

Senate Select Committee on COVID-19

ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Topic: Reports produced by Mr Jim Reed

Senator: Watt

Question reference number: 0180

Type of question: Hansard, page 16, 11 August 2020

Date set by the committee for the return of answer: 25 August 2020

Number of pages: 1

Question:

Senator WATT: So Mr Reed, being a former Liberal Party pollster, has received public funds to help the government message on one of the most controversial areas of debate—this perceived trade-off between health and economy?

Mr Thompson: No. That's not what I said, and if I gave that impression I apologise. Really, it was around the non-health messaging—how to effectively message to the Australian community, including through those channels that I mentioned earlier like Australia.gov, during the height of the pandemic in the early phases.

Senator WATT: What do you mean by non-health? If it's not about the economic consequences of COVID, what sorts of things is it?

Mr Thompson: It's really around how to promote compliance with the government's restrictions: how to encourage people and how to promote high levels of understanding in the community around what the government's expectations are of restrictions and around movement and behaviour, including the social distancing, and then how that can be done effectively in the context of normal economic activity or social activity.

Senator WATT: Did Mr Reed and his company produce a report?

Mr Thompson: They produced a series of reports for the government, which showed the results of that community research.

Senator WATT: Could you please table those reports for the committee?

Mr Thompson: I'll take that on notice.

Answer:

The Department of the Prime Minister and Cabinet (PM&C) is unable to table the reports at this time. Their disclosure would inhibit the ability of PM&C to advise the Government and coordinate whole-of-government communications on national responses to the COVID-19 pandemic, noting their content remains the subject of current and ongoing significant concerns.

Senate Select Committee on COVID-19

ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Topic: Release of Manufacturing Taskforce Report

Senator: Siewert

Question reference number: 0183

Type of question: Hansard, page 18, 11 August 2020

Date set by the committee for the return of answer: 25 August 2020

Number of pages: 1

Question:

Senator SIEWERT: My first question, I think, will be for Ms Foster. When is the final task force report from the commission going to be made public?

Ms Foster: I think you're referring to the advanced manufacturing taskforce report?

Senator SIEWERT: Yes, from the manufacturing taskforce.

Ms Foster: Both Mr Gaetjens and Mr Thompson have indicated that the report is with government and that it is therefore a matter for government as to if and when it's made public.

Senator SIEWERT: ...Ms Foster, could you please take on notice when that report is going to be released?

Ms Foster: I can certainly seek that information for you.

Answer:

The release of the National COVID-19 Coordination Commission Manufacturing Taskforce Report is a matter for Government.

Senate Select Committee on COVID-19

ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Topic: Implementation of recommendations of Manufacturing Taskforce Report

Senator: Siewert

Question reference number: 0184

Type of question: Hansard, page 18, 11 August 2020

Date set by the committee for the return of answer: 25 August 2020

Number of pages: 1

Question:

Senator SIEWERT: Because you couldn't answer my previous question, could you also please take on notice whether the recommendations from that report are currently being implemented or preparation is being undertaken to implement them?

Ms Foster: I think Mr Duggan just responded to that question by saying that the report would be an input into government consideration of the policy issues and, therefore, we wouldn't necessarily expect the specific recommendations of that report to be implemented. We'd expect them to inform the minister's thinking and her advice to government and through the cabinet processes.

Senator SIEWERT: Could you please take on notice, then, the time line for when that will happen?

Ms Foster: Yes, Senator.

Answer:

The National COVID Coordination Commission Manufacturing Taskforce Report's recommendations are advice to Government and will inform the development of a manufacturing strategy, which will be a matter for Government.

Senate Select Committee on COVID-19

ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Topic: Records of State note-taker attending the National Cabinet

Senator: Gallagher

Question reference number: 0187

Type of question: Hansard, page 24-25, 11 August 2020

Date set by the committee for the return of answer: 25 August 2020

Number of pages: 1.

Question:

CHAIR: ...I have a couple of follow-up questions on the national cabinet and how it works. Previously, Mr Gaetjens gave evidence that a state note-taker attends the national cabinet.

Ms Foster: That's correct.

CHAIR: Are the records of the state note-taker Commonwealth or state records?

Ms Foster: I think, by agreement, the records created by the national cabinet are Commonwealth records.

CHAIR: So they're not state records at all?

Ms Foster: I don't believe so, but I will get that answer checked.

CHAIR: So the states are able to keep their own records, presumably?

Ms Foster: There are two note-takers: one Commonwealth note-taker and one note-taker representing the states.

