

## Legal and Constitutional Affairs Committee

14 June 2018

### Attorney General's Department

**Senator Ian Macdonald asked the following question at the hearing on 14 June 2018:**

1. **CHAIR:** In litigation between the Commonwealth and a citizen, is the citizen made aware, consciously, of the model litigant rules?

**The response to the honourable Senator's question is as follows:**

The *Legal Services Directions 2017* do not require agencies to actively inform litigants of the Commonwealth's model litigant obligations.

The Office of Legal Services Coordination (OLSC) within the Attorney-General's Department publishes information on its website which includes advice about the model litigant obligation and how to make a complaint about agency conduct in litigation. This includes OLSC's:

- Guidance note 3 – Compliance with the Legal Services Directions
- Guidance note 12 – Use of Alternative Dispute Resolution
- Compliance Framework

These documents can be found at:

<https://www.ag.gov.au/LegalSystem/LegalServicesCoordination/Pages/Legalservicesdirectionsandguidancenotes.aspx#notes>, and

<https://www.ag.gov.au/LegalSystem/LegalServicesCoordination/Pages/Complianceandreporting.aspx>

**Senator Louise Pratt asked the following questions at the hearing on 14 June 2018:**

2. **Senator PRATT:** Your submission says that, of the 49 notifications, they were for the '15-'16 financial year. Have you got the figures for the '16-'17 financial year?

**The response to the honourable Senator's question is as follows:**

The Department will release the figures for the 2016-17 financial year as promptly as possible and it will inform the Committee as soon as this has occurred.

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3. **Senator PRATT:** Do those notifications include notifications from the Ombudsman? What's your overlap in terms of how you resolve that?

**The response to the honourable Senator's question is as follows:**

The Office of Legal Services Coordination (OLSC) has not received any direct referrals from the Commonwealth Ombudsman in this reporting period.

The notifications received by OLSC do periodically identify that complaints have also been drawn to the attention of the Commonwealth Ombudsman. However, OLSC does not systematically record the number of instances in which this occurs.

In OLSC's experience, there has not been any significant overlap between the roles undertaken between OLSC and the Commonwealth Ombudsman. OLSC may refer people to the Commonwealth Ombudsman where;

- they are unhappy with the response provided by the agency in relation to their individual complaint, or
- the complaint relates to the administrative decisions or actions of the agency.