

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

Group: 2

Program: 1.3

Question No. SBE14/167

Senator Wright asked the following written question from the 20 November and 11 December 2014 hearings.

1. Since the last Estimates hearings we have seen significant increases in the funding provided to law enforcement and intelligence agencies and a very substantial expansion of their powers, but no corresponding increases in funding or powers to the organisations that those affected by these laws rely upon to understand what the laws mean and what their rights are. Has the Government reviewed the funding allocation provided to community legal centres and legal service providers in light of the recent counter-terrorism reforms?
2. Where will individuals be able to get advice about whether it is legal to travel to a declared area, and how to go about collecting sufficient evidence to establish a 'legitimate purpose' for that travel?

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

1. No. Funding allocations for legal assistance programmes from 1 July 2015 are being reviewed and will be determined as part of the 2015-16 Budget process.
2. The offence at section 119.2 of the Criminal Code — entering, or remaining in, declared areas (declared areas offence), provides guidance about the permissible purposes for entering or remaining in a declared area.

Subsection 119.2(3) of the Criminal Code, which creates a defence to the offence in subsection 119.2(1), clearly sets out that the defence is available to a person who enters or remain in the area solely for a purpose or purposes of:

- providing aid of a humanitarian nature
- satisfying an obligation to appear before a court or other body exercising judicial power
- performing an official duty for the Commonwealth, a state or a territory
- performing an official duty for the government of a foreign country or the government of part of a foreign country (including service in the armed forces of the government of a foreign country), where that performance would not be a violation of the law of the Commonwealth, a state or a territory
- performing an official duty for the United Nations or an agency of the United Nations
- making a news report of events in the area, where the person is working in a professional capacity as a journalist or is assisting another person working in a professional capacity as a journalist
- making a genuine visit to a family member, and
- any other purpose prescribed by the regulations.

Information about the declared areas offence is available on the Australian Government National Security website at www.nationalsecurity.gov.au, the Living Safe Together website at www.livingsafetogether.gov.au and the Australian Government Attorney-General's Department website at www.ag.gov.au.

Included in the information on the Australian Government National Security website is a 'declared area offence' page which provides additional information, including a response to the question "How do I show that I travelled for a legitimate purpose?" The response provides that "A person who wishes to rely on the exception to the offence and establish that their travel to a declared area was for a sole legitimate purpose or purposes will need to provide information to the court that suggests a reasonable possibility that they travelled for a sole legitimate purpose or purposes."

Those wishing to travel to a declared area are also able to obtain independent legal advice.