CHAIR: From a state?

Ms Foster: From a state—and the cabinet secretary in the room. A record is produced and agreed between the state representative and the Commonwealth representative, and that then forms the record of the national cabinet.

CHAIR: So there is an agreed record of the meeting which is drawn from both the state note-taker and the Commonwealth note-taker?

Ms Foster: That's correct.

CHAIR: But you're saying that the separate records themselves—so the actual records of the state note-taker—are Commonwealth records.

Ms Foster: Certainly the record of the meetings is a Commonwealth record. I would need to check your other question.

CHAIR: If you could, that would be very useful. This is a similar question: do you retain custody of the records of the state note-taker at the national cabinet?

Ms Foster: I believe not, but, again, I'll check that.

Answer:

Records of National Cabinet discussions remain the property of the Secretary of the Department of the Prime Minister and Cabinet for archive purposes. States have been advised on custody arrangement for State notetaker records, and the need for consistency with Cabinet Handbook requirements for record-keeping.

Senate Select Committee on COVID-19

ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Topic: National Cabinet reform

Senator: Gallagher

Question reference number: 0188

Type of question: Hansard, page 25, 11 August 2020

Date set by the committee for the return of answer: 25 August 2020

Number of pages: 1

Question:

CHAIR: In terms of national cabinet reform, at the end of May the Prime Minister said that the forums and regulatory councils which interact with COAG will be consolidated and reset, and that many of them will no longer be required. Can you table a new list of the ministerial forums and regulatory councils as they exist today?

Ms Foster: I'll take on notice what we have that is settled and can be tabled. As I think you're aware, there is a review being undertaken, led by Peter Conran, which is yet to report. I just need to establish what is settled and what is not.

CHAIR: So what has been settled?

Ms Foster: That's what I am taking on notice.

Answer:

The National Cabinet Review of the Council of Australian Governments (COAG) Councils and Ministerial Forums, led by Peter Conran AM, is currently underway. The Review is due to provide recommendations to National Cabinet by the end of September 2020.

A full list of Councils and Ministerial Forums identified as within scope of the Review is available on the PM&C website at <https://www.pmc.gov.au/domestic-policy/effective-commonwealth-state-relations>.

The Review will make recommendations on a streamlined structure, scope and reporting arrangements and on focused regulatory and policy work programs for Ministerial Forums going forward. On 9 June 2020 the Prime Minister, the Hon Scott Morrison MP, wrote to Commonwealth ministers on COAG Councils regarding how they should operate in the interim while the review is being conducted and advised they are welcome to continue meeting with state and territory counterparts to progress critical and/or well developed work. However, this will occur as a Ministerial forum rather than a COAG Council.

Senate Select Committee on COVID-19

ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Topic: Walker Inquiry

Senator: Gallagher

Question reference number: 0190

Type of question: Hansard, page 27, 11 August 2020

Date set by the committee for the return of answer: 25 August 2020

Number of pages: 1

Question:

CHAIR: ... On the Walker inquiry, it's on the public record that the government has rejected a summons for a departmental official to appear for questioning. Was PM&C involved in any of those decisions?

Ms Foster: We work closely with the Attorney-General's Department on all of those issues, so we were following that series of discussions and decisions closely. My understanding is that Mr Walker ultimately accepted the Commonwealth's decision that it would provide statements but that the witnesses requested would not appear.

CHAIR: When you say you are following those discussions closely, what does that mean? Were you advising the Prime Minister on how the government should proceed in relation to this inquiry?

Ms Foster: The primary advice for that was via the Attorney-General's Department, so my staff were working closely with the Attorney-General's Department.

CHAIR: And then you advised the Prime Minister on it?

Ms Foster: I will need to check with the relevant division as to whether they were providing advice directly to the PM or whether that was in support of the advice coming from Attorney-General's.

CHAIR: Okay. When did Prime Minister and Cabinet become aware of the summons?

Ms Foster: I'm not sure I have that level of detail. Just let me check. No, I don't have the dates with me.

Answer:

The Department of the Prime Minister and Cabinet became aware that the Commissioner had issued a summons on 7 July 2020.

Senate Select Committee on COVID-19

ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Topic: Border closure case in Western Australia

Senator: Gallagher

Question reference number: 0192

Type of question: Hansard, page 27-28, 11 August 2020

Date set by the committee for the return of answer: 25 August 2020

Number of pages: 2

Question:

CHAIR: Okay. Can you tell me whether there was a joint briefing of Attorney-General's and Prime Minister and Cabinet to the Prime Minister on joining the Western Australian border closure case?

