

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

Output 1.3

Question No. 122

Senator Stott-Despoja asked the following question at the hearing on 27 May 2008:

\$2.8m over two years has been allocated for the purpose of a national consultation on human rights and responsibilities:

- a) Has consideration been given to the format of the consultation?
- b) What is the proposed format?
- c) Have the terms of reference been formulated? If not, why not?
- d) How have the terms of reference been formulated, or how does the Government propose to formulate the terms of reference?
- e) Are you able to provide the Committee with a copy of the terms of reference? If not, why not?
- f) Who will have administrative responsibility for the conduct of the consultation?
- g) The Government has stated that:

“the consultation will consider a range of options for recognising and protecting human rights in Australia and that it will not presuppose any outcome. The Government has also indicated that a legislative charter of rights is one option, but that any new approach will flow from the views expressed by the Australian people.”

Yet in the *Sydney Morning Herald* on 1 December 2007, the Attorney-General was quoted as saying that "We're not considering a constitutional bill," and that "this would be a framework for legislators or regulators when preparing legislation, rather than anything that would be enforceable against citizens or corporations.

In light of this, has the Government also ruled out a constitutionally enshrined bill of rights?

- h) Detail the nature, content, timing and attendees of any meeting that has occurred in relation to the proposed consultation.
- i) How will the \$2.8M be allocated?
- j) Will the consultation travel to those communities in Australia whose human rights are most at risk, for example indigenous and homeless communities? If so, does the Government consider that \$2.8M will be adequate?

- k) When does the Government expect that the consultation will commence?
- l) How does the \$2.8 million compare to the cost of equivalent consultations that occurred in other States, for example Victoria and Western Australia?

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

- a) The Government is currently considering the format of the consultation.
- b) See answer to a).
- c) The Government is currently considering the terms of reference for the consultation.
- d) See answer to c). How the terms of reference are formulated is a matter for the Government.
- e) No. See answer to c).
- f) The Attorney-General's Department will have general administrative responsibility for the conduct of the national consultation.
- g) The Government has indicated that the consultation will consider a range of options for recognising and protecting human rights in Australia and will not presuppose any outcome. Any proposal for legislative change in this area must maintain sovereignty of the Parliament and shall not be based on the United States Bill of Rights. A legislative charter of rights and responsibilities is one option, but any new approach will flow from the views expressed by the Australian people.
- h) The Attorney-General has met with a range of stakeholders since November 2007. The nature of the discussions held is a matter for the Attorney-General.
- i) The 2007–08 Portfolio Additional Estimates Statements indicate that the \$2.8m provided for the national consultation has been allocated as administered funding (\$0.955m in 2007–08 and \$1.179m in 2008–09) and departmental funding (\$0.203m in 2007–08 and \$0.477m in 2008–09). Administered and departmental funding allocated for, but not expended in, 2007–08 has been carried over into 2008–09.

The final breakdown will be determined by the form of the consultation.

- j) The Government has indicated that it is committed to consulting with the Australian community to determine how to recognise and protect human rights. The Government has also indicated that the consultation will provide an opportunity for all Australians to have their say about how rights and responsibilities should be promoted.

The Government has provided \$2.8m for the national human rights consultation to enable the national consultation to be undertaken.

- k) The Government is currently considering the timing of the consultation.
- l) The Department is not aware of the cost of the consultations conducted in other jurisdictions. The Government is currently considering the nature and scope of the national consultation. In developing the national consultation, the Department is having regard to the different approaches adopted by the States and Territories that have held consultations on human rights.