

Senate Select Committee on Administration of Sports Grants

PARLIAMENTARY INQUIRY QUESTION ON NOTICE
Sport Australia

Senate Select Committee on Administration of Sports Grants

PDR Number: IQ20-000009.1 (Written)

Question Number: 1

Question 1: Please provide details of all Sport Australia grant programs where the Minister has provided final approval for individual grants. In each case identify the legal basis of the Minister's power to approve individual grants.

Type of Questions: Written.

Questioner: Senator Chisholm

Question: Please provide details of all Sport Australia grant programs where the Minister has provided final approval for individual grants. In each case identify the legal basis of the Minister's power to approve individual grants.

Answer:

The former Minister for Sport provided approval for individual grants in the following three grant programs:

- Move It AUS - Community Sport Infrastructure
- Move It AUS - Better Ageing
- Move It AUS - Participation.

The legal basis for Sport Australia's role in each program was Sport Australia's own powers under the *Australian Sports Commission Act 1989*. In exercising its powers, it was open to Sport Australia to take account of the Minister's approval.

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PARLIAMENTARY INQUIRY QUESTION ON NOTICE
Sport Australia

Senate Select Committee on Administration of Sports Grants

PDR Number: IQ20-000009.2 (Written)

Question Number: 2

Question 2: Did the Minister or the Minister's office have a role in drafting the Community Sport Infrastructure Program guidelines? If so, please describe that role.

Type of Questions: Written.

Questioner: Senator Chisholm

Question: Did the Minister or the Minister's office have a role in drafting the Community Sport Infrastructure Program guidelines? If so, please describe that role.

Answer:

The Community Sport Infrastructure grant program guidelines were drafted by Sport Australia. The drafting process included consultation with a number of stakeholders including the Department of Health and the former Minister's office.

The former Minister's office provided feedback on the content of the draft guidelines. This feedback included changes to the Minister's message and other sections within the guidelines document.

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Sport Australia

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PDR Number: IQ20-000009.3 (Written)

Question Number: 3

Question 3: Did the Minister or the Minister's office approve the guidelines? If so, on what date? If not, who approved the guidelines and on what date?

Type of Questions: Written.

Questioner: Senator Chisholm

Question: Did the Minister or the Minister's office approve the guidelines? If so, on what date? If not, who approved the guidelines and on what date?

Answer:

The guidelines were approved for publishing by the Executive Director Strategic Partnerships on 2 August 2018.

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PARLIAMENTARY INQUIRY QUESTION ON NOTICE
Sport Australia

Senate Select Committee on Administration of Sports Grants

PDR Number: IQ20-000009.4 (Written)

Question Number: 4

Question 4: Did the Department of Health remind Sport Australia that the Minister wanted to approve Community Sport Infrastructure Program funding? If so, when, how and why?

Type of Questions: Written.

Questioner: Senator Chisholm

Question: Did the Department of Health remind Sport Australia that the Minister wanted to approve Community Sport Infrastructure Program funding? If so, when, how and why?

Answer:

Yes, the Department of Health advised Sport Australia that the Minister would like to approve the Community Sport Infrastructure grant program grants. This was via email on 7 June 2018.

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PARLIAMENTARY INQUIRY QUESTION ON NOTICE
Sport Australia

Senate Select Committee on Administration of Sports Grants

PDR Number: IQ20-000009.5 (Written)

Question Number: 5

Question 5: Did Sport Australia produce any draft guidelines that did not identify the Minister as the decision-maker? If so, when?

Type of Questions: Written.

Questioner: Senator Chisholm

Question: Did Sport Australia produce any draft guidelines that did not identify the Minister as the decision-maker? If so, when?

Answer:

Yes, draft program guidelines produced in May 2018 did not have the former Minister for Sport as the program delegate.

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PARLIAMENTARY INQUIRY QUESTION ON NOTICE
Sport Australia

Senate Select Committee on Administration of Sports Grants

PDR Number: IQ20-000009.6 (Written)

Question Number: 6

Question 6: Why do the guidelines refer to the Minister as the “Program Delegate”?

Type of Questions: Written.

Questioner: Senator Chisholm

Question: Why do the guidelines refer to the Minister as the “Program Delegate”?

