



Australian Government

Australian Government response to the
Senate Legal and Constitutional Affairs References
Committee report:

Handling of a letter sent by Mr Man Haron Monis
to the Attorney-General

SEPTEMBER 2016

Background

On 16 June 2015, the Senate referred the following matter to the Legal and Constitutional Affairs References Committee (committee) for inquiry and report by 25 June 2015:

The handling of a letter sent by Man Haron Monis to the Attorney-General, dated 7 October 2014, and the evidence provided during the Budget estimates, including the subsequent correction of that evidence, with particular reference to:

- a) the details of the internal inquiry conducted by the Secretary of the Attorney-General's Department, Mr Chris Moraitis, following the discovery that incorrect evidence had been provided and any subsequent changes made to administrative practices between the department and the Attorney-General's office;
- b) the consideration given by the Joint Commonwealth and New South Wales review team to the correspondence sent by Mr Monis to various members of Parliament and other relevant documents and the basis for the assertion by Mr Thawley that the correspondence would make no difference to the findings of the review; and
- c) what, if any, changes were made to procedures for the handling of incoming correspondence to the Attorney-General's Department and the Attorney-General's Office following the raising of the National Terrorism Public Alert level to 'High' on 12 September 2014.

The Senate extended the committee's reporting date to 16 September 2015.

The committee tabled its report on 16 September 2015. The report makes nine recommendations.

The Australian Government's response to the committee's recommendations is provided below.

Recommendation 1

The committee reminds government agencies and statutory authorities, that where evidence is given in error to a Senate committee, the primary duty of the department or statutory authority is to the committee. Witnesses must bring errors or suspected errors to the attention of the relevant Senate committee as a priority.

Response: Noted.

The Government released the revised *Guidelines for Official Witnesses before Parliamentary Committees and related matters* (the Official Witness Guidelines) in February 2015. At that time, the Official Witness Guidelines were circulated to all Departmental Secretaries. These are also publicly available on the Department of the Prime Minister and Cabinet's website¹.

Part 5.6 of the Official Witness Guidelines outlines advice for the correction or clarification of evidence and indicates that it is most important that committees receive information at the earliest opportunity.

Recommendation 2

The committee recommends that senior executive staff across the Australian Public Service, including the secretaries of the Department of Prime Minister and Cabinet and the Attorney-General's Department, undergo training in parliamentary accountability provided by the Department of the Senate, including but not limited to seminars routinely provided for senior executives.

Response: Noted.

The revised Government's Official Witness Guidelines outline how to prepare as a witness, including advice that officers should consider training offered by the Australian Public Service Commission and by the Departments of the Senate and the House of Representatives (part 2.10 refers).

In relation to the Attorney-General's Department, the head of the department's Constitutional and Corporate Counsel Division briefed the department's Senior Management Committee (comprising the Secretary, Deputy Secretaries and First Assistant Secretaries) on parliamentary accountability on 19 October 2015 and 8 February 2016. The Chief Operating Officer also emailed all Senior Executive Service (SES) officers on 19 October 2015 to remind them of their responsibilities when appearing before parliamentary committees, including relevant guidance materials. The department regularly provides training to senior officers on parliamentary accountability in the context of Senate estimates.

SES officers in the Department of the Prime Minister and Cabinet were reminded of their obligations to the Parliament and its committees at its senior officials meeting on 12 October 2015. The Department of the Prime Minister and Cabinet also asked the

¹ <http://www.dpmc.gov.au/pmc/publication/government-guidelines-official-witnesses-parliamentary-committees-and-related-matters-february-2015>

Department of the Senate to provide their SES parliamentary training on 29 January and 1 February 2016. This training was also broadcast so SES officers in regional offices could attend. SES have been advised that, if they could not attend these sessions, the Department of the Senate offers this training twice a year and they are encouraged to attend these scheduled trainings.

Recommendation 3

The committee recommends that the Attorney-General's Department:

- formally draw to the attention of all of its officers' the document search and document management protocol;
- implement appropriate training programs to ensure adherence to the protocol; and
- consult with the Australian Government Solicitor for the purpose of reviewing this protocol in a comprehensive and purposeful manner.

