

**Question No:** QoN 004  
**Topic:** Treasury policy decision  
**Committee Member:** Senator O'Neill  
**Reference:** Hansard page 10

### Question

**Senator O'NEILL:** Indeed they are. The Australian Law Reform Commission was commissioned in December of 2017, by Mr Brandis, to undertake work. They delivered a report to the Attorney-General on 21 December 2018, a year later. Despite the seeming urgency of this announcement being made, and you being advised just the night before, when the Attorney-General received the report he didn't table it until 24 January 2019. Now there seems to be this incredible rush. Would ASIC please table all the correspondence between ASIC and the Treasury, between ASIC and the Treasurer's office, about the Treasurer's proposal, which was the announcement that we are discussing, to require litigation funders to hold an AFS licence and comply with a managed investment scheme? Could you do that on notice? Did the Treasurer inform you by telephone, Mr Shipton?

### Answer

For the purposes of this question, ASIC has assumed that 'correspondence' means written communications, including letters and emails, up to and including 22 May 2020, the date of the announcement of the Government's decision to regulate litigation funding.

There were four pieces of email correspondence between ASIC and the Treasury about the proposal. However, Treasury has advised ASIC that such correspondence should not be produced to the Committee because:

- a) such correspondence is subject to legal privilege;
- b) such correspondence is Cabinet-in-confidence; and/or
- c) the release of such correspondence would be contrary to the public interest.

In light of this advice, ASIC has not produced this correspondence.

Questions about correspondence between ASIC and Treasury about the Government's policy decisions in relation to the regulation of litigation funding should be directed to the Treasury.