Answer:

“Program Delegate” was a defined term contained in the first draft Community Sport Infrastructure grant program guidelines prepared by the Department of Health that were based on template Department of Finance grant guidelines.

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PARLIAMENTARY INQUIRY QUESTION ON NOTICE
Sport Australia

Senate Select Committee on Administration of Sports Grants

PDR Number: IQ20-000009.7 (Written)

Question Number: 7

Question 7: In June 2018, where and how did Sport Australia record that adherence to the *Australian Sports Commission Act* required that it, and not the Minister, approve the award of funding under the grant program?

Type of Questions: Written.

Questioner: Senator Chisholm

Question: In June 2018, where and how did Sport Australia record that adherence to the *Australian Sports Commission Act* required that it, and not the Minister, approve the award of funding under the grant program?

Answer:

A search of Sport Australia's records was conducted for the purpose of the Inquiry and did not find any such record. This question is evidently based on paragraph 2.17 of the Australian National Audit Office report. Sport Australia believes that the reference in that paragraph is to an internal Sport Australia email dated 4 June 2018, which in turn refers to an internal conversation about Sport Australia's decision making discretion for grants up to \$500,000.

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PARLIAMENTARY INQUIRY QUESTION ON NOTICE
Sport Australia

Senate Select Committee on Administration of Sports Grants

PDR Number: IQ20-000009.8 (Written)

Question Number: 8

Question 8: What was the legal basis for the Minister to provide final approval to fund grants under the Community Sport Infrastructure Grant program, with specific reference to the *Australian Sports Commission Act*?

Type of Questions: Written.

Questioner: Senator Chisholm

Question: What was the legal basis for the Minister to provide final approval to fund grants under the Community Sport Infrastructure Grant program, with specific reference to the *Australian Sports Commission Act*?

Answer:

The legal basis for Sport Australia's role in the Community Sport Infrastructure grant program was Sport Australia's own powers under the *Australian Sports Commission Act 1989*. In exercising its powers, it was open to Sport Australia to take account of the Minister's approval.

Senate Select Committee on Administration of Sports Grants

PARLIAMENTARY INQUIRY QUESTION ON NOTICE
Sport Australia

Senate Select Committee on Administration of Sports Grants

PDR Number: IQ20-000009.9 (Written)

Question Number: 9

Question 9: Did Sport Australia obtain legal advice about the legal authority of the Minister to provide final approval to fund grants administered by Sport Australia? If so:

- (a) On what date(s)?
- (b) Who provided the advice(s)?
- (c) On what date(s) did Sport Australia receive the advice(s)?
- (d) What did the advice(s) say?
- (e) Did (a) the chair and (b) the board see the advice(s)? If so, on what date(s)?
- (f) Was the advice obtained provided to the Minister or the Minister's office? If so, on what date(s) and when and how did the Minister respond?
- (g) Was the advice obtained provided to any other persons? If so, what persons?
- (h) If not, why not?

Type of Questions: Written.

Questioner: Senator Chisholm

Answer:

In December 2019, after the issue of legal authority was raised by the Australian National Audit Office, the Sport Australia Board obtained legal advice from Counsel as to whether Sport Australia had acted within its powers in carrying out its role in the Community Sport Infrastructure grant program.

Sport Australia will provide the Senate Select Committee with a copy of the advice summary it received from Counsel in February 2020. Given the confidential and privileged nature of the legal advice, Sport Australia requests that the advice summary be kept confidential by the Committee.

The advice obtained from Counsel was not provided to the Minister, the Minister's office or any other person outside Sport Australia's Board, management and legal advisors.

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PARLIAMENTARY INQUIRY QUESTION ON NOTICE
Sport Australia

Senate Select Committee on Administration of Sports Grants

PDR Number: IQ20-000009.10 (Written)

Question Number: 10

Question 10: Does section 8 of the *Australian Sports Commission Act* provide Sport Australia with the power to make grants and enter into contracts?

Type of Questions: Written.

Questioner: Senator Chisholm

Question: Does section 8 of the *Australian Sports Commission Act* provide Sport Australia with the power to make grants and enter into contracts?

