

Senate Standing Committee on Education and Employment

QUESTIONS ON NOTICE Additional Estimates 2015 - 2016

Cross Portfolio

Department of Employment Question No. EMSQ16-000390

Senator Ludwig provided in writing.

Question

Legal Costs

Since the change of Prime Minister on 14 September, 2015:

1. List all legal costs incurred by the department or agency
2. List the total cost for these items, broken down by source of legal advice, hours retained or taken to prepare the advice and the level of counsel used in preparing the advice, whether the advice was internal or external
3. List cost spend briefing Counsel, broken down by hours spent briefing, whether it was direct or indirect briefing, the gender ratio of Counsel, how each Counsel was engaged (departmental, ministerial)
4. How was each piece of advice procured? Detail the method of identifying legal advice

Answer

1. Legal Costs

Please refer to answer 2.

2. Detailed Cost of Legal Services.

Expenditure for the period 1 September 2015 – 31 January 2016 is set out below.

Source	Costs (exc GST)*
Internal	\$7,582,436
External	\$908,717

As our financial system captures internal financial data on a monthly basis, it is not possible to accurately calculate costs for part of a month, and as such the above figures are calculated from the start of September.

*The cost of internal legal services is reported in line with the requirements set out in the Legal Services Directions 2005 and in the Australian National Audit Office's Best Practice Guidelines for Legal Services. They include all direct and indirect costs. Direct costs include salary, stationery, equipment and learning and development costs. Indirect costs include electricity, rent and other corporate overheads. The figures provided are also reported annually to the Attorney-General's Department.

3. Counsel/Barrister

The department has incurred counsel/barrister fees between 1 September 2015 – 31 January 2016 as outlined in the below table.

Briefing Source	Costs (exc GST)	Number of Male Counsel	Number of Female Counsel
Directly	\$106,472	1	0
Indirectly	\$0	0	0

The department does not separately identify the cost of solicitors briefing counsel. In general, counsel/barrister's costs are by the day or half day, therefore total hours are not available. All matters briefed to counsel have been done so by the department, and not by the Minister or her office.

4. Procurement Process

External legal services were procured using the Attorney-General's Legal Services Multi-Use List (LSMUL) arrangements. Under the LSMUL agencies can establish parceling arrangements. Parceling Deeds were entered into by the Department of Education, Employment & Workplace Relations in May 2013 and continue to apply to the Department of Employment.

The decision to engage external lawyers is made by SES lawyers in the department taking into account the specifics of each individual matter.