

COMMITTEE INQUIRY QUESTION

(Question No. 4)

Senator the Hon Penny Wong asked the Department of Defence, upon notice, on 11 October 2021:

Senator WONG: What about Defence?

Gen. Campbell: I'd just ask if you can ask that question again, Senator.

Senator WONG: I'm referring to public reports. This is what it says:

The Morrison government says Australia won't join a US evacuation mission to rescue Afghan support staff from advancing Taliban forces.

This is Operation Allied Refuge, which was the US led airlift. The report also said:

A spokesman for Immigration Minister Alex Hawke said Australia would not join the US airlift, and had "no plan" to mount a similar operation to evacuate Afghans who had supported Australian soldiers and diplomats.

The article goes on to say that a government source said that the small number of LEE applicants meant they could take commercial flights. I'm asking whether anyone in this hearing can tell me who made that decision—that is, not to join the US airlift—and that, as at July, there would be no evacuation. I'm asking: when did departments become aware of that decision and how?

Gen. Campbell: That's a matter for government, Senator, as you've described the announcements and the statements in the announcements.

Senator WONG: When did you become aware, General Campbell?

Gen. Campbell: Senator, I know you're going to hate the answer I'm going to give you, but the Defence Force really, really does constantly plan for the conduct of evacuations—

Senator WONG: General Campbell, I know, but this is about your knowledge.

Gen. Campbell: Listen to me, Senator. Let me finish—

Senator WONG: This is about your knowledge of a government decision; it's not about your planning.

Gen. Campbell: I know. Let me finish, Senator.

Senator WONG: If you answer my question.

Gen. Campbell: In July, there was no military reason for an evacuation operation to be conducted by the ADF.

Senator WONG: That's your assessment. We could spend a lot more time on that statement, CDF, and I suspect we will on another occasion, but I'm actually trying to ascertain: was there an active decision made by government at that time that they would not join the US airlift and that they would not plan a similar operation for Australians—bearing in mind that a month later we did?

Gen. Campbell: That's a question for government.

Senator WONG: When were you aware that there was a decision not to join the US airlift, General?

Gen. Campbell: I'd have to take that on notice for that particular announcement, and I'd have to take the record—

Senator WONG: When was the possibility of evacuation of Australian visa holders first discussed within government?

Gen. Campbell: In terms of the operation that we conducted? In August.

Senator WONG: So why in July were we ruling it out?

Gen. Campbell: As I said, Senator, it is something that you would have to take up with the relevant minister or ministers.

The Department of Defence provides the following answer to the Honourable Senator's question:

The Government evacuated Australian passport and visa holders from Afghanistan via commercial flights during July 2021. Australia was not invited to join US facilitated movement of its citizens during this period.

COMMITTEE INQUIRY QUESTION

(Question No.7)

Senator the Honourable Penny Wong asked the Department of Defence, upon notice, on 15 October 2021:

Can the Department of Defence give a broad overview of the analytical position of defence/security agencies on the strategic outlook for Afghanistan in 2020, in the leadup to US withdrawal, and as peace process negotiations were underway throughout 2020 and the beginning of 2021? a. What was their assessment of the Afghan National Defence and Security Forces (ANDSF) and the Afghan Government to maintain security without ongoing Allied assistance in 2020?

b. What were Allied and/or Australian agencies' assessment of the strength and capability of the Taliban – including numbers of fights – and the threat it posed to the Afghan Government as at January 2021?

c. What about the threat posed by Al Qaeda and Islamic State Khorasan Province (ISKP) as at January 2021?

d. What was the assessment of the capability of the ANSDF to maintain security in the capital and throughout Afghanistan without support from the US or other allies?

e. How probable did intelligence agencies assess a Taliban takeover of Afghanistan in 2021 to be?

f. What post-withdrawal scenarios about Afghanistan's stability were provided by intelligence agencies?

g. Was there agreement on all of these issues amongst intelligence agencies?

The Department of Defence has provided the following answer to the Honourable Senator's question:

We are unable to comment on these questions as they involve classified intelligence assessments, the release of which would damage Australia's national security.