Answer:

Yes, paragraphs 8(1)(a) and 8(1)(d) respectively provide Sport Australia with the power to enter contracts and power to make grants, where necessary or convenient to be done for or in connection with the performance of Sport Australia's functions.

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PARLIAMENTARY INQUIRY QUESTION ON NOTICE
Sport Australia

Senate Select Committee on Administration of Sports Grants

PDR Number: IQ20-000009.11 (Written)

Question Number: 11

Question 11: With reference to section 54 of the *Australian Sports Commission Act*, which provides that Sport Australia can, by resolution, delegate its powers, to whom can Sport Australia delegate its powers?

Type of Questions: Written.

Questioner: Senator Chisholm

Question: With reference to section 54 of the *Australian Sports Commission Act*, which provides that Sport Australia can, by resolution, delegate its powers, to whom can Sport Australia delegate its powers?

Answer:

Section 54 of the *Australian Sports Commission Act 1989* provides that Sport Australia may, by resolution, delegate its powers under the Act (other than certain specified powers) to a member of the Board, a committee established under the Act, the Executive Director (Sport Australia Chief Executive Officer (CEO)), the Director (Australian Institute of Sport CEO) or a Sport Australia employee.

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PARLIAMENTARY INQUIRY QUESTION ON NOTICE
Sport Australia

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PDR Number: IQ20-000009.12 (Written)

Question Number: 12

Question 12: Did Sport Australia exercise its delegation power under section 54 in relation to the making or approving of grants under the Community Sport Infrastructure Grant program? If so:

- (a) How?
- (b) What delegations were made, by date?

Type of Questions: Written.

Questioner: Senator Chisholm

Question: Did Sport Australia exercise its delegation power under section 54 in relation to the making or approving of grants under the Community Sport Infrastructure Grant program? If so:

- (a) How?
- (b) What delegations were made, by date?

Answer:

No, Sport Australia did not delegate or attempt to delegate any statutory power pursuant to section 54 of the *Australian Sports Commission Act 1989*. Sport Australia exercised its own powers under section 8 of the Act to make grants and enter into contracts for the purposes of the Community Sport Infrastructure grant program.

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PARLIAMENTARY INQUIRY QUESTION ON NOTICE
Sport Australia

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PDR Number: IQ20-000009.13 (Written)

Question Number: 13

Question 13: Did Sport Australia advise the Minister or the Minister's office that there may be issues or concerns relating to the Minister's legal authority to provide final approval of grants under the Community Sport Infrastructure Grant program? If so:

- (a) In what form(s)?
- (b) On what date(s)?
- (c) Did the Minister or the Minister's office respond? If so, when and how?
- (d) Please provide copies of briefings, emails, messages or other correspondence exchanged between Sport Australia and the Minister's office about the legal authority to approve grants.

Type of Questions: Written.

Questioner: Senator Chisholm

Question: Did Sport Australia advise the Minister or the Minister's office that there may be issues or concerns relating to the Minister's legal authority to provide final approval of grants under the Community Sport Infrastructure Grant program? If so:

- (a) In what form(s)?
- (b) On what date(s)?
- (c) Did the Minister or the Minister's office respond? If so, when and how?
- (d) Please provide copies of briefings, emails, messages or other correspondence exchanged between Sport Australia and the Minister's office about the legal authority to approve grants.

Answer:

A search of Sport Australia's records was conducted for the purpose of the Inquiry and did not find any evidence of such advice being given to the former Minister for Sport or her office about the legal authority to approve grants.

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PARLIAMENTARY INQUIRY QUESTION ON NOTICE
Sport Australia

Senate Select Committee on Administration of Sports Grants

PDR Number: IQ20-000009.14 (Written)

Question Number:14

Question 14: Did Sport Australia raise concerns about the absence of legal authority with anyone else? If so, with whom and when?

Type of Questions: Written.

Questioner: Senator Chisholm

Question: Did Sport Australia raise concerns about the absence of legal authority with anyone else? If so, with whom and when?

Answer:

A search of Sport Australia's records was conducted for the purpose of the Inquiry and did not find any evidence of such concerns being raised by Sport Australia prior to the Australian National Audit Office querying the issue.

