Foreign Company tax rules should be modified to attribute offshore criminal proceeds to Australia for tax purposes.</p>	<p>The Government agrees to examine options by which offshore earnings from criminal activity could be taxed or penalised in Australia where the crimes are committed in Australia. In this regard, consideration will be given to the controlled foreign company tax rules, proceeds of crime provisions, source rules and other domestic tax rules applicable to criminal activities, and the extent to which legislative amendment may be necessary.</p>

Recommendation	Government response
<p>13.1 — Modernising offences that apply to illicit tobacco</p> <p>The Government should:</p> <ul style="list-style-type: none"> enact the tobacco control measures it announced in 2016. locate Commonwealth illicit tobacco laws in a new Tobacco Control Act. create a new offence for the importation of large scale cigarette tube filling machines and other cigarette manufacturing equipment. require licences for the importation of commercial quantities of cigarette tubes and papers. establish an illicit tobacco agency reporting to the Home Affairs department. 	<p>The Government agrees to the enactment of tobacco control measures. On 15 February 2018, the Government introduced the Treasury Laws Amendment (Illicit Tobacco Offences) Bill 2018 to give effect to its commitment in the 2016–17 Budget to strengthen illicit tobacco offences. On 28 March 2018, the Minister for Law Enforcement and Cyber Security introduced the Customs Amendment (Illicit Tobacco Offences) Bill 2018. These complementary Bills will harmonise illicit tobacco offences contained in the Excise Act 1901 and the Customs Act 1901. This will give effect to a stronger and more consistent approach to penalties for domestic and imported illicit tobacco. The new legislation increases the range of enforcement options available for illicit tobacco offences, including the introduction of offences for possession of equipment used to manufacture tobacco, selling, buying, manufacturing and producing illicit tobacco and a civil penalty for possession of tobacco where the person cannot provide documents such as a tax invoice to demonstrate that the tobacco is for personal use. The new offences will assist in pursuing successful convictions in relation to illicit tobacco. The Australian Taxation Office and the Department of Home Affairs will no longer be required to prove the origin of the illicit tobacco to successfully prosecute offenders in the domestic market. The Government will also be focusing on measures to directly address tobacco smuggling.</p>
<p>13.2 — Coordinated enforcement to combat illicit tobacco</p> <p>The Government should establish an illicit tobacco agency reporting to the Home Affairs department. Alternatively, the Government should provide funding to enable the continuation of the Tobacco Strike force incorporating the ATO’s tobacco resources into this strike force. Another option would be to create a prescribed cross-agency Tobacco Taskforce, with clear lines of accountability and lead responsibility for targeting illicit tobacco. The Government should include the Department of Home Affairs as a ‘law enforcement agency’ for the purposes of the Surveillance Devices Act so that it is able to authorise the use of surveillance devices for enforcement related purposes, such as monitoring suspected tobacco shipments where they have a reasonable suspicion of the importation or handling of illicit tobacco. The Government should conduct an enforcement blitz once improved illicit tobacco legislation has been implemented.</p>	<p>The Government agrees to the need for coordinated enforcement to combat illicit tobacco and will establish the Illicit Tobacco Taskforce which will operate as a cross-agency Taskforce with accountability and lead responsibility for targeting imported illicit tobacco. The Illicit Tobacco Taskforce will comprise members from a number of law enforcement and border security agencies to ensure it has the capabilities it needs to effectively combat the trade in illicit tobacco. The creation of the Illicit Tobacco Taskforce will deliver a multi-faceted approach that leverages whole-of-government capabilities and powers to proactively target, disrupt and prosecute serious and organised crime groups at the centre of the illicit tobacco trade. The Government will introduce a package of interconnected measures that target the three main sources of illicit tobacco (smuggling, leakage from licensed warehouses and domestic production).</p>

Recommendation	Government response
<p>13.4 — Move the taxing point for tobacco excise</p> <p>The Government should tax tobacco at the time that it enters an Australian port.</p>	<p>The Government agrees and will introduce changes to ensure importers pay all duty and tax liabilities for imported tobacco at the border. This new measure will be effective from 1 July 2019.</p>
<p>16.1 — Advisory board</p> <p>The Government should establish a central agency led advisory board, including both public and private sector representatives, to monitor emerging trends and risks in the black economy and prepare a five yearly report on these.</p>	<p>The Government agrees and will establish an Advisory Board comprising public and private sector representatives to oversee the implementation of the Black Economy Taskforce recommendations. The Advisory Board will assist in the implementation of the report's recommendations, in particular those relating to business. The Advisory Board will also be involved in providing advice in the development of an update on the black economy to government in five years.</p>
<p>16.2 — Standing Taskforce</p> <p>The Government should establish a standing taskforce to identify, respond to and prosecute serious, complex black economy fraud.</p>	<p>The Government agrees that the black economy needs to be addressed through a whole-of-government approach. The Government will establish a multi-agency Black Economy Standing Taskforce led by the Australian Taxation Office and comprising key departments including; the Department of Home Affairs, the Department of Human Services, the Department of Jobs and Small Business. This will include representation by enforcement agencies such as the Australian Federal Police, the Australian Border Force, the Australian Criminal Intelligence Commission and the Fair Work Ombudsman. The Taskforce will work collectively and focus specifically on those who are undertaking black economy activity. This will be the first ever coordinated approach to combat black economy activity.</p>
<p>16.3 — Ombudsman's office and hotline</p> <p>The Government should create a Black Economy Ombudsman's Office and hotline.</p>	<p>The Government agrees to establish a hotline with the capability to securely transfer information between external partner agencies and to ensure that the information is sent to the right agency. The Government notes the recommendation to create a Black Economy Ombudsman's Office. The multi-agency Black Economy Standing Taskforce (refer to the Government's response to recommendation 16.2) coupled with a hotline will put in place a comprehensive architecture to ensure ongoing monitoring and detection of black economy activity. The Government will review the effectiveness of these arrangements over time.</p>

Recommendation	Government response
<p>Chapter 6. Single touch payroll (STP)</p> <p>The reporting of wages and superannuation under STP provides transparency. STP starts for employers with 20 or more employees from 1 July 2018. The Government has announced it will include employers with less than 20 employees in STP from 1 July 2019. Legislation will need to be enacted for this to occur. An option for the Government to consider would be introducing the requirement for payment of wages into bank accounts from 1 July 2019 as well</p>	<p>The Government agrees and has introduced legislation to extend Single Touch Payroll to all employers from 1 July 2019 as part of the Superannuation Guarantee Integrity Package. As noted in response to recommendation 3.2, the Government agrees in principle to mandate the payment of salary and wages into bank accounts, noting the need for consultation to identify circumstances where cash payments should be permitted and appropriate transitions for small business.</p>

Source: Australian Government, *Tackling the Black Economy: Government Response to the Black Economy Taskforce Final Report*, May 2018, available from <https://treasury.gov.au/sites/default/files/2019-03/Government-response-final.pdf> [accessed 22 March 2023].