Defence Portfolio

COMMITTEE INQUIRY QUESTION

(Question No.1)

Senator Kimberley Kitching asked the Department of Defence, upon notice, on 11 October 2021:

CHAIR: Do you know the circumstances around his release?

Mr Jeffrey: We do not.

CHAIR: Have you spoken to the Qatari government? Has the Australian government spoken to the Qatari government?

Mr Jeffrey: The Australian government became aware of Hekmatullah's release from Qatar through highly sensitive intelligence which the government is not able to comment on directly.

CHAIR: I understand. When was that?

Mr Jeffrey: I'm not in a position to comment on that information in this context.

CHAIR: When was the last time you knew his whereabouts with certainty?

Mr Jeffrey: I might need to take that on notice. Obviously, the general period was when the transfer occurred under a bilateral agreement between the United States and Qatar, which then involved the then Afghan government. That was last year. As to the time and duration of Hekmatullah's detention in Qatar and his subsequent release, I'll need to take on notice the time when we last knew for sure that he was in Qatari custody.

Senator Kimberley Kitching – The Department of Defence provides the following answer to the Senator's question:

The Australian Government became aware of Hekmatullah's release from Qatar through classified channels.

COMMITTEE INQUIRY QUESTION

(Question No.24)

Senator the Hon. Penny Wong asked the Department of Defence, upon notice, on 15 October 2021:

Australia had supplied the Afghan National Defence and Security Forces with capabilities in the past, such as counter-improvised explosive device technologies coordinated through the Australian Military Sales Office and DSTO in early 2014-15. What other military sales had Australia made to the Afghan Forces?

a. Will an assessment be conducted to determine what capabilities were sold to the Afghan forces and now may be in the hands of the Taliban or others?

The Department of Defence has provided the following answer to the Honourable Senator's question:

Australia has made no military sales to Afghanistan. Australia gifted equipment via the NATO-managed Afghan National Army Trust Fund, most significantly the Silvershield Counter Improvised Explosive Device system.

All equipment provided to the former government of Afghanistan is now presumed to be in the hands of the new government of Afghanistan.

Defence Portfolio

COMMITTEE INQUIRY QUESTION

(Question No.26)

Senator the Hon. Penny Wong asked the Department of Defence, upon notice, on 15 October 2021:

At the end May, shortly after the Australian embassy closure in Kabul, the UK Defence Secretary Ben Wallace announced that as the UK was withdrawing their “armed forces, it is only right [to] accelerate the relocation of those who may be at risk of reprisals”.

Was Defence asked for advice, or did Defence provide advice, on how Defence could assist the UK operation, including for Australian visa holders and citizens?

The Department of Defence has provided the following answer to the Honourable Senator’s question:

Defence was not asked by the UK for advice or assistance with respect to its evacuation operations. But both countries routinely assist each other in operational environments. UK and Australian officials and military assets cooperated closely on local security requirements and evacuee coordination in the conduct of their respective national evacuation operations when in Kabul.

COMMITTEE INQUIRY QUESTION

(Question No.66)

Senator the Honourable Penny Wong asked the Department of Defence, upon notice, on 15 October 2021:

There are multiple public reports of Defence LEE certification taking months and years to complete, including up to six years. Can Defence please explain why LEE certification can take years to complete? a. Prior to 15 April 2021, what was the average wait time for DFAT LEE visa certification?

b. What was the average wait time for LEE visas to be issued?

The Department of Defence has provided the following answer to the Honourable Senator's question:

Certification could be an extended process for individuals who applied long after ceasing employment with the ADF and who lived in remote areas of Afghanistan. Defence determined eligibility on whether an individual was in an "employee like relationship" rather than whether they were formally employed. Accordingly, Defence would need to gather evidence of the nature of their relationship. Similarly, if an exceptional circumstances test was being applied to an application, Defence had to gather and assess evidence of the claimed circumstances. Applicants were able to appeal an ineligible certification.

