



THE SENATE

LEGAL AND CONSTITUTIONAL AFFAIRS LEGISLATION COMMITTEE

8 October 2021

Ms Sian Leathem
Registrar
Administrative Appeals Tribunal
GPO Box 9955
SYDNEY NSW 2001

Sent via email:

CC: parliamentary@ag.gov.au

Dear Ms Leathem,

Senator the Hon Kim Carr has brought to the Legal and Constitutional Affairs Legislation Committee's attention a number of issues in relation to answers to questions taken on notice during Budget estimates 2020-21, LCC-BE20-126 and LCC-BE20-127. Senator Carr's correspondence to the committee, comprising a letter addressed to the Chair, advice to Senator Carr from the Clerk of the Senate, background information compiled by Senator Carr, the relevant answers to QoNs, and a number of documents released under freedom of information (FOI), is attached in full.

The committee asks the Administrative Appeals Tribunal (AAT) to respond to the claims advanced by Senator Carr. The committee requests the AAT's response by no later than **21 October 2021**.

The committee draws the AAT's attention to the potential implications of providing false or misleading evidence to a Senate committee, as outlined in the advice from the Clerk of the Senate.

Yours sincerely,

Senator the Hon Sarah Henderson
Chair



Senator The Hon. Kim Carr

Senator for Victoria



Senator the Hon. Sarah Henderson
Chair of Legal and Constitutional Affairs Legislation Committee
Parliament House
Canberra ACT 2600

30 September 2021

Questions on notice – AAT – Matter of privilege

Dear Senator Henderson,

I request an urgent meeting of the Legal and Constitutional Affairs Legislation Committee to raise a serious matter about potentially false and misleading evidence being provided to the committee, which may require a potential reference to the Senate Standing Committee of Privileges regarding a possible contempt of the Senate.

I have been provided with copies of correspondence between the Administrative Tribunal and the Attorney-General's Department, and other documents, which raise serious questions about some of the responses to questions on notice provided to the committee.

The correspondence and other material that has been provided to me was released by the Tribunal in response to a freedom of information request. For that reason, the material is able to be accessed via the Tribunal's freedom of information disclosure log (though, to the best of my knowledge, none of this material has been reported on).

Please see attached advice from the Clerk of the Senate that I have sought in relation to this matter.

As set out below, and in summary, it appears that the former Attorney General's (Mr Porter) office completely re-wrote two answers the Administrative Appeals Tribunal had drafted in response to questions on notice I asked the Tribunal following Budget Estimates 2020 (Questions on Notice LCC-BE20-126 and LCC-BE20-127).

Those two re-written answers were then provided to the Committee by the Attorney-General's Department without the Tribunal's knowledge or consent, after

an adviser in Mr Porter's office told the Department that the answers had been "agreed" by the Registrar of the Tribunal.

The Tribunal subsequently learned that the two responses had been "finalised" by the then-Attorney-General's Office without the Tribunal's knowledge or consent, but never brought this to the attention of the Committee.

In fact, far from bringing the matter to the Committee's attention, the Tribunal appears to have deliberately withheld that information from the Committee (noting that the Tribunal has subsequently been asked on multiple occasions about communications between the office of the Attorney-General and the Tribunal about the two responses that – we now know – the office of the Attorney-General had "finalised" without the Tribunals' knowledge or consent).

Without being exhaustive, I am particularly concerned that:

- through the Department, the office of the former Attorney-General gave false and misleading evidence to the Legal and Constitutional Legislation Committee by providing the Committee with responses that purported to be from the Administrative Appeals Tribunal when, in fact, the responses had been written and finalised by the office of the former Attorney-General without the Tribunal's knowledge;
- it appears that there may have an element of deception involved, noting that the Department provided those responses to the Committee after the office of the Attorney-General told the Department – wrongly – that the responses had been "agreed" by the Tribunal;
- when the Department and the Tribunal became aware that – contrary to the claim made by the office of the former Attorney-General – the Department had provided the Committee with responses that purported (wrongly) to be from the Tribunal but which were in fact written by the office of the Attorney-General, neither the Department nor the Tribunal contacted the Committee to correct the record; and
- when the Tribunal was subsequently asked about the responses that had been written and finalised by the office of the former Attorney-General, the Tribunal misled the Committee by representing that it – and not the office of the Attorney-General – had written and finalised those responses.

As you know, it is a contempt of the Senate to give false or misleading evidence to a committee knowingly. Separately, I also note that the Senate has resolved that "there are no areas in connection with the expenditure of public funds where any person has a discretion to withhold details or explanations from the parliament or its committees unless the parliament has expressly provided otherwise".

If, as appears to be the case, the office of the former Attorney-General substantially altered the responses prepared by the Administrative Appeals Tribunal without the Tribunal's knowledge or consent, I am concerned that this may also be tantamount to deliberately withholding details from the Senate Legal and Constitutional Legislation Committee (i.e. the Tribunal had clearly intended to provide details to the Committee but those details were effectively withheld by the office of the Attorney-General).

I believe that this matter needs the urgent attention of the committee. To assist you and other committee members I include a copy of the advice from the Clerk of the Senate relating to the matters I have outlined in this letter, a background summary document and the primary documents which are referred to on – and available through – the AAT's FOI disclosure log.

Yours sincerely,

Senator Kim Carr

Labor Senator for Victoria



D21/79102

29 September 2021

Senator the Hon Kim Carr
Suite S1.44
Parliament House

By email: Senator.Carr@aph.gov.au

Dear Senator Carr

Questions on notice – AAT – Matter of privilege

You have asked for advice about potentially false or misleading evidence being provided to the Legal and Constitutional Affairs Legislation Committee. In doing so you have provided extensive material outlining your concerns which, in my view, warrants further investigation. At the very least I would expect that the legislation committee would want to assure itself that it has not been misled or to take corrective action if it concludes that it has. It may also be that the matter warrants investigation under the Senate's contempt jurisdiction, whose purpose is to ensure the integrity of its proceedings.

You have asked questions about relevant practice and how contempt applies in this area. Before turning to those matters, it is useful to set out some background.

Background

For context, you have been seeking to identify whether the former Attorney-General, his office, or the Attorney-General's Department (AGD) sought to influence the way the Administrative Appeals Tribunal (AAT) answered a series of questions about the performance of AAT members. In following up unresponsive answers, you placed two questions on notice – QONs 126 and 127 – asking the AAT to provide details of discussions and correspondence between the former AG, his office, AGD and the AAT about questions the AAT took on notice in recent estimates rounds. Each response comprised the same, generic, single paragraph indicating that the department and the office review and provide occasional feedback on draft answers, which the AAT finalises.

