

QUESTION TAKEN ON NOTICE

SUPPLEMENTARY BUDGET ESTIMATES HEARING: 1 November 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(134) Output 1.3: Enforcement of Immigration Law

Senator Nettle asked:

I am aware that Shayan's mother was cross examined for 6 days and Shayan's father has been in the stand for 6 days and may be cross examined further when the trial resumes. Do you think this is appropriate for Shayan's parents to be cross examined for such extraordinary lengths of time, given the obligation of the Commonwealth as model litigant to not cause unnecessary delay in litigation?

Answer:

The Legal Services Directions issued by the Attorney-General requiring the Commonwealth to act as a model litigant specifically provide that that obligation "does not prevent the Commonwealth and its agencies from acting firmly and properly to protect their interests. It does not therefore preclude all legitimate steps being taken to pursue claims by the Commonwealth and its agencies and testing or defending claims made against them".

In this case the Commonwealth's defence is being conducted on the basis of advice from the Australian Government Solicitor and very experienced senior counsel. The Department believes that the Commonwealth's legal advisers are complying with the requirements of the Legal Services Directions.

The Department notes that the nature of this litigation and the evidence of both witnesses coupled with the requirement for an interpreter have significantly contributed to the length of time both witnesses have taken to give their evidence.