No single application process took multiple years. However some individuals did continue to reapply over a period of several years. Following certification Home Affairs commenced the visa assessment process and this process could take an extensive period of time for some applicants.

Defence has no visibility of the DFAT LEE certification process.

Defence has no visibility of the wait time for LEE visas once Home Affairs starts assessing them.

COMMITTEE INQUIRY QUESTION

(Question No.30)

Senator the Honourable Penny Wong asked the Department of Defence, upon notice, on 15 October 2021:

On 16 June Assistant Defence Minister and Afghanistan veteran Andrew Hastie said he feared for the safety of Afghan interpreters who worked for the ADF and were yet to be relocated to Australia. Was any Department tasked by their Minister or by the Prime Minister to accelerate visa processing times or to initiate evacuation planning following Mr Hastie's intervention on 16 June?

The Department of Defence has provided the following answer to the Honourable Senator's question:

At that time, commercial flights were available for LEE. There was no reason for an evacuation to be conducted by the ADF. Under its contingency planning framework, Defence routinely plans for the conduct of such operations.

COMMITTEE INQUIRY QUESTION

(Question No. 65)

Senator the Hon Penny Wong asked the Department of Defence, upon notice, on 15 October 2021:

What resources – either in Afghanistan or Australia - were added to the Defence LEE team as the Taliban started capturing more of Afghanistan? a. What about when the Australian embassy was closed?

What about when Kabul fell to the Taliban?

Was there any request from the Department or others for additional resources for LEE team in 2021?

What resources did the Australian Government put in Afghanistan to assist LEEs with applications, as was done with Iraq in 2008?

The Department of Defence has provided the following answer to the Honourable Senator's question:

Additional staff were added to the Defence LEE team in Canberra when interest in the LEE program spiked in August 2021. Several more staff supplemented the LEE team when the evacuation operations began making a total of six staff in the LEE team at the height of the evacuation.

The Embassy closure had no impact on the Defence LEE process. Embassy staff were not involved in the LEE program process. There was no reason to deploy additional staff to Afghanistan to assist Defence LEE.

The LEE program was managed through internal resources and Defence did not seek additional assistance.

Defence Portfolio

COMMITTEE INQUIRY QUESTION

(Question No.51)

Senator the Hon. Penny Wong asked the Department of Defence, upon notice, on 15 October 2021:

Has Defence or DFAT received complaints, feedback, or other concerns internally and through the chain of command about the priority list?

The Department of Defence has provided the following answer to the Honourable Senator's question:

Defence has not received any complaints internally or through the chain of command about the process. There was no priority list.

COMMITTEE INQUIRY QUESTION

(Question No.32)

Senator the Honourable Penny Wong asked the Department of Defence, upon notice, on 15 October 2021:

In July, the Biden Administration announced that it would begin Operation Allies Refuge flights out of Afghanistan during the last week of July for US visa holders. Was Defence asked for advice, or did Defence provide advice, on how Defence could assist the US operation, including to enable the inclusion of Australian citizens, permanent residents, visa holders and visa applicants? a. If yes, when?

The Department of Defence has provided the following answer to the Honourable Senator's question:

Defence was not asked for advice, nor did Defence provide advice, on this matter.

COMMITTEE INQUIRY QUESTION

(Question No.74)

Senator the Honourable Penny Wong asked the Department of Defence, upon notice, on 15 October 2021:

What would be thresholds Defence considers to present a Minister as exceptional circumstances? a. Did Defence change its view on this as circumstances change?

b. What guidance (if any) was changed and when?

The Department of Defence has provided the following answer to the Honourable Senator's question:

Defence considers demonstrable threat to life as a result of employment, an inability to communicate electronically or being unaware of the existence of the LEE program as exceptional circumstances.

Defence did not change its conditions for exceptional circumstances, but determined all former employees to be at risk as the Taliban advance accelerated.

In July 2021, Defence advised the Minister that all LEE were now regarded as being at risk and re-evaluated LEE formerly certified as ineligible with this assessment in mind.