Material provided in response to a Freedom of Information (FOI) request appears to show that the AAT's draft responses to QONs 126 and 127 – in your words – “changed substantially over the course of several weeks” and that [contrary to the process outlined in the answers themselves] the final responses submitted to the committee “were **not** approved, let alone written, by the Tribunal but – rather – by the office of the former Attorney-General”.

At the risk of oversimplifying your concerns, they include:

- that the office of the former AG may have given false and misleading evidence to the committee by providing responses, via the department, that purported to be from the AAT, when they had been written and finalised by the office without the tribunal's knowledge

- that “there may have been an element of deception involved” in the advice provided by the office to the department, which indicated that the responses had been “agreed” by the tribunal
- that, after becoming aware that the responses were in fact written by the office of the former AG, neither the department nor the tribunal contacted the committee to correct the record
- that the tribunal appears to have deliberately withheld that information from the committee, despite being asked on multiple occasions about communications between the office and the tribunal about the two responses.

Going to the apparent changes to the content of the responses, you add:

If, as appears to be the case, the office of the former Attorney-General substantially altered the responses prepared by the Administrative Appeals Tribunal without the Tribunal’s knowledge or permission, I am concerned that this may also be tantamount to deliberately withholding details from the Senate Legal and Constitutional Legislation Committee (i.e. the Tribunal had clearly intended to provide details to the Committee but those details were effectively withheld by the office of the Attorney-General).

You have provided extensive background material setting out the basis for your concerns.

Request for advice

Against this background you have asked me “whether the conduct described ... of the former Attorney-General, Christian Porter, Mr Porter’s office, the Attorney-General’s Department and/or the Administrative Appeals Tribunal:

- is consistent with Senate practice; and
- gives rise to any possible contempts of the Senate.”

You have also sought my advice on the best available course of action for you or the committee to take in response to these matters.

There are several elements of Senate practice to comment on, including its expectation that witnesses who have given incorrect evidence should correct the record as soon as possible. In relation to possible contempts, the Senate has declared that it is a contempt to knowingly provide false or misleading evidence.

These matters are dealt with below.

Senate practice on answering estimates questions

There are three things to mention here:

- accountability of statutory authorities
- arrangements between ministers and statutory officers for answering questions
- the requirement for witnesses to correct misleading evidence.

Accountability of statutory authorities

As noted in *Odgers’ Australian Senate Practice*:

On several occasions the Senate has, by resolution, asserted the principle that, while statutory authorities may not be subject to direction or control by the executive government in their day-to-day operations, they are accountable to the Senate for their expenditure of public funds and have no discretion to withhold from the Senate information concerning their activities.

Officers of statutory authorities, therefore, so far as the Senate is concerned, are in the same position as other witnesses, and have no particular immunity in respect of giving evidence before the Senate and its committees. [14th ed., p.569.]

This principle underpins in particular the accountability of statutory authorities to the Senate through its estimates process. Any questions going to the operations or financial positions of agencies are within the scope of questions that may be asked at estimates.

In other words, there is no doubt that QONs 126 and 127 were in order and that the AAT ought meet the requirements of the Senate in answering them.

However, the AAT's responses did not provide any of the detail sought, and made no attempt to justify withholding that information, whether on public interest grounds – as required under the relevant Senate order – or indeed on any other basis. In that sense they raise similar concerns to those discussed in my advice to you of 5 August and 12 August 2021. I won't repeat that advice here, other than to reinforce the point that it is for the committee in the first instance, and ultimately for the Senate, to determine whether the responses meet the Senate's procedural requirements.

Arrangements for answering questions

Turning to the interaction between the former Attorney-General's office and the AAT, the Senate generally leaves it to the government to determine arrangements for answering questions. The principle that ministers are ultimately accountable for answers provided to estimates questions is highlighted in privilege resolution 1(16), which provides for officers of departments and agencies to refer questions to superior officers or to a minister. However, there is some complexity introduced where questions relate to statutory authorities, not least because it will often be inappropriate for independent statutory officers to refer questions to ministers.

The Senate's resolutions on accountability and statutory authorities do not explicitly set out its expectations as to how ministers' offices and statutory authorities should interact in the answering of questions. It is expected that the relevant minister or representative minister will answer questions in the Senate concerning statutory authorities within their portfolio responsibilities, even though such authorities "frequently operate with considerable autonomy": Odgers, 14th ed., p. 632. However, this practice does not translate directly into the committee setting, given that statutory officers appear as witnesses themselves. It may be that committees will accept a greater or lesser degree of ministerial intervention in responses from statutory officers depending on the degree of control (or lack thereof) the minister ordinarily exercises over the office; that is, on a similar basis to the principles applying in relation to the practice of statutory officers making public interest immunity claims. However, that matter is not dealt with in the relevant Senate resolutions. Again, it becomes a matter for the committee, and ultimately for the Senate, to consider whether the arrangements established for answering questions meet their requirements.

Having said that, the process set out in the responses themselves – that the Attorney-General's Department and Office review and provide occasional feedback on draft answers, which the AAT finalises – seems sound. No doubt different processes, involving different arrangements for consulting on and finalising responses, could equally be taken to meet committees' needs.

At the heart of your request for advice, however, is the concern that a different process has been applied in relation to QONs 126 and 127, and that it has involved the committee being given false and misleading evidence.

Correcting the record

As you know, Senate committees rely upon the evidence presented to them. Conduct that compromises the integrity of that evidence can compromise the inquiry process and interfere with

committees in performing their functions. The Senate has declared that such conduct may be dealt with as a contempt. This is most commonly seen in the Senate protecting witnesses against improper interference, but the Senate has also resolved that certain conduct by witnesses may be dealt with as a contempt. In particular, the privilege resolutions state that:

Offences by witnesses etc.

A witness before the Senate or a committee shall not ... give any evidence which the witness knows to be false or misleading in a material particular, or which the witness does not believe on reasonable grounds to be true or substantially true in every material particular.

[\[Privilege resolution 6\(12\)\(c\)\]](#)

Because of the reliance the Senate places on the material put before it, and noting the possible consequences for witnesses providing misleading evidence (which is further discussed below), there is a long-standing practice that a person who has misled the Senate must correct the record at the earliest practical opportunity. This applies in relation to evidence given to committees in the same way as it applies in Senate proceedings. In an inquiry into possible false or misleading evidence the Privileges Committee has emphasised that it should not require “repeated questioning ... before accurate answers are provided to Senate committees. The onus is on witnesses to provide accurate and clear answers and to correct any mistakes as soon as possible.” [162nd report, paragraph 2.57]

A committee concerned that it has been misled may deal with the matter itself – principally by seeking to have witnesses correct their evidence – or may raise it with the President as a matter of privilege, particularly where the committee is concerned that such evidence involves a substantial obstruction to its processes. This is dealt with in the next section of the advice.

