

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

Group: 2

Program: Other Agency

Question No. AE15/009

Senator Reynolds asked the following question at the hearing on 24 February 2015:

Senator REYNOLDS: You saw over a period of time, going back even before the caretaker period, that there had been a general drying up—

Prof. Triggs: I would have to check my records; because, again, with regard to precise dates, I would like to check my records. And I would have to ask the staff of the commission at what time did they feel that the weekly meetings were not working. Usually, our staff could pick up the phone to their equivalent and get a very friendly and cooperative response; and, with whatever information they could properly give to us, they did. I need to get some dates, if that would help you, as to when we started to get the feeling that that level of cooperation with information was not at the same level.

Senator REYNOLDS: But clearly if you had written to him 11 days after the caretaker period, you already had considerable issues. I presume you would have rung him. If you had not got an answer or you had got his response, you would have got on the phone to your colleague and said: 'Look, Martin, we've got an issue here. We're not getting the information we need anymore. What can we do to fix it?' What was his response? Did you contact him?

Prof. Triggs: Again, we had good relations. I would have to take it on notice as to exactly what he said.

Senator REYNOLDS: Thank you very much.

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

Please see the table below.

Timeline regarding request for information from Department of Immigration and Citizenship/Border Protection to publish in *Asylum seekers, refugees and human rights: Snapshot report 2013*

| Date | Event |
|-------------------|---|
| 31 July 2013 | In teleconference with Department, Commission staff flagged that the Commission required information from the Department for its 'state of the system' report. |
| 2 August 2013 | Commission staff sent information request to the Department. Email makes clear that information is for the Commission's report, and 'may be published in our report'. Deadline for response was 2 September 2013. Department responded 'We will look at your request for information and get back to you just as soon as we can'. |
| 7 August 2013 | Commission staff emailed Department to discuss the information request. Email stated 'We intend to publish the report as soon as possible after the federal election therefore ensuring we receive information from the Department in a timely manner will be critical.' |
| 8 August 2013 | Commission staff sent further information request to the Department. Email makes clear that information is for the Commission's report, and 'may be published in our report'. Deadline for response was 2 September 2013. Email also says 'If you consider that there will be difficulties in meeting this timeframe or in the publication of certain information please let me know as soon as possible. We are working to publish the report shortly after the federal election.' |
| 2 September 2013 | Department advised Commission staff that they were 'unlikely to meet the deadline of 2 September 2013'. |
| 3 September 2013 | Commission staff called Department about the request for information – noted expectation that it would be received by the end of the week (6 September 2013) |
| 5 September 2013 | Following a further email enquiry from the Commission about the response, the Department advised that it was unable to give a time frame for the response. |
| 6 September 2013 | President sent an urgent letter to the Secretary of the Department Martin Bowles, noting the delay in receiving the information and consequences for the Commission's publication of the report, and that the Department had not given a timeframe for providing the information. Requested information by Monday 9 September 2013. |
| 8 September 2013 | Department provided a response to the request for information. The response was provided with proviso ' <i>Please note that some of the information in this document is not publicly available and is not for further dissemination or publication without permission from DIAC</i> ' Commission staff emailed Department to query the proviso, given 'The information was requested on the basis that it would be published in the Commission's report'. |
| 9 September 2013 | Commission staff emailed the Department regarding 'a few responses that require clarification or further information'. |
| 10 September 2013 | Department emailed Commission staff and confirmed 'the department does require the Commission to seek permission before publishing any of the information that was transmitted on Sunday 8 September 2013.' Department sent further email stating 'the version of the response provided to the |

| Date | Event |
|-------------------|---|
| | <p>Commission on Sunday is incorrect and we wish to retract the information. It would be appreciated if you can confirm deletion of all copies held by the Commission’.</p> <p>Commission staff emailed the Department and noted ‘As discussed we are on an extremely tight deadline and would be grateful if the Department can provide us with an updated response as well as permission to publish by COB 12 September.’</p> <p>Commission staff sent a request for permission to publish the information requested.</p> <p>Commission staff and Department had teleconference to discuss permission to publish information in the report.</p> |
| 12 September 2013 | Department emailed Commission staff to notify them that they could not meet 12 September deadline, but expected to provide the information on 13 September 2013. |
| 13 September 2013 | <p>Department emailed Commission staff to advise that it was expected the response would be provided on 16 September 2013.</p> <p>Commission staff emailed Department notifying them that the Commission’s deadline for completing the draft report was that night, and that ‘We have already pushed back our publishing deadline and cannot do so again without incurring costs’.</p> |
| 16 September 2013 | <p>Department provided response to request for information, which was several pages shorter than response provided on 8 September 2013.</p> <p>Internal Commission emails between members of asylum seeker team show that significant information which was requested was missing from the response.</p> <p>Commission emailed Department staff thanking them for the response.</p> |
| 17 September 2013 | <p>President sent letter to the Secretary of the Department Martin Bowles, noting the Department’s withdrawal of the initial response, and its refusal to give permission to publish some of the data. President requested that the Commission be provided with all the data requested.</p> <p>Commission staff make decision to push back release of report, because of delays in receiving the information from the Department.</p> |
| 19 September 2013 | Commission staff emailed Department re inaccurate information which was included in response regarding operational detention facilities. |
| 20 September 2013 | <p>Department emailed Commission an updated table of the facilities</p> <p>Commission staff emailed Department raising concerns that the updated table of facilities sent was also inaccurate</p> |
| 22 October 2013 | <i>Asylum seekers, refugees and human rights: snapshot report 2013</i> was released |
| 5 November 2013 | Secretary of the Department Martin Bowles wrote to the President in response to her letter dated 17 September 2013, apologising for the delay in the Department’s provision of information for the report. |