

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING : 23 February 2015

IMMIGRATION AND BORDER PROTECTION PORTFOLIO

(AE15/170) - Costs of Litigation - Programme 2.3 Regional Cooperation (Administered) & Internal

Senator Hanson-Young, Sarah (L&CA) written:

What are the total costs to the Department associated with asylum seeker and refugee litigation, for the period 1 July 2014 to date? For the period 2013-2014? For the period 2012-2013?

What proportion of these total costs stem from applications made on Manus Island? What were the total legal costs associated with Justice Canning's human rights inquiries?

What proportion of the total costs of protection visa litigation are associated with the Regional Processing Centre on Nauru?

What was the total amount of money spent on the litigation involving the case of Plaintiff S297/2013 v. Minister for Immigration and Border Protection & Anor?

What are the total costs to the Department associated with the litigation over the detention of 157 asylum seekers in CPCF v Minister for Immigration and Border Protection & Anor?

Answer:

Table 1 provides the Department's total (administered and departmental) onshore external litigation and offshore legal proceedings expenditure associated with asylum seeker and refugee litigation.

Table 1

2014-2015 (as at 28/2/2015)	\$8,995,798
2013-2014	\$12,234,245
2012-2013	\$11,005,989
Total	\$32,236,032

A further breakdown of the above is provided Tables 2 and 3.

Table 2 provides the Department's external litigation expenditure on judicial review matters associated with asylum seeker and refugee litigation that were filed onshore. This includes professional fees, counsel and disbursements (excluding GST).

Table 2: Onshore litigation

2014-2015 (as at 28/2/2015)	\$8,302,661
2013-2014	\$11,510,363
2012-2013	\$10,939,343
Total	\$30,752,367

Table 3 provides the Department's external expenditure on legal proceedings relating to regional processing and settlement and any associated IMA matter (offshore).

Table 3: Legal Proceedings in Nauru/PNG

	Nauru	PNG	Total
2014-2015 (as at 28/2/2015)	\$693,137	Nil	\$693,137
2013-2014	\$95,810	\$628,072	\$723,882
2012-2013	Nil	\$66,646	\$66,646
Total	\$788,947	\$694,718	\$1,483,665

The Department's total onshore external litigation and offshore legal proceedings expenditure associated with asylum seeker and refugee litigation over the last three financial years was \$32,236,032.

The proportion of total costs that stem from applications made on Manus Island is provided in Table 4.

Table 4: Legal Proceedings in PNG

	PNG
2014-2015 (as at 28/2/2015)	Nil
2013-2014	\$628,072
2012-2013	\$66,646
Total	\$694,718

Under the *Memorandum of Understanding between the Independent State of Papua New Guinea and the Government of Australia relating to the transfer to, and assessment and settlement in, Papua New Guinea of certain persons, and related issues* Australia has met the legal costs of the Government of PNG in relation to constitutional and human rights challenges. Australia has provided legal support in the sum of \$393,584 in the Cannings' inquiry and related matters. Funds are provided to the Government of PNG legal representative under a pre-payment arrangement. The legal representative is yet to draw on the final \$90,768 pre-payment extended in May 2014.

The Department's total onshore external litigation and offshore legal proceedings expenditure associated with asylum seeker and refugee litigation (protection visa litigation) over the last three financial years was \$32,236,032.

Under the terms of the *Memorandum of Understanding between the Republic of Nauru and the Commonwealth of Australia, relating to the transfer to and assessment of persons in Nauru, and related issues*, the Government of Australia has met all legal costs and associated charges in relation to the July 2013 riot cases. To date, \$788,947 has been expended to support this court process. A breakdown by financial years is provided in Table 5 below:

Table 5: Legal Proceedings in Nauru

	Nauru
2014-2015 (as at 28/2/2015)	\$693,137
2013-2014	\$95,810
2012-2013	Nil
Total	\$788,947

The total external litigation expenditure incurred by the Department in defending S297/2013 v Minister for Immigration and Border Protection & Anor was \$293,036. This includes professional fees, counsel and disbursements (excluding GST).

External legal expenditure associated with CPCF was covered by Comcover, we also note a costs order was made in favour of the Commonwealth when the decision was handed down.