False or misleading evidence as a contempt

The Senate’s contempt jurisdiction is intended to protect the ability of the Senate, its committees and members to carry out their functions and exercise their authority without improper interference. This overarching principle informs any inquiry into a possible contempt.

In Commonwealth law, contempt is assessed by reference to a statutory threshold in section 4 of the *Parliamentary Privileges Act 1987*. It provides that conduct does not constitute an offence against a House (that is, a contempt) unless it amounts, or is intended or likely to amount, to an improper interference with the free exercise by a House or committee of its authority or functions, or with the free performance by a member of the member’s duties as a member.

Any conduct that meets that threshold may be dealt with as a contempt. This principle is also articulated in the Senate’s privilege resolutions, which seek to reserve the Senate’s contempt powers for matters involving substantial obstruction to Senate or committee processes, or to the performance of senators’ duties as senators.

As noted above, the list of possible contempts in privilege resolution 6 includes a prohibition on witnesses giving false or misleading evidence. The rationale for that prohibition is clear. In the words of the Privileges Committee:

Committees rely upon the integrity of the evidence provided to them. If evidence is deceptive or misleading, the value of the inquiry process is compromised. The giving of false or misleading evidence is therefore an act which has a substantial tendency to obstruct a committee in the performance of its functions. [162nd report, paragraph 1.15]

Only the Senate can remedy interference in the proceedings of its committees, however, such allegations are usually the subject of an initial investigation by the committee concerned. This allows the committee to consider whether it has been obstructed in its work, and whether that can be

remedied by the committee or warrants further investigation as a possible contempt. [Where a matter of privilege involving a committee is raised directly with the President, the President will usually ensure that such an investigation has occurred before determining whether to put the matter before the Senate.]

One of the criteria the Senate must consider in contempt matters is whether a person who committed an act that might be held to be a contempt did so knowingly, or had any reasonable excuse for doing so: privilege resolution 3(c). Reflecting on this in its 162nd report, the Privileges Committee noted that evidence that has the effect of misleading the Senate or its committees is “misleading evidence” for the purposes of the Senate’s privilege resolutions, however – in order for a contempt to be found – “there should also be evidence that a witness intended to give misleading evidence”.

This, in essence, sketches the requirements for a contempt finding on a matter involving possible false or misleading evidence: a committee has been misled and consequently obstructed in its work, and there is evidence the witness intended to mislead.

The Senate has not to date made any findings of contempt on this ground, with the Privileges Committee acknowledging the difficulty of establishing that a witness deliberately intended to mislead the Senate or a committee. In the above report, the committee went on to note that:

1.18 Often the purpose of invoking the contempt jurisdiction is to instigate corrective action. If, through the investigation of a matter involving possible false or misleading evidence, that evidence is clarified or corrected – so that, for instance, the impairment to a committee’s work may be rectified – then the investigation may have achieved its aim.

The material you have provided expresses your concerns that the legislation committee may have been misled or deceived, or that material sought to be provided by the tribunal may have been improperly withheld. Against that background you have asked what the best course of action is for you or for the committee in response to those matters.

Where to from here?

Three clear options present themselves.

The first would involve you continuing to prosecute the matter by way of further questions, putting your concerns and any allegations arising from them directly to the entities involved. Given the nature of your concerns, it would be appropriate for those involved to be cautioned about the possible consequences of knowingly providing false or misleading evidence and reminded about the requirement to correct such evidence at the earliest opportunity.

The second option involves putting the material you have compiled to the legislation committee, so that the committee may consider whether it has been misled by the evidence put before it and, if so, whether it has been obstructed in its work. This gives the committee the option of seeking to have the relevant entities correct the record, if that is required, and to consider whether the circumstances warrant the matter being investigated as a possible contempt. These processes may be undertaken by the committee following its usual practices for seeking evidence in writing or at further hearings. Again, it would be appropriate for those involved to be cautioned about the matter possibly being dealt with as a contempt, particularly if the committee considers that it has been misled. Depending on the outcome of the committee’s proceedings, it may resolve to raise the matter with the President as a matter of privilege under standing order 81.

The third option would be for you to raise the matter with the President as a matter of privilege yourself. The purpose of raising a matter of privilege is to seek the agreement of the Senate to refer a matter to the Privileges Committee for investigation as a possible contempt. As you know, there is a preliminary requirement that the President consider the matter against the criteria in privilege

resolution 4, to determine whether it should have precedence. In my view, the matter would meet the threshold criteria the President is required to consider. However, as noted above, the President would usually seek to ensure that a committee affected by the allegations – in this case, the legislation committee – has the opportunity to conduct an initial investigation before determining whether to put the matter before the Senate.

Both the second and third options provide a basis for the legislation committee to investigate the allegations, after which the question whether they should be further investigated as a possible contempt may be pursued. One difference, however, is that the third option requires a response – in essence, the legislation committee must report on the matter either to the President or to the Senate – whereas it is entirely a matter for the committee to decide how to proceed under the second option.

If you do decide to raise the matter directly with the President as a possible contempt, my office can assist with that process.

Let me know if I can provide any further assistance.

(Richard Pye)

Background

Following Senate Estimates in October 2020, I asked the Administrative Appeals Tribunal a number of questions on notice, including Questions on Notice LCC-BE20-126 and LCC-BE20-127 (**Attachment A and B**).

In those two questions, I requested details of correspondence between the office of the then-Attorney-General Christian Porter and the Administrative Appeals Tribunal. Specifically, I wanted to know whether the former Attorney-General, the former Attorney-General's office or the Attorney-General's Department had sought to influence the way in which the Tribunal had answered a series of earlier questions on notice – following previous Senate Estimates' hearings – about the performance of members of the Administrative Appeals Tribunal.

The Tribunal had declined to answer the vast majority of those earlier questions on the basis that providing responses would be an "unreasonable diversion of resources".

The responses to Questions on Notice LCC-BE20-126 and LCC-BE20-127 were identical. The Tribunal said:

The Attorney-General's Department reviews responses to questions on notice to ensure consistency across the portfolio and sends the responses to the Attorney-General's Office. The Attorney General's Office reviews draft responses for assurance that responses are relevant to the question and in line with Senate Practice. On some occasions, the AAT receives written questions or comments about our responses from the Attorney-General's Department or the Attorney-General's Office (generally sent via the department) and/or may discuss a response with an officer from the Department or the Office. The AAT is responsible for finalising responses and sends any revised responses to the department.

