

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
BUDGET ESTIMATES 2017

Attorney-General's Department

Program: 1.3 Australian Government Solicitor

Question No. BE17-027

Senator Wong asked the following questions on 24 May 2017:

Senator WONG: Certainly that is what I was intending. I do want to know how you cost and charge for those in-house services. Would the Attorney-General's core department receive a bill from you for the AAT?

Mr Kingston: Yes. The department on this occasion received a bill from us.

Senator WONG: In respect of what?

Mr Kingston: In respect of the work we did on the AAT matter and then subsequently the work we did on the case in the Federal Court.

Senator WONG: The full Federal Court appeal. You don't have those?

Mr Kingston: Do I have the costing?

Senator WONG: Do you have those available?

Mr Kingston: The reason I was about to say it is a question I would normally seek to take on notice is to have an opportunity to consult with the client because it would involve revealing information that is confidential to the client about what we charge them and on occasions that could adversely affect ongoing matters in relation to the matters.

Senator WONG: There are no ongoing matters in relation to this. This is the Senate estimates. This is public expenditure.

CHAIR: Let Mr Kingston finish his answer.

Senator WONG: I thought he had.

Mr Kingston: The example I was about to give, which is one reason why we would seek to consult with the client, is if, for example, paying all the costs that the other side were seeking to recover was a matter of ongoing negotiation then there could be reasons on occasions why the costs charged by the other side to their own client was not something that would want to be revealed in public until settling the winning side's costs had been resolved. In this case, there are ongoing discussions with Mr Dreyfus about the costs he is seeking to recover in relation to the court case. That is one example why, in relation to confidential information like that, we would normally seek to consult with our client first, who may say, 'Go ahead and disclose the costs,' which is fine, but it is something as lawyers, as distinct from officials in the department, for example, would normally seek to do.

Senator WONG: And you have not done that.

Mr Kingston: No. As I said, rightly or wrongly, the cost question was not one of the questions I wrote down.

Senator WONG: I hope this does not end up with further matters having to come before the Senate. Do you want to take it on notice or can you come back at 10 o'clock after you have had a chance to have a conversation with the Attorney?

Mr Kingston: I will take it on notice. ...

CHAIR: Minister, I am speaking. In addition to that, Mr Kingston, as a professional lawyer, wants to speak to his client, which happens to be you, and I am sure he does not want to do it in a

public venue on national TV or something. It is something he said he will take on notice . He will no doubt, in the course of taking it on notice, consult with his client and come back with an answer to the committee. I do not think we can take it much further than that.

1. Senator WONG: Let's be clear: what I am seeking is all costs incurred by AGS in the course of representing the Attorney-General and his chief of staff in both the AAT and the Federal Court proceedings, and—

Senator Brandis: I understand what you are asking—

Senator WONG: I am just putting it on notice. Can we please just let me do that and then we can move on?

...

Senator WONG: I am trying to finish this—

CHAIR: Yes, please.

Senator WONG: because I am conscious that you were very courteous in letting me interpose here. Did you understand yourself to have taken anything else on notice?

2. Mr Kingston: Yes. I thought you also asked who was instructing AGS in relation to the AAT proceeding.

Senator WONG: Yes.

The responses to the honourable senator's questions are as follows:

1. At the AAT stage of this matter AGS provided its client with both solicitor and advocacy services and invoiced its client for:

- \$34,678.87 (ex GST) in fees (solicitor and advocacy)
- \$2,148.81 (ex GST) in disbursements
- \$1,397.05 in GST (as the matter commenced pre-consolidation GST was charged for a period)
- \$38,224.73 total.

At the Full Federal Court stage AGS provided solicitor services only with counsel services provide by Jason Pizer QC and Albert Dinelli from the Victorian Bar. AGS has invoiced its client for:

- \$17,128.20 (ex GST) in fees (solicitor services only)
- \$48,447.35 (ex GST) in disbursements, of which \$39,829.80 is counsel (advocacy) fees
- \$65,575.55 total.

2. AGS acted for, and on the instruction of, the Attorney-General in the AAT proceedings.