

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

Group: 2

Program: 1.8

Question No. SBE14/176

Senator Bilyk asked the following question at the hearing on 20 November 2014:

1. Were the Counsel Assisting and positions publically advertised?
2. How many applicants were considered for the position?
3. Was the applicant assessed according to a merits based selection criteria?
 - a. If so, please describe the assessment process and outcome.
4. Was the appointment considered by Cabinet?
5. Who identified the appointee as a potential candidate for appointment?
6. Who approved the appointment?
7. Was the Minister or his office briefed on the appointment?
 - a. If so, on what date(s)?
8. Was the Prime Minister or his office briefed on the appointment?
 - a. If so, on what date(s)?
9. Was the appointment recommended by the bureaucracy?
10. If engagement of Counsel was dealt with as a procurement rather than appointment matter, was there a tender or similar open competitive process engaged in? Was it a full tender?
11. How many prospective Counsel were invited to participate in this process?
12. How was the process assessed?
13. What was the outcome of the process?

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

1. No. The Commonwealth Procurement Rules made under sub-section 105B(1) of the *Public Governance, Performance and Accountability Act 2013*(Cth) allow for the direct engagement of counsel.
2. See (1) above.

3. See (1) above.
4. No.
5. The Office of the Royal Commission into Trade Union Governance and Corruption.
6. See (1) and (5) above.
7. Yes. Where counsel is expected to become involved in the examination or cross-examination of witnesses, the Attorney-General appoints them as Counsel Assisting to provide protections under section 6FA of the *Royal Commissions Act 1902*. In a submission dated 19 March 2014 the Department requested that the Attorney-General consider appointing Mr Stoljar, Mr Elliott and Ms Roughley as Counsel Assisting. On 27 March 2014, the Attorney-General appointed Mr Stoljar, Mr Elliott and Ms Roughley as Counsel Assisting for the purposes of section 6FA of the *Royal Commissions Act 1902*. In a submission dated 7 November 2014 the Department requested that the Attorney-General consider appointing Mr Prince as Counsel Assisting and on 20 November 2014 the Attorney-General appointed Mr Prince as Counsel Assisting.
8. No.
9. See (7) above.
10. See (1) above.
11. See (1) above.
12. See (1) above.
13. See (1) above.