On 31 August 2021, the Tribunal published on its disclosure log a request for:

Access to all documents containing correspondence or communications – or containing a record of correspondence or communications – between the Tribunal and the Attorney-General, the Attorney-General's office or the Attorney-General's Department in relation to questions asked by Senator Kim Carr and taken on notice by the Tribunal following Budget Estimates 2020-21.

The Tribunal released 1,036 pages in response to that request – many of which were redacted in whole or in part.

I have been provided with copies of the documents.

Among other things, the documents appear to reveal that the Tribunal's draft responses to Questions on Notice LCC-BE20-126 and LCC-BE20-127 changed substantially over the course of several weeks following discussions with the then-office of the Attorney-General Christian Porter. But worse, the documents appear to show that the responses ultimately

provided to the Senate Legal and Constitutional Affairs Legislation Committee were **not** approved, let alone written, by the Tribunal but – rather – by the office of the former Attorney-General, Christian Porter.

This has never been brought to the attention of the Committee.

What the documents show

The vast majority of documents the Tribunal published on the disclosure log are emails between the Tribunal and the Attorney-General's Department.

In summary:

1. On 4 December 2020, following Budget Estimates 2020-21, the Tribunal provided – as an attachment to an email – what it described as “our response to QoNs 126 and 127” to the Attorney-General's Department (**Attachment C**).

As set out in **Attachment C**, the Tribunal's response to Question on Notice LCC-BE20-126 was four-and-a-half pages long. Its response to Question on Notice LCC-BE20-127 was roughly 7 paragraphs long and ran to approximately half a page.

The length of the Tribunal's responses can be discerned easily, notwithstanding that the actual content of those responses has been redacted.

From the documents the Tribunal published on the disclosure log, it is not apparent that there was any response to the email on 4 December 2020 from the Attorney-General's Office or the Attorney-General's Department.

2. On 9 December 2020, the Tribunal wrote another email to the Attorney-General's Department attaching the Tribunal's “latest draft responses to QoNs 126 and 127” (**Attachment D**). As set out in **Attachment D**:
 - the Tribunal's response to Question on Notice LCC-BE20-126 was significantly shorter than the response it had circulated on 4 December, running to a little over one page; and
 - the Tribunal's response to Question on Notice LCC-BE20-127 was also slightly shorter than the original response, though it had clearly been substantially amended since 4 December 2020 (again, this is easily discernible notwithstanding that the actual content of the revised response has been redacted).

It is unclear whether the Tribunal had amended its responses after receiving feedback from the Department or the Attorney-General's Office.

3. On 10 December 2020, the Attorney-General's Department emailed the Tribunal about “QoNs 126 and 127” (**Attachment E**), saying:

Thanks for sending that through, that's helpful. I've put a call in to our Estimates team to seek some input from them, and I'm hopeful that I'll be able to discuss with them and

hopefully get something back to you this afternoon at least in terms of the process between the department and the AAT, if not also the involvement of the Attorney's Office.

4. On 15 December 2020, the Tribunal emailed the Attorney-General's Department attaching "our responses to QONs 126 and 127" (**Attachment F**), noting:

We understand that the Department may wish to suggest some additional text for the first paragraph in each response to provide further information about the processes described in the paragraph.

5. Following an exchange of emails about "QONs 126 and 127", the Department told the Tribunal (also on 15 December 2020) "now that we have the responses to 126 and 127 we will process from our end" and also indicated that the responses would be provided to "the AGO" (**Attachment G**).
6. On Wednesday 16 December 2020, the Tribunal emailed (among others) two employees of the Administrative Appeals Tribunal (Monique Adofaci and Chris Matthies), copying the Attorney-General's Department, the following record of a conversation between the Registrar of the Tribunal, Sian Leatham, and a member of Mr Porter's personal staff (see also **Attachment H**).

From: [Strategy, Communications and Governance mailbox](#)
To: [Monique Adofaci](#); [Chris Matthies](#)
Cc: [Strategy, Communications and Governance mailbox](#); [Sian Leatham](#)
Subject: QoNs 126 & 127 [SEC=OFFICIAL]
Date: Wednesday, 16 December 2020 1:04:50 PM

OFFICIAL

Hi,

I just had a call from Sian, who wanted to tell me about a phone call she just received from Michelle **s 47E(c)** from the AGO's office. The topic of discussion was QoNs 126 and 127, which are about liaison with the AGO over QoNs on previous rounds.

s47C(1)

s47C(1) Sian is happy for you two to consider the AGO's suggested changes and finalise our response. **s47C(1)**

In terms of the letter to the Committee Secretariat about our other late QoNs about members, I still haven't heard back from AGO, and nor was the letter raised with Sian by Michelle just now. Alicia (from AGD Senate Estimates) had previously said that AGO might have some concern with the date we put in the letter about when we thought the responses would be ready, and we've been waiting to hear back from the AGO about the letter. Alicia asked AGO about the letter this morning and will ask them about it again around 2pm. Alicia doesn't want to send the letter without approval by the AGO, but made the point that ultimately it is the AAT's decision about when the letter gets sent. I'll hold off doing anything with the letter for a couple more hours.

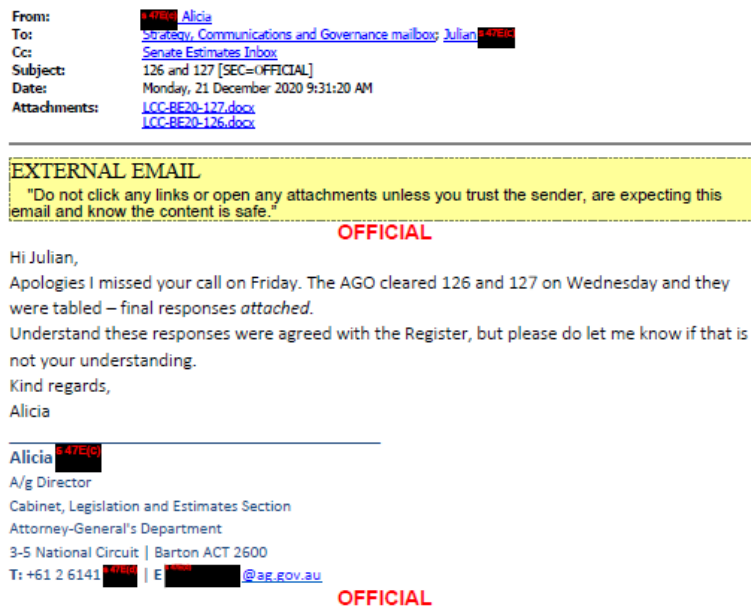
Regards

Julian

Julian **s 47E(c)**
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From this email, it appears that:

