

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

**Group 2**

**Program 1.1**

**Question No. 38**

**Senator Wright asked the following question at the hearing on 12 February 2013:**

**Senator WRIGHT:** Has the department received any legal advice on the constitutionality of introducing uniform legislation at a federal level to implement OPCAT, leaving aside practical considerations?

**Mr Manning:** We have got legal advice on an aspect of it but I am not across the detail as it was a while ago in the early days of its consideration. I could take on notice the date and the subject matter of that, Senator.

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

On 10 July 2009 the Department received legal advice from the Australian Government Solicitor regarding the constitutionality of introducing uniform legislation to implement key provisions of the OPCAT. A revised version of this advice was received on 18 June 2010 in response to further questions about the implementation of National Preventive Mechanism obligations.