

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S DEPARTMENT

Group 2

Question No. 148

Senator Ludwig asked the following question in writing on 24 February 2014:

- 1) List all legal costs incurred by the department since 7 September 2013
 - i. List the total cost for these items, broken down by source of legal advice, hours retained or taken to prepare the advice and the level of counsel used in preparing the advice, whether the advice was internal or external
 - ii. List cost spend briefing Counsel, broken down by hours spend briefing, whether it was direct or indirect briefing, the gender ratio of Counsel, how each Counsel was engaged (departmental, ministerial)
 - iii. How was each piece of advice procured? Detail the method of identifying legal advice
 - iv. List the sources of advice, noting how many pieces of advice have been obtained by each source
- 2) Has the Attorney-General's office ever provided legal advice to the Attorney-General?
 - i. If so, in these instances did the Attorney-General make any decisions based on this advice without the provision of legal advice from the department?
 - ii. If so, table that advice
 - iii. If so, provide the list of subject matters where legal advice has been provided by the Attorney-General's office without additional advice from the department.

The answer to the honourable senator's question is as follows:

- 1) The total legal costs incurred by the Attorney-General's Department for the period 7 September 2013 to 24 February 2014 is \$4,645,231.50.

This figure includes all legal services provided to the Department including, but not limited to, legal advice. Legal services provided to the Royal Commission into the Home Insulation Program and the Royal Commission into Institutional Responses to Child Sexual Abuse are not included. However, legal services provided to support the Commonwealth's representation before these Royal Commissions are included.

- (i) The total legal costs incurred can be broken down as follows;

Internal legal services	\$779,423.14
External legal services from service providers (including counsel briefed through service providers)	\$3,720,483.95
External legal services from directly briefing counsel	\$145,324.41
Total legal costs incurred	\$4,645,231.50

The amount paid to each service provider is as follows:

Ashurst	\$420,151.72
Australian Government Solicitor	\$3,271,381.00
Bradley Allen Love Lawyers	\$19,568.90
HWL Ebsworth Lawyers	\$4,976.33
Maddocks	\$4,406.00

The Department does not collect information relating to the 'hours retained or taken to prepare the advice' and the 'level of counsel used in preparing the advice'. Extracting such information from individual legal service providers for each particular matter would be an unreasonable diversion of resources for the Department.

- (ii) The amounts paid to each service provider in part (i) include amounts paid to counsel briefed through external service providers. In addition, the Department paid \$145,324.41 to directly brief counsel.

The table below includes counsel directly briefed by the Attorney-General's Department as well as counsel briefed through external legal service providers. The breakdown below is for the period 1 September 2013 to 28 February 2014.

Total number of briefs to counsel	96
Number of briefs to counsel - direct briefing	5
Number of briefs to counsel - indirect briefing	91
Number of briefs to male counsel	58
Number of briefs to female counsel	38

The Department does not collect information relating to the 'hours spent briefing counsel'. Extracting such information from individual legal service providers for each particular matter would be an unreasonable diversion of resources.

- (iii) All Commonwealth agencies subject to the *Financial Management and Accountability Act 1997* are required to use the whole-of-government Legal Services Multi-Use List (LSMUL) when purchasing external domestic legal services, other than counsel. The Attorney-General's Department procures external legal services in accordance with the requirements of the LSMUL. This excludes tied work, which is undertaken by the Australian Government Solicitor, the Attorney-General's Department and the Office of Parliamentary Counsel.

The LSMUL does not cover the procurement of legal services from counsel. The Attorney-General Department engages counsel in accordance with Appendix D of the *Legal Service Directions 2005*, which contains rules about the selection of counsel and fees payable to counsel.

- (iv) Other than as provided above, the Department does not collect information on the numbers of pieces of advice provided by source and providing this would be an unreasonable diversion of resources.

2) It is not appropriate to disclose advice to Ministers