Ms Foster: I don't have that level of detail with me.

CHAIR: Do you know who made the decision to withdraw from meetings and on what date that decision was made?

Ms Foster: No, I don't, but I can tell you that we became aware of the summons on 7 July.

CHAIR: Thank you. When did Prime Minister and Cabinet become aware of the decision to withdraw from the proceedings, and how?

Ms Foster: Premier McGowan initially wrote to the Prime Minister on 6 July asking that the Commonwealth discontinue its intervention.

CHAIR: The Prime Minister wrote back?

Ms Foster: On 22 July the Prime Minister replied, advising that the Commonwealth Attorney-General would not withdraw. He wrote a further letter on 1 August, advising that the Commonwealth Attorney-General would withdraw. We were aware that the letter was being drafted, but we did not provide advice on it.

CHAIR: Let me just go back to that. You're saying that on 22 July there was a letter from the Prime Minister. To whom was that letter?

Ms Foster: Premier McGowan.

CHAIR: What did that letter say?

Ms Foster: I don't have that detail with me, but the crux of the letter was to advise that the Commonwealth Attorney-General would not withdraw. That was followed by a letter on 1 August.

CHAIR: That was overturned on 1 August. The hearing was conducted during the week of the 27th to the 31st. I think that week held most of the hearing. Is that correct? When did the department become aware of the 1 August letter?

Ms Foster: The information I have is that we were aware of it. I don't know on what date we were aware of it.

CHAIR: Was it before it was sent?

Ms Foster: I believe so, on the basis that I understand that we didn't provide advice on the content of the letter, so that advice would have come from the Attorney-General's Department.

CHAIR: So you're suggesting that the Attorney-General's Department somewhere in that week when they were in court arguing for the borders to open would have at the same time been briefing the Prime Minister that the Commonwealth should withdraw from that case?

Ms Foster: Because we were not dealing with that advice I don't have that detail—

CHAIR: Alright, but I think your evidence just was that the Attorney-General's Department would have briefed the Prime Minister for that letter of 1 August.

Ms Foster: Or, more properly, I would expect that it would have gone from the Attorney-General's Department to the Attorney-General to the Prime Minister.

CHAIR: Which just seems odd, because that time frame would mean that they were briefing for a change of position while they were in court arguing for a different one.

Ms Foster: I don't have that time line in front of me. I'd have to take that on notice.

Answer:

The instruction to withdraw from the Palmer proceedings was given by the Attorney-General consistent with his role as intervener on behalf of the Commonwealth.

On 2 August 2020, the Australian Government Solicitor wrote to the High Court notifying that the Attorney-General will not be continuing with the intervention.

The Attorney-General's Department did not brief the Prime Minister on the question of withdrawal.

Senate Select Committee on COVID-19

ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Topic: Withdrawal from border closure proceedings

Senator: Gallagher

Question reference number: 0193

Type of question: Hansard, page 28, 11 August 2020

Date set by the committee for the return of answer: 25 August 2020

Number of pages: 1

Question:

CHAIR: ...Ms Foster, you're a deputy secretary of the department. Did you become aware from the media—I think this was reported widely in the Sunday papers on 2 August?

Ms Foster: My memory is that the Attorney-General's Department had advised us the day before the 1 August letter, so on 31 July, that consideration was being given to the position that was finalised on 1 August.

CHAIR: The 31st was in the week they were in court arguing the exact opposite, when they were strengthening Mr Palmer's case by all accounts and pulling the case together. By the Friday they were already telling you guys: 'We're out. We're withdrawing.'

Ms Foster: No. They advised us that consideration was being given to that.

CHAIR: That's extraordinary. Was this a cabinet decision—did it go to cabinet?—or was it a captain's call?

Ms Foster: I'll have to take that on notice.

Answer:

Section 78A of the *Judiciary Act 1903* confers discretion on an Attorney-General to intervene, on behalf of the Commonwealth, in proceedings that relate to a matter arising under the Constitution or involving its interpretation. The decision to intervene in a given proceeding, or to discontinue the Commonwealth's intervention in a proceeding, is therefore a decision for the Attorney-General, the Hon Christian Porter MP.

Senate Select Committee on COVID-19

ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Topic: Advice and reports provided to the Prime Minister and the Government

Senator: Siewert

Question reference number: 0195

Type of question: Hansard, page 29, 11 August 2020

Date set by the committee for the return of answer: 25 August 2020

Number of pages: 2

Question:

Senator SIEWERT: Mr Power, could you please take on notice to provide the committee with a list of the advice—and I'll come back to that issue in a minute—and any reports that you have provided to the Prime Minister and government. When I say 'advice', I would like to see the type of advice; for example, the advice on a particular industry or something like that.