- the then-Attorney-General’s office had made further suggestions to amend Questions on Notice LCC-BE20-126 and LCC-BE20-127; and
 - the Registrar was happy to **consider** those changes prior to **the Tribunal** finalising the responses to Questions on Notice LCC-BE20-126 and LCC-BE20-127.
7. On Monday 21 December 2020, the Attorney-General’s Department emailed the Administrative Appeals Tribunal the following (see also **Attachment I**):



From this email, it appears that:

- the then-Attorney-General’s office had “cleared” the responses to Questions on Notice LCC-BE20-126 and LCC-BE20-127 on Wednesday 16 December 2020 (i.e. the same day that Mr Porter’s office called the Registrar of the Tribunal with **feedback** about the Tribunal’s draft responses); and
- the then-Attorney-General’s Office had advised the Attorney-General’s Department (wrongly) that the responses had been agreed with the Registrar.

Based on some subsequent correspondence and other documents the Tribunal published on the disclosure log, the Tribunal held a number of discussions about the fact that the responses to Questions on Notice LCC-BE20-126 and LCC-BE20-127 had been finalised by the Attorney-General’s Office without being returned to the Tribunal first. See, in particular:

- the emails between the Department and the Tribunal on 15 March 2021 (**Attachment J**) which, among other things, include:
 - the Tribunal asking whether a meeting requested by an official of the Attorney-General’s Department was “to discuss the QoN 126/127 issue, where those QoNs were finalised without being returned to us?”; and

- the departmental official responding to say that “[m]y intention is to run the AAT through what we have found happened to QON126 and 127 in the clearance process”.
- a table, which must have been produced by the Tribunal (**Attachment K**), noted that the response to Questions on Notice LCC-BE20-126 and LCC-BE20-127 had gone through the following processes:
 - In relation to LCC-BE20-126: “Sent to AGD on 4/12 but not escalated to AGO. Revised response sent to Senate Estimates team on 15/12. AGO discussed a revised response with Sian on 16/2. **We were expecting to receive a revised response from AGO but subsequently found out it was tabled without being returned to us first**”; and
 - In relation to LCC-BE20-127: “Sent to AGD on 4/12 but not escalated to AGO. Revised response sent to Senate Estimates team on 15/12. AGO discussed a revised response with Sian on 16/12. We were expecting to receive a revised response from AGO but subsequently found out it was tabled without being returned to us first”.

LCC-BE20-126	Carr	October 2019 Supplementary Budget Estimates - Liaison with the Attorney-General and Attorney-General's office	See template	Link to tabled response Comments: Sent to AGD on 4/12 but not escalated to AGO. Revised response sent to Senate Estimates team on 15/12. AGO discussed a revised response with Sian on 16/12. We were expecting to receive a revised response from AGO but subsequently found out it was tabled without being returned to us first.
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1016

LCC-BE20-127	Carr	March 2020 Additional Budget Estimates - Liaison with the Attorney-General and Attorney-General's office	See template	Status: Tabled 16/12/20 Link to tabled response Comments: Sent to AGD on 4/12 but not escalated to AGO. Revised response sent to Senate Estimates team on 15/12. AGO discussed a revised response with Sian on 16/12. We were expecting to receive a revised response from AGO but subsequently found out it was tabled without being returned to us first. Status: Tabled 16/12/20
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The differences between the responses drafted by the Tribunal and the responses “finalised” by the former Attorney-General

The responses to Questions on Notice LCC-BE20-126 and LCC-BE20-127 prepared by the Tribunal were clearly substantially different to the responses “finalised” – without the Tribunal’s knowledge – by the Attorney-General’s Office and submitted to the Senate Legal and Constitutional Affairs Legislation Committee.

For starters, the responses to Questions on Notice LCC-BE20-126 and LCC-BE20-127 emailed by the Tribunal to the Attorney-General’s Department, which were subsequently passed on to the Attorney-General’s Office, were significantly longer (see **Attachment F**).

While the Tribunal has redacted the content of its response to Question on Notice LCC-BE20-126, it clearly ran to more than a page – whereas the response “finalised” by the Attorney-General’s Office and provided to the Legal and Constitutional Affairs Legislation Committee was a single paragraph. The Tribunal’s response to Question on Notice LCC-BE20-127 was also clearly lengthier than the response that was ultimately provided to the Committee.

Moreover, the responses to Questions on Notice LCC-BE20-126 and LCC-BE20-127 provided to the Committee by the Attorney-General’s Office, via the Department, were identical. Yet it is very clear that the Tribunal had **not** prepared identical responses to those two questions.

THE RESPONSE TO QUESTION ON NOTICE LCC-BE20-126 THE TRIBUNAL SENT TO THE ATTORNEY-GENERAL'S DEPARTMENT ON 15 DECEMBER 2021

642

s47C(1) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

643

s47C(1) [REDACTED]

THE RESPONSE "FINALISED" BY THE ATTORNEY-GENERAL'S OFFICE AND SENT TO THE COMMITTEE

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

The Attorney-General's Department reviews responses to questions on notice to ensure consistency across the portfolio and sends the responses to the Attorney-General's Office. The Attorney General's Office reviews draft responses for assurance that responses are relevant to the question and in line with Senate Practice. On some occasions, the AAT receives written questions or comments about our responses from the Attorney-General's Department or the Attorney-General's Office (generally sent via the department) and/or may discuss a response with an officer from the Department or the Office. The AAT is responsible for finalising responses and sends any revised responses to the department.

**THE RESPONSE TO QUESTION ON NOTICE
LCC-BE20-127 THE TRIBUNAL SENT TO THE
ATTORNEY-GENERAL'S DEPARTMENT ON
15 DECEMBER 2021**

645

s47C(1)

[REDACTED]

**THE RESPONSE "FINALISED" BY
THE ATTORNEY-GENERAL'S
OFFICE AND SENT TO THE
COMMITTEE**

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

The Attorney-General's Department reviews responses to questions on notice to ensure consistency across the portfolio and sends the responses to the Attorney-General's Office. The Attorney General's Office reviews draft responses for assurance that responses are relevant to the question and in line with Senate Practice. On some occasions, the AAT receives written questions or comments about our responses from the Attorney-General's Department or the Attorney-General's Office (generally sent via the department) and/or may discuss a response with an officer from the Department or the Office. The AAT is responsible for finalising responses and sends any revised responses to the department.

