

Senate Standing Committee on Education and Employment

QUESTIONS ON NOTICE Supplementary Budget Estimates 2016 - 2017

Agency - Comcare

Department of Employment Question No. EMSQ16-000835

Senator Paterson asked on 19 October 2016 on proof Hansard page 88

Question

Comcare - Significant Case Expenses

Senator PATERSON: Finally, I want to move to obviously the most high-profile and famous one, which was the 'sex in motel' case. To assist you I have a report with a very handsome photo of my Senate colleague which does have the costs to Comcare in that case.

Senator ABETZ: There are standing orders against misleading the Senate!

Senator PATERSON: I believe the cost to taxpayers in defending this case, given that it went all the way to the High Court, was in the vicinity of \$500,000. That is what this media report suggests, and Senator Abetz is nodding; I trust his memory in this. That is obviously the most spectacular example. Are there any others in that vicinity of \$500,000?

Ms Taylor: Matters that go to the High Court would be in that vicinity or even some that we take or are taken to the full Federal Court. But I can undertake to provide that on notice. For any that go past the AAT appeal, when you start to get into the Federal Court and the full Federal Court and eventually the High Court, the legal costs, both internal and external, escalate considerably.

Senator PATERSON: Yes—if you could provide on notice how many cases have been similar in nature to that one in that it cost a significant amount of money and went a significant way through the courts, in recent years.

Ms Taylor: Certainly.

Answer

There is only one other matter in recent years which will, once concluded, cost Comcare in the vicinity of \$500,000 in legal expenses, both in defending the matter and in costs payable to the claimant. That is the current matter before the High Court of *Comcare v Martin* S142/2016. Comcare applied for special leave to appeal to the High Court from a decision of the Full Federal Court. The High Court granted special leave on the condition, which was offered by Comcare, that Comcare pay the costs of the claimant in relation to the appeal. The Court has heard the appeal; the decision is reserved.

Costs paid to date in the Martin matter are as follows:

AAT: \$84,727.69

Federal Court: \$54,671.76

Full Federal Court: \$41,482.95

High Court – special leave application: \$108,350.37

High Court – appeal: \$2,625.22

Total costs to date: **\$291,857.99**

Six other matters have been the subject of Full Federal Court appeals in the last two years. These include three unrepresented applicants who also have had other proceedings dating back a number of years.

Costs paid by Comcare in relation to these six applicants for all their proceedings to date - AAT, Federal Court and Full Federal Court - are detailed below.

Matter	Proceedings commenced	Comcare's total legal costs to date
Mr L	2010	\$187,970.68
Ms F	2013	\$116,410.02
Mr S	2010	\$238,044.67
Ms C (unrepresented)	1993	\$409,202.75
Ms D (unrepresented)	2008	\$306,316.40
Mr G (unrepresented)	2003	\$268,817.71