

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

Group: 2

Program: 1.8

Question: BE14/026

Senator Carr asked the following question at the hearing on 26-29 May 2014:

CHAIR: Thank you, Senator Carr. That is the end of your 15 minutes. Curiously, it segues nicely into the questions I have, but on a different royal commission. I am just wondering whether you could indicate to me how many witnesses have sought legal representation costs in the insulation royal commission.

Mr Wilkins: I am not trying to prevaricate, but it would be the sum of a number of different features.

Mr Minogue: I do not think there is a consolidated figure, unless the legal assistance side—

CHAIR: How many people? That was the question.

Mr Minogue: There were 58 witnesses. Some were former Commonwealth employees, who would have approached their own departments under the legal services directions that apply to Commonwealth employees engaged in legal actions or inquiries. There would have been some private witnesses who would have gone through the conventional legal assistance process that Mr Manning and Ms Quinn were outlining. And then there were the former ministers, who would have availed themselves of the parliamentary entitlements regulations regime, which is legal assistance for former ministers, in relation to acts arising under their ministerial duties.

Mr Wilkins: So, to give you the number you are after, Mr Chair, we would need to get those three things and add them together.

CHAIR: Well, I was more interested in the payments made to former ministers. Do we have a list of which former ministers sought legal assistance, how much they were, and who they were represented by? Were they represented by solicitors, or junior counsel, or—

Mr Minogue: We do. I think there were three former ministers who have availed themselves—

Mr Wilkins: This is public information.

Mr Minogue: It is public information. Under the parliamentary entitlements regime the Attorney will ultimately table a statement of approvals and expenditure, but there were three former ministers and the former Prime Minister. So, that is four. In terms of who their representatives were, they were represented by a combination of solicitors and counsel—counsel appearing at the bar table. In terms of the amounts, we would not generally disclose that prior to the Attorney's tabling that statement, because of commercial-in-confidence and other considerations. But I am happy to take that question on notice.

CHAIR: Were all former ministers represented by QCs, or SCs? In Queensland they may well have been QCs.

Mr Minogue: They were all represented by counsel. I do not have, in the notes I have, whether they were represented by silk. I suspect that two of them were silk, but I do not have that information.

Senator Brandis: Certainly Mr Rudd was; we know that.

Mr Minogue: Yes.

CHAIR: And you are telling me that at some stage in the parliamentary process the Attorney will table in the parliament a list of the payments. Mr Minogue: Yes. Under the normal parliamentary entitlements regime, parliamentary entitlements for ministers and former ministers include support for legal actions they are involved in. That is ultimately a process whereby the Attorney tables information before parliament in accordance with those regulations.

CHAIR: This has not been retrospectively changed like other such things, Senator Brandis?

Senator Brandis: No. I think that direction has been in being for quite a long time.

CHAIR: It is just that there is a tendency under this government to retrospectively sort of change arrangements.

Senator Brandis: Payment to legal practitioners has been tabled in the parliament for many years.

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

[The question was answered during the hearing.]

CHAIR: I will call back to order the Senate estimates hearing of the Legal and Constitutional Affairs Legislation Committee. We are dealing with the affairs of the Attorney-General, and when we broke at 1 o'clock I was asking some questions of legal payments for ministers involved in the home insulation inquiry. Did you indicate to me how many ministers had applied for assistance?

Mr Minogue: I will expand on my answer a little. Four former ministers have appeared before the royal commission, but eight former ministers who had applied for legal assistance under the parliamentary entitlements scheme. There was also discussion about whether they were represented by a counsel or solicitors. I can inform the committee that former Prime Minister Kevin Rudd was represented by Bret Walker SC and Martin Burns QC; former Treasurer Swan was advised by counsel Mark Plunkett, although he did not appear. The former Prime Minister Julie Gillard and Lindsay Tanner were both represented by the same counsel—the three were Nicholas Owens, Bruce McClintock SC and Noel Hutley SC—in relation to legal advice. There were no appearances by either of those ministers. We do not know of any application or representation for Senator Wong. Former Minister Garrett was represented by Antony Whitlam QC. Former Minister Arbib was represented by Adam Pomeroy QC. We do not have any information in relation to former Minister Combet.

CHAIR: Four of those who had legal assistance were not called before the commission?

Mr Minogue: That is right. If they were called, they appeared.

CHAIR: So they are entitled to legal advice although they are not part of the commission. Had they been advised by the commission that they might be required?

Mr Minogue: They might have been interviewed by the commission.