

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

**Program:** 1.1 AGD Operating Expenses - Civil Justice and Corporate

**Question No. AE17/090**

**Senator Pratt asked the following question at the hearing on 28 February 2017:**

To the Attorney-General –

1. Has the Government offered to pay former Senator Day's legal expenses in relation to the matter referred to the Court of Disputed Returns?
2. Did Mr Day approach the Government for financial assistance, or did the Government offer to pay this expenses?
3. Whose decision was it to agree to pay Mr Day's legal costs?
4. Did the Attorney-General discuss the question of paying Mr Day's legal costs with the Prime Minister or his office, or any of his ministerial colleagues or their offices?
5. What amount, if any, has been spent on Mr Day's legal expenses to date, and what is the estimated total cost of his legal representation?
6. Did the Government offer to pay former Senator Culleton's legal expenses in relation to the matter referred to the Court of Disputed Returns?
7. Did Mr Culleton approach the Government for financial assistance, or did the Government offer to pay his expenses?
8. What amount, if any, has been spent on Mr Culleton's legal expenses to date, and what is the estimated total cost of his legal representation?
9. Whose decision was it to agree to pay Mr Culleton's legal costs?
10. Did the Attorney-General discuss the question of paying Mr Culleton's legal costs with the Prime Minister or his office, or any of his ministerial colleagues or their offices?
11. From what budget are these legal expenses being funded?

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

1. The Commonwealth's position on costs was set out in written submissions filed on 6 January 2017. The Commonwealth indicated it would submit to an order to pay Mr Day's costs of the Senate reference. On 5 April 2017 the High Court sitting as the Court of Disputed Returns ordered that the Commonwealth pay Mr Day's and Ms McEwen's costs save for any costs excluded by order.

2. Applications for legal financial assistance to the Department are confidential. The Department does not comment on whether it has or has not received an application from any individual.
3. See answer to question 1 – the High Court ordered the Commonwealth to pay Mr Day's costs.
4. No.
5. It would not be appropriate at this stage to disclose any actual or estimated expenditure under orders made in relation to the Senate references. Disclosure may prejudice the Commonwealth's position in handling costs claims.
6. The Commonwealth's position on costs was set out in written submissions filed on 25 November 2016. The Commonwealth indicated it would submit to an order to pay Mr Culleton's costs of the Senate reference. On 3 February 2017 the High Court sitting as the Court of Disputed Returns ordered that the Commonwealth pay Mr Culleton's costs save for any costs excluded by order. The Court excluded certain costs by order on 31 January and 2 March 2017.
7. Applications for legal financial assistance to the Department are confidential. The Department does not comment on whether it has or has not received an application from any individual.
8. It would not be appropriate at this stage to disclose any actual or estimated expenditure under orders made in relation to the Senate references. Disclosure may prejudice the Commonwealth's position in handling costs claims.
9. See answer to question 6 - the High Court ordered the Commonwealth to pay Mr Day's costs.
10. No.
11. Expenditure in relation to the costs of Mr Day, Mr Culleton and Ms McEwen will be paid from the Attorney-General's Department departmental appropriation.