**The Tribunal's responses to subsequent questions from the
Committee**

On 23 March 2021, during Additional Estimates 2020-21, I asked the Tribunal what conversations took place with the former Attorney-General or his office in relation to answering a number of questions on notice – including Questions on Notice LCC-BE20-126 and LCC-BE20-127 (**Attachment L**). The Tribunal responded, on notice, with the following:

The AAT had discussions with the Attorney-General's Office or received written comments, questions or suggestions from the Attorney-General's Office via the Attorney-General's

Department in relation to the following questions: LCC-BE20-53; LCC-BE20-54; LCC-BE20-126; LCC-BE20-127; LCC-BE20-128; and LCC-BE20-167–LCC-BE20-240.

Written comments and suggestions provided to the AAT related to:

- *editorial changes, including changes to the order of content*
- *clarifying the meaning of, or checking, particular information*
- *adding further information, and*
- *removing information that may not be required to respond to the question asked.*

The AAT considered the comments and suggestions and made changes to its responses where considered appropriate by the AAT.

Neither the Attorney-General nor the Attorney-General's Office asked the AAT not to respond to any question the AAT took on notice.

The AAT did not provide multiple drafts of any responses to the Attorney-General, the Attorney-General's Office or the Attorney-General's Department. However, the AAT did send revised responses to the Attorney-General's Department (either on its own initiative or following consideration of feedback from the Attorney-General's Office) in relation to the following questions: LCC-BE20-53; LCC-BE20-54; LCC-BE20-128 and LCC-BE20-167–LCC-BE20- 240.

So despite being asked – directly – about what conversations took place with the former Attorney-General or his office in relation to Questions on Notice LCC-BE20-126 and LCC-BE20-127, the Tribunal did not tell the Committee that the responses to those questions had – in fact – been written by the office of the former Attorney-General's without the Tribunal's knowledge or consent. Worse, the Tribunal represented to the Committee that the AAT had "considered the comments and suggestions and made changes to its responses where considered appropriate by the AAT" when – based on the material obtained under freedom of information laws – it appears that the Tribunal had **not** been given an opportunity to consider the comments and suggestions by the office of the former Attorney-General. Rather, the responses were finalised and lodged by the office of the former Attorney-General without the Tribunal's knowledge or consent.

On 27 May 2021, during Budget Estimates 2021-22, I asked the Tribunal **again** for further details about what conversations took place with the office of the former Attorney-General in relation to answering a number of questions on notice – including Questions on Notice LCC-BE20-126 and LCC-BE20-127 (among other questions) (**Attachment M**).

The Tribunal responded, on notice, with the following:

The Administrative Appeals Tribunal (AAT) considers that it is not in the public interest to disclose the information requested. The AAT is of the view that it should be able to engage with the Attorney-General's Department and the Attorney-General's Office in the course of the standard processes that apply to the preparation of responses to questions on notice without concern that the specific detail of any discussions, comments or suggestions will be the subject

*of public disclosure. This would have an adverse impact on the ability to have frank engagement relating to the answering of questions on notice. **The final version of the responses to questions on notice are made public and represent the AAT's concluded view on how to respond to the questions.***

In light of the documents released under freedom of information, I am deeply concerned that this response is deliberately misleading. Specifically, the Tribunal's assertion that "[t]he final version of the responses to questions on notice are made public and represent the AAT's concluded view on how to respond to the questions" cannot be reconciled with the evidence. Namely, that without the Tribunal's knowledge or consent, the office of the former Attorney-General altered and "finalised" at least two responses to questions on notice without the Tribunal's knowledge or consent.

ATTACHMENT A

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

ATTORNEY-GENERAL'S PORTFOLIO

BUDGET ESTIMATES 2020-21

PA-Administrative Appeals Tribunal

LCC-BE20-126 October 2019 Supplementary Budget Estimates - Liaison with the Attorney-General and Attorney-General's office

Senator Kim Carr asked the following question on 06 November 2020:

1. Following the Senate Estimates process in October 2019, did you discuss – or exchange any correspondence about – your responses to any of the questions you took on notice with the Attorney-General or the Attorney-General's office? If yes:

a. What questions?

b. Who did you discuss your responses with (the AG or the AG's office)?

c. On what dates?

2. Following last Senate Estimates process in October 2019, did the Attorney-General or the Attorney-General's office ask you to – or suggest that you – amend any responses to questions you took on notice? If so:

a. What questions did those responses relate to?

b. Who asked you to amend – or suggested that you amend – those responses (the AG or the AG's office)?

c. What specifically did the AG or the AG's office (as applicable) ask you to – or suggest that you – amend?

d. Did you make any amendments in response to the feedback from the AG or the AG's office?

3. Following the Senate Estimates process in October 2019, did the Attorney-General or the Attorney-General's office ask you not to respond to any questions you took on notice? If so:

a. What questions?

b. Who asked you not to respond to the question(s) (the AG, the AG's office and/or the Department)?

- c. Why did the AG, the AG's office or the Department (as applicable) ask you not to respond?
- d. Did you agree not to respond?

4. In respect of any of your responses to questions you took on notice following the Senate Estimates hearing in October 2019, did you provide multiple drafts of any of your responses to the Attorney-General or the Attorney-General's office? If so, what questions did those responses relate to?

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

The Attorney-General's Department reviews responses to questions on notice to ensure consistency across the portfolio and sends the responses to the Attorney-General's Office. The Attorney General's Office reviews draft responses for assurance that responses are relevant to the question and in line with Senate Practice. On some occasions, the AAT receives written questions or comments about our responses from the Attorney-General's Department or the Attorney-General's Office (generally sent via the department) and/or may discuss a response with an officer from the Department or the Office. The AAT is responsible for finalising responses and sends any revised responses to the department.

ATTACHMENT B

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

ATTORNEY-GENERAL'S PORTFOLIO

BUDGET ESTIMATES 2020-21

PA-Administrative Appeals Tribunal

LCC-BE20-127 March 2020 Additional Budget Estimates - Liaison with the Attorney-General and Attorney-General's office

Senator Kim Carr asked the following question on 06 November 2020:

1. Following the Senate Estimates process in March 2020, did you discuss – or exchange any correspondence about – your responses to any of the questions you took on notice with the Attorney-General or the Attorney-General's office? If yes:
 - a. What questions?
 - b. Who did you discuss your responses with (the AG or the AG's office)?
 - c. On what dates?