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PARLIAMENTARY INQUIRY QUESTION ON NOTICE
Sport Australia

Senate Select Committee on Administration of Sports Grants

PDR Number: IQ20-000009.15 (Written)

Question Number: 15

Question 15: Did the Minister or the Minister's office ever raise any concerns with Sport Australia about the question of whether the Minister had legal authority to approve grants under the program? If so, when, who raised the concern, and who dealt with the concern at Sport Australia?

Type of Questions: Written.

Questioner: Senator Chisholm

Question: Did the Minister or the Minister's office ever raise any concerns with Sport Australia about the question of whether the Minister had legal authority to approve grants under the program? If so, when, who raised the concern, and who dealt with the concern at Sport Australia?

Answer:

A search of Sport Australia's records was conducted for the purpose of the Inquiry and did not find any evidence of such concerns being raised with Sport Australia by the former Minister for Sport or her office.

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PARLIAMENTARY INQUIRY QUESTION ON NOTICE
Sport Australia

Senate Select Committee on Administration of Sports Grants

PDR Number: IQ20-000009.16 (Written)

Question Number: 16

Question 16: Who approved grants under the Better Ageing program?

Type of Questions: Written.

Questioner: Senator Chisholm

Question: Who approved grants under the Better Ageing program?

Answer:

The Move It Aus - Better Ageing grants were approved by the former Minister for Sport.

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PARLIAMENTARY INQUIRY QUESTION ON NOTICE
Sport Australia

Senate Select Committee on Administration of Sports Grants

PDR Number: IQ20-000009.17 (Written)

Question Number: 17

Question 17: What total quantum of grant funding was approved?

Type of Questions: Written.

Questioner: Senator Chisholm

Question: What total quantum of grant funding was approved?

Answer:

\$22,925,568 worth of grants was approved under the Move It AUS - Better Ageing grant program.

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PARLIAMENTARY INQUIRY QUESTION ON NOTICE
Sport Australia

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PDR Number: IQ20-000009.18 (Written)

Question Number: 18

Question 18: Did the Minister approve any grants not recommended by Sport Australia? If so, how many grants and what was the quantum of grants approved but not recommended?

Type of Questions: Written.

Questioner: Senator Chisholm

Question: Did the Minister approve any grants not recommended by Sport Australia? If so, how many grants and what was the quantum of grants approved but not recommended?

Answer:

No.

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PARLIAMENTARY INQUIRY QUESTION ON NOTICE
Sport Australia

Senate Select Committee on Administration of Sports Grants

PDR Number: IQ20-000009.19 (Written)

Question Number: 19

Question 19: Who approved grants under the Participation program?

Type of Questions: Written.

Questioner: Senator Chisholm

Question: Who approved grants under the Participation program?

Answer:

The Move It Aus - Participation grants were approved by the former Minister for Sport.

Senate Select Committee on Administration of Sports Grants

PARLIAMENTARY INQUIRY QUESTION ON NOTICE
Sport Australia

Senate Select Committee on Administration of Sports Grants

PDR Number: IQ20-000009.20 (Written)

Question Number: 20

Question 20: What total quantum of grant funding was approved?

Type of Questions: Written.

Questioner: Senator Chisholm

Question: What total quantum of grant funding was approved?

Answer:

\$18,000,089 worth of grants were approved under the Move It AUS – Participation grant program.

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PARLIAMENTARY INQUIRY QUESTION ON NOTICE
Sport Australia

Senate Select Committee on Administration of Sports Grants

PDR Number: IQ20-000009.21 (Written)

Question Number: 21

Question 21: Did the Minister approve any grants not recommended by Sport Australia? If so, how many grants and what was the quantum of grants approved but not recommended?

Type of Questions: Written.

Questioner: Senator Chisholm

Question: Did the Minister approve any grants not recommended by Sport Australia? If so, how many grants and what was the quantum of grants approved but not recommended?

Answer:

Regarding the Move It AUS Participation grant program, the former Minister for Sport exercised discretion on one occasion (3 April 2019).

On this occasion, the former Minister for Sport did not approve two of Sport Australia's recommended applicants which were large professional sports. Instead, approval went to six alternative sport and community organisations drawn from Sport Australia's original pool of applicants. This decision was made collaboratively with Sport Australia and the former Minister of Sport.