COMMITTEE INQUIRY QUESTION

(Question No. 73)

Senator the Honourable Penny Wong asked the Department of Defence, upon notice, on 15 October 2021:

Did the current or former Ministers for Defence engage with the Minister for Home Affairs or the Minister for Immigration – or the Departments for each - about whether the legislative instrument IMMI 12/127 was in need of replacement or amendment?

The Department of Defence has provided the following answer to the Honourable Senator's question:

The Department cannot speak to engagement between Ministers. However, Defence did advise that it would regard all former Afghan employees still in Afghanistan as facing threat to life following the fall of the Afghan government for the purposes of assessing current and future LEE applications.

Defence Portfolio

COMMITTEE INQUIRY QUESTION

(Question No.71)

Senator the Hon Penny Wong asked the Department of Defence, upon notice, on 15 October 2021:

Did then-Minister Payne make any determinations of exceptional circumstances in relation to Defence LEE certifications? a. Did Defence seek guidance from the then-Minister about exceptional circumstances for LEE certifications?

The Department of Defence has provided the following answer to the Honourable Senator's question:

Yes, many of Minister Payne's certifications had demonstrated exceptional circumstances. Over the life of the LEE program, around half of all LEE applications involved determinations of exceptional circumstances.

Defence did not seek guidance from the Minister on exceptional circumstances.

COMMITTEE INQUIRY QUESTION

(Question No.70)

Senator the Honourable Penny Wong asked the Department of Defence, upon notice, on 15 October 2021:

Did then-Minister Reynolds make any determinations of exceptional circumstances in relation to Defence LEE certifications? a. Did Defence seek guidance from the then-Minister about exceptional circumstances for LEE certifications?

The Department of Defence has provided the following answer to the Honourable Senator's question:

Yes, many of Minister Reynolds's certifications had demonstrated exceptional circumstances. Over the life of the LEE program, around half of all LEE applications involved determinations of exceptional circumstances.

Defence did not seek guidance from the Minister on exceptional circumstances.

COMMITTEE INQUIRY QUESTION

(Question No.69)

Senator the Honourable Penny Wong asked the Department of Defence, upon notice, on 15 October 2021:

Did Minister Dutton make any determinations of exceptional circumstances in relation to Defence LEE certifications? a. Has Defence sought guidance from Minister Dutton about exceptional circumstances for LEE certifications?

The Department of Defence has provided the following answer to the Honourable Senator's question:

Yes, many of Minister Dutton's certifications had demonstrated exceptional circumstances. Over the life of the LEE program, around half of all LEE applications involved determinations of exceptional circumstances.

Defence did not seek guidance from the Minister on exceptional circumstances.

COMMITTEE INQUIRY QUESTION

(Question No. 68)

Senator the Honourable Penny Wong asked the Department of Defence, upon notice, on 15 October 2021:

Can the Department of Defence confirm there is no reference to the six-month timeframe on the Defence LEE certification form? a. How were applicants advised of the six-months since employment requirement?

b. Where is that advice and how was it provided to Afghan nationals?

The Department of Defence has provided the following answer to the Honourable Senator's question:

There was no reference to a six month limit in the application form. Defence advised employees of the conditions of the LEE program when providing application information. Defence also advised enquirers at their initial contact of the conditions for eligibility.

Applicants were advised of the six-month timeframe in the proforma email responses to initial enquiries, and again in the covering email providing the application form.

COMMITTEE INQUIRY QUESTION

(Question No. 67)

Senator the Honourable Penny Wong asked the Department of Defence, upon notice, on 15 October 2021:

Can you please confirm that under legislative instrument IMMI 12/127 relating to locally engaged employees, “in order to be assessed as eligible under this policy, an Afghan national is generally required to apply within six months of ceasing employment with the Australian Defence Force. Applications made outside the six month timeframe are not eligible under this policy, unless the Minister for Defence is satisfied that exceptional circumstance exist”?

The Department of Defence has provided the following answer to the Honourable Senator’s question:

That is correct.