2. Following last Senate Estimates process in March 2020, did the Attorney-General or the Attorney-General's office ask you to – or suggest that you – amend any responses to questions you took on notice? If so:
 - a. What questions did those responses relate to?
 - b. Who asked you to amend – or suggested that you amend – those responses (the AG or the AG's office)?
 - c. What specifically did the AG or the AG's office (as applicable) ask you to – or suggest that you – amend?
 - d. Did you make any amendments in response to the feedback from the AG or the AG's office?

3. Following the Senate Estimates process in March 2020, did the Attorney-General or the Attorney-General's office ask you not to – or suggest that you not – respond to any questions you took on notice? If so:
 - a. What questions?
 - b. Who asked you not to respond to the question(s) (the AG or the AG's office)?
 - c. Why did the AG or the AG's office (as applicable) ask you not to – or suggest that you not – respond?
 - d. Did you agree not to respond?

4. In respect of any of your responses to questions you took on notice following the Senate Estimates hearing in March 2020, did you provide multiple drafts of any of your responses to the Attorney-General or the Attorney-General's office? If so, what questions did those responses relate to?"

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

The Attorney-General's Department reviews responses to questions on notice to ensure consistency across the portfolio and sends the responses to the Attorney-General's Office. The Attorney General's Office reviews draft responses for assurance that responses are relevant to the question and in line with Senate Practice. On some occasions, the AAT receives written questions or comments about our responses from the Attorney-General's Department or the Attorney-General's Office (generally sent via the department) and/or may discuss a response with an officer from the Department or the Office. The AAT is responsible for finalising responses and sends any revised responses to the department.

ATTACHMENT C

From: [Strategy, Communications and Governance mailbox](#)
To: ["senate.estimateinbox@ag.gov.au"](mailto:senate.estimateinbox@ag.gov.au)
Cc: [Strategy, Communications and Governance mailbox](#); Chris s 47E(c)
Subject: QoNs 126 and 127 [SEC=OFFICIAL]
Date: Friday, 4 December 2020 10:54:05 AM
Attachments: [SQON 126 - Response.docx](#)
[SQON 127 - Response.docx](#)

OFFICIAL

Hi Team,

Attached are our responses to QoNs 126 and 127.

Regards

Julian

Julian s 47E(c)

Assistant Director, Governance

Administrative Appeals Tribunal

Principal Registry, Sydney

Strategy, Communications & Governance

T: 02 9276 s 47E(d)

E: s 47E(d) [@aat.gov.au](mailto: @aat.gov.au)

www.aat.gov.au

- a. What questions?
 - b. Who did you discuss your responses with (the AG or the AG's office)?
 - c. On what dates?
2. Following last Senate Estimates process in October 2019, did the Attorney-General or the Attorney-General's office ask you to – or suggest that you – amend any responses to questions you took on notice? If so:
- a. What questions did those responses relate to?
 - b. Who asked you to amend – or suggested that you amend – those responses (the AG or the AG's office)?
 - c. What specifically did the AG or the AG's office (as applicable) ask you to – or suggest that you – amend?
 - d. Did you make any amendments in response to the feedback from the AG or the AG's office?
3. Following the Senate Estimates process in October 2019, did the Attorney-General or the Attorney-General's office ask you not to respond to any questions you took on notice? If so:
- a. What questions?
 - b. Who asked you not to respond to the question(s) (the AG, the AG's office and/or the Department)?
 - c. Why did the AG, the AG's office or the Department (as applicable) ask you not to respond?
 - d. Did you agree not to respond?
4. In respect of any of your responses to questions you took on notice following the Senate Estimates hearing in October 2019, did you provide multiple drafts of any of your responses to the Attorney-General or the Attorney-General's office? If so, what questions did those responses relate to?

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- 1 [Redacted]
- 2 [Redacted]

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- a. What questions?
 - b. Who did you discuss your responses with (the AG or the AG's office)?
 - c. On what dates?
2. Following last Senate Estimates process in March 2020, did the Attorney-General or the Attorney-General's office ask you to – or suggest that you – amend any responses to questions you took on notice? If so:
- a. What questions did those responses relate to?
 - b. Who asked you to amend – or suggested that you amend – those responses (the AG or the AG's office)?
 - c. What specifically did the AG or the AG's office (as applicable) ask you to – or suggest that you – amend?
 - d. Did you make any amendments in response to the feedback from the AG or the AG's office?
3. Following the Senate Estimates process in March 2020, did the Attorney-General or the Attorney-General's office ask you not to – or suggest that you not – respond to any questions you took on notice? If so:
- a. What questions?
 - b. Who asked you not to respond to the question(s) (the AG or the AG's office)?
 - c. Why did the AG or the AG's office (as applicable) ask you not to – or suggest that you not – respond?
 - d. Did you agree not to respond?
4. In respect of any of your responses to questions you took on notice following the Senate Estimates hearing in March 2020, did you provide multiple drafts of any of your responses to the Attorney-General or the Attorney-General's office? If so, what questions did those responses relate to?"

s47C

[REDACTED]

ATTACHMENT D

From: [Strategy, Communications and Governance mailbox](#)
To: "Imran s 47E(c) @ag.gov.au"
Cc: [Chris Matthies](#); [Strategy, Communications and Governance mailbox](#)
Subject: Draft revised QoNs 126 & 127 [SEC=OFFICIAL]
Date: Wednesday, 9 December 2020 3:14:42 PM
Attachments: [image001.png](#)
[Letter 04 Dec 19 - AGD COO to Committee Secretary.pdf](#)
[SQON 126 - Response REVISED.docx](#)
[SQON 127 - Response REVISED.docx](#)

OFFICIAL

Hi Imran,

Attached are our latest draft responses to QoNs 126 and 127.

Also, we've received advice from the Senate Estimates team about writing to the Committee Secretariat (see email below with example letter attached).

Regards

Julian

Julian s 47E(c)

Assistant Director, Governance

Administrative Appeals Tribunal

Principal Registry, Sydney

Strategy, Communications & Governance

T: 02 9276 s 47E(d)

E: s 47E(d) @aat.gov.au

www.aat.gov.au

From: Senate Estimates Inbox <Senate.EstimatesInbox@ag.gov.au>

Sent: Tuesday, 8 December 2020 10:48 AM

To: Strategy, Communications and Governance mailbox <SCG@aat.gov.au>

Cc: Senate Estimates Inbox <Senate.EstimatesInbox@ag.gov.au>

Subject: RE: Writing to the Senate Committee [SEC=OFFICIAL]

EXTERNAL EMAIL

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OFFICIAL

Good morning Julian,

In relation to the three SEQoNs that are not able to be responded to by the tabling date of 16 December.