Response: Supported.

The Attorney-General's Department has made the protocol for official searches for and extraction of documents available to all officers on the department's intranet. The Secretary drew officers' attention to the protocol at all-staff addresses on 6 August and 9 October 2015. The protocol was discussed at the department's Senior Management Committee meetings on 13 July and 29 September 2015 and at the Executive Board meeting on 23 September 2015. The protocol has also been circulated to all staff through emails from the Chief Operating Officer on 30 September and 26 October 2015.

Training for staff on the protocol has been provided in conjunction with the Australian Government Solicitor (AGS). Two face-to-face training sessions were held on 2 and 4 November 2015 and a training video is available to all staff on the intranet.

AGS reviewed the protocol and AGS input was incorporated in the protocol (which was updated on the intranet on 30 September 2015).

Recommendation 4

The committee recommends that the Attorney-General's Department:

- review the allocation of resources across its divisions;
- undertake formal risk assessments to mitigate risks associated with the cross-divisional movement of staff and the ad hoc use of staff across departmental divisions; and
- develop and implement training for its staff relating to intradepartmental document management and communications.

Response: Noted.

The Attorney-General's Department continues to review the allocation of resources across its divisions as part of business planning, budgeting and risk management processes.

The department assesses risk as part of the process of reallocating staff resources across divisions. The protocol for searches for and extraction of documents requires a single senior

officer to be appointed as the lead coordinator, which mitigates risks associated with the movement and use of staff across departmental divisions.

As outlined in the response to recommendation 3, the department has provided training to staff on document management.

Recommendation 5

The committee recommends that the Attorney-General's Department implement a training program to ensure that officers responding to correspondence are better aware of the political and cultural connotations of titles and names, especially in relation to known terrorist organisations.

Response: Supported.

Officers in the Attorney-General's Department who work on national security issues are aware of the political and cultural connotations of titles and names associated with terrorist organisations through formal and informal training, exposure to intelligence material and briefings, and experience.

Recommendation 6

The committee recommends that the Attorney-General's Department subject its document handling procedures to both regular and random audits, to inform further development of protocols, and training and resource requirements.

Response: Supported.

The Attorney-General's Department has tested the protocol for official searches for and extraction of documents and refined it based on this experience. The department will audit the use of the protocol in future document search and extraction processes and incorporate lessons learnt.

Recommendation 7

The committee recommends that the Attorney-General's Department routinely consult the relevant intelligence and security agencies in relation to sensitive correspondence, especially where it has or may have national security implications.

Response: Supported.

The Attorney-General's Department carefully assesses each item of correspondence and liaises with other Government agencies, including law enforcement and security agencies, where an item of correspondence raises concerns. Any letter that is threatening or contains

any statements of support for or affiliation with a terrorist organisation will be referred to appropriate authorities.

Recommendation 8

The committee recommends that all Commonwealth government agencies ensure that they have procedures in place to bring sensitive correspondence which has or may have national security implications to the attention of the relevant intelligence and security agencies in a timely manner.

Response: Supported.

All Commonwealth departments have processes in place to bring correspondence with national security implications to the attention of relevant security and intelligence agencies.

Recommendation 9

The committee recommends that the Attorney-General's Department review its procedures related to the application of the Web Guide: Guidelines for Ministerial and Agency Websites in a comprehensive and purposeful manner to ensure that these guidelines are applied consistently, objectively and apolitically.

Response: Supported.

The Attorney-General's Department has reviewed its procedures in relation to the application of the Australian Government's Web Guide (now known as the Digital Service Standard design guide on ministerial content). The department has prepared and circulated to staff in the communications and web publishing areas a written guideline which specifies the process for publishing ministerial content.

Dissenting Report from Government Senators

The Government notes the dissenting report.

Australian Labor Party Senators' Additional Comments

The Government does not support the Australian Labor Party senators' additional comments.