

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

**Group: 2**

**Program: 1.1**

**Question No. AE15/015**

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

Senator DASTYARI: I am not asking you whether there is a constitutional means of doing the appropriation. In fact, if I was doing that I would be asking you for advice to government. I am not asking for that. I am simply asking if you have provided advice to government on appropriation in relation to the \$5 billion fund that is being discussed and that I am discussing with you.

Mr Faulkner: Yes. I am afraid I cannot answer that, because it is entirely possible that my officers have been involved in considering aspects of it. Personally, I do not recall having given any advice on that particular matter in the recent past, or even in the distant past, but I am often wrong in that my memory is not that great. As I said, there is a lot of advice given day-to-day. While I know it may seem evasive, I simply am not in a position to say whether a particular—

Senator DASTYARI: I am very conscious of time. Can you take it on notice?

Mr Faulkner: Sure.

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

Questions as to whether legal advice has been sought should be directed to the agency that may have sought the advice.

The formulation of government programmes often involves many complex issues and is routinely undertaken having regard to a range of constitutional and other legal considerations. Constitutional advice, where necessary, is generally provided by the Australian Government Solicitor. The Attorney-General's Department notes that the Department of the Treasury has previously answered questions about legal advice in relation to asset recycling.