Mr Power: We'll take that on notice.

Answer:

As an advisory body, the National COVID-19 Commission (NCC) Advisory Board is providing advice to Government on a regular and as needed basis. In its most recent work, the NCC Advisory Board (and the National COVID-19 Coordination Commission before it) has been feeding a business perspective into the COVID-19 policy response and recovery efforts in areas including:

- Australia's current and future vaccine and domestic pharmaceutical manufacturing capability, working closely with the Department of Health and key stakeholders in this area.
- Working across government on proposals to support small and medium sized enterprises to harness digital technology.
- Exploring options for advanced manufacturing and for a low cost, reliable energy strategy to support revitalised manufacturing to accelerate our economic recovery.
- Working with key housing and construction industry bodies and Treasury on options to mitigate the downturn in housing and construction activity, stimulate demand, streamline approvals and support affordable and social housing opportunities.
- Working with the higher education sector on COVID-safe campuses, and to encourage them to develop innovative thinking around local student outcomes, research outcomes, employee engagement and their own solutions for enabling international students to return to campuses.
- Identifying practical ways to meet the immediate needs of vulnerable Australians through the not-for-profit working group.

- Considering the economic effect on female workforce participation and the consequences for Australian women's economic security, options for incentivising women to undertake skills training and normalising flexibility in work arrangements.

Senate Select Committee on COVID-19

ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Topic: Correspondence received by the National COVID-19 Commission Advisory Board

Senator: Siewert

Question reference number: 0196

Type of question: Hansard, page 29, 11 August 2020

Date set by the committee for the return of answer: 25 August 2020

Number of pages: 2

Question:

Senator SIEWERT: Thank you. Previously, I've asked you for copies of submissions made to the task force from various government agencies, including the NT government. You haven't responded to date. Do you intend to publish the submissions that you receive?

Mr Thompson: While we do have an NCCC, now the National COVID-19 Commission Advisory Board, inquiries mailbox, we don't formally seek submissions. Likewise, the consultations that the advanced manufacturing task force undertook were not of an open-submission nature, as I understand it, although they did consult with over 150 groups. So we're not seeking submissions on the basis that they will be made public. We've given no undertakings to people that they will be made public and no assurances that they can ask for them not to be made public. Having said that, we have, before the last hearing, published on our web page the list of organisations that we have engaged with in various ways—

Senator SIEWERT: I saw that.

Mr Thompson: and you've seen that.

Senator SIEWERT: Perhaps I'm using the wrong terms. Can you provide a list of correspondence you have received?

Mr Thompson: Can I take that on notice? We have received a lot of correspondence, and, again, some of that correspondence is from entities and individuals who have asked for it to be confidential. We've also given no assurances that it won't be released or will be released. I think it would be problematic; I'm just signalling that. But we can take that on notice.

CHAIR: Senator Siewert, we're over time. Do you have a final question?

Senator SIEWERT: Could you please also tell us whether the list is confidential or not? That is supplementary to that other question!

Answer:

The National COVID-19 Commission (NCC) Advisory Board maintains an enquiries mailbox, which is listed on its website, to enable interested stakeholders to contact the NCC Advisory Board directly to raise issues, ask questions, provide offers of assistance or submit ideas or proposals for consideration. As at 14 August 2020, the NCC Advisory Board has received and responded to 624 pieces of correspondence through the enquiries mailbox.

The Commissioners also receive enquiries and approaches directly from stakeholders, as they draw on their extensive experience and networks in their particular areas of focus.

Correspondence received by the NCC Advisory Board has covered key sectors impacted by the COVID-19 crisis, including agriculture, building and construction, drought and flood recovery, conservation and land management, supply chains, health, energy resources, tourism, research and education, arts and entertainment, and the not-for-profit sector. Types of correspondence received has ranged from troubleshooting issues, offers of assistance, and ideas for economic recovery to improve the longer term prosperity, productivity and resilience of the Australian economy. The NCC Advisory Board has received correspondence from peak bodies, large businesses, State and Territory Governments, small and medium-sized enterprises, not-for-profit organisations and individuals.

The list of organisations the NCC Advisory Board has had contact with (including, in some cases, through correspondence) is available on the NCC Advisory Board's website and is current as at 11 August 2020. The list is updated monthly.