- 54 – Mr Barry payments (verbal, Senator Carr)
- 86 – Members performance, availability, leave, conflict of interest, and outside employment (written, Senator Carr)
- 129 – Members eligibility for termination, paid outside employment and absence (written, Senator Carr).

I have confirmed with the Committee Secretariat that a letter from Ms Leatham identifying the late SEQoNs and the reason for the delay and when they can expect a response would be appreciated by the Committee. I attach the only example of a similar letter from 2019 which you may find useful.

Committee Secretary, Ms Sophie Dunstone

Senate Legal and Constitutional Affairs Committee

PO Box 6100

Parliament House, Canberra ACT 2600

We will pass this letter on via email to the committee secretariat if you email us a pdf version to senate.estimateinbox@ag.gov.au. We have also advised the AGO of the situation regarding these three late SEQoNs and they have asked if you can please provide an approximate ETA of

when you expect them to be ready.

In relation to the other AAT SEQoNs can I please also have an ETA on the following:

LCC-BE20-53 – Part time members engaged in paid employment that conflicts or may conflict with the proper performance of duties

LCC-BE20-79 – Mr Barry's employment

LCC-BE20-126 – October 2019 Supplementary Budget Estimates – Liaison with the AG and AGO

LCC-BE20-127 – March 2020 Additional Budget Estimates – Liaison with the AG and AGO

Please do not hesitate to contact us if you have any further questions.

Kind Regards,

Kirra

Kirra s 47E(c)

Coordination Officer

Cabinet, Legislation and Estimates Section | Strategy and Governance Branch

Attorney-General's Department

T: (02) 6141 s 47E(d)

E: s 47E(d) @ag.gov.au

(Please note I work Tue-Thur)

2586 Indigenous signature block NEW3 (2)



OFFICIAL

From: Strategy, Communications and Governance mailbox [mailto:SCG@aat.gov.au]

Sent: Friday, 4 December 2020 11:03 AM

To: Senate Estimates Inbox <Senate.EstimatesInbox@ag.gov.au>

Cc: Strategy, Communications and Governance mailbox <SCG@aat.gov.au>; Chris Matthies <Chris.Matthies@aat.gov.au>; s 47E(c) Ingrid s 47E(d) @ag.gov.au; s 47E(c) Kirra s 47E(d) @ag.gov.au; s 47E(c) Alicia <s 47E(d) @ag.gov.au>

Subject: RE: Writing to the Senate Committee [SEC=OFFICIAL]

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Thanks Alicia.

Other than the QoNs that will be late, the outstanding QoNs now are:

- 79 – Part time members engaged in paid employment that conflicts or may conflict with the proper performance of duties – we're hoping to get this to you today or Monday
- 82 – Mr Barry payments – we're hoping to get this to you today or Monday
- 2300 – AAT Legal training (this QoN from Senator Watt came to us outside the Senate Estimates process from Parliamentary@ag.gov.au) – we're hoping to get this to AGD on Monday

Regards

Julian

From: Senate Estimates Inbox <Senate.EstimatesInbox@ag.gov.au>

Sent: Friday, 4 December 2020 10:48 AM

To: Julian s 47E(c) s 47E(d) @aat.gov.au

Cc: Strategy, Communications and Governance mailbox <SCG@aat.gov.au>; Chris Matthies

<Chris.Matthies@aat.gov.au>; [REDACTED] Ingrid [REDACTED] <[REDACTED]@ag.gov.au>; Senate Estimates Inbox <Senate.EstimatesInbox@ag.gov.au>; [REDACTED] Kirra <[REDACTED]@ag.gov.au>; [REDACTED] Alicia [REDACTED] <[REDACTED]@ag.gov.au>

Subject: RE: Writing to the Senate Committee [SEC=OFFICIAL]

EXTERNAL EMAIL

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OFFICIAL

Hi Julian,

There isn't a process as such for late responses, but we will check with the Secretariat if there is a preference. It may be that we provide an response to the QON advising that further information will be provided.

We will also advise the AGO.

Do you have an ETA on the remaining responses? We would really like to get them to the AGO today if possible.

Kind regards,

Alicia

OFFICIAL

From: Julian [REDACTED] [mailto:[REDACTED]@aat.gov.au]

Sent: Friday, 4 December 2020 10:31 AM

To: Senate Estimates Inbox <Senate.EstimatesInbox@ag.gov.au>

Cc: Strategy, Communications and Governance mailbox <SCG@aat.gov.au>; Chris Matthies <Chris.Matthies@aat.gov.au>

Subject: Writing to the Senate Committee [SEC=OFFICIAL]

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OFFICIAL

Hi Team,

The AAT is proposing to write to the Senate Committee to advise that we will not be able to provide responses to the QoNs listed below by the due date, but we are working hard on them and will have the responses to them ASAP.

- 80 – Mr Barry payments (verbal, Senator Carr)
- 81 – Members performance, availability, leave, conflict of interest, and outside employment (written, Senator Carr)
- 129 – Members eligibility for termination, paid outside employment and absence (written, Senator Carr).

Can you please advise how we arrange this letter, including:

- Do you have a template?
- Do you have some previous examples?
- What is the process? (who sends the letter, who needs to be consulted, etc).

Thanks for your advice!

Julian

Julian [REDACTED]

Assistant Director, Governance

Administrative Appeals Tribunal

Principal Registry, Sydney

Strategy, Communications & Governance

T: 02 9276 [REDACTED]

[REDACTED] <[REDACTED]@aat.gov.au>

www.aat.gov.au

The Administrative Appeals Tribunal acknowledges the traditional owners and custodians of country throughout Australia and acknowledges their continuing connection to land, waters and community. We pay our respects to the people, the cultures and the elders past, present and emerging.

IMPORTANT:

Please refer to the AAT website for information about temporary changes in place to respond to the impact of COVID-19 on services, including special measures practice directions: <http://www.aat.gov.au/impact-of-coronavirus-covid-19-on-our-services>

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If you have received this transmission in error please notify us immediately by return e-mail and delete all copies. If this e-mail or any attachments have been sent to you in error, that error does not constitute waiver of any confidentiality, privilege or copyright in respect of information in the e-mail or attachments.

The Administrative Appeals Tribunal acknowledges the traditional owners and custodians of country throughout Australia and acknowledges their continuing connection to land, waters and community. We pay our respects to the people, the cultures and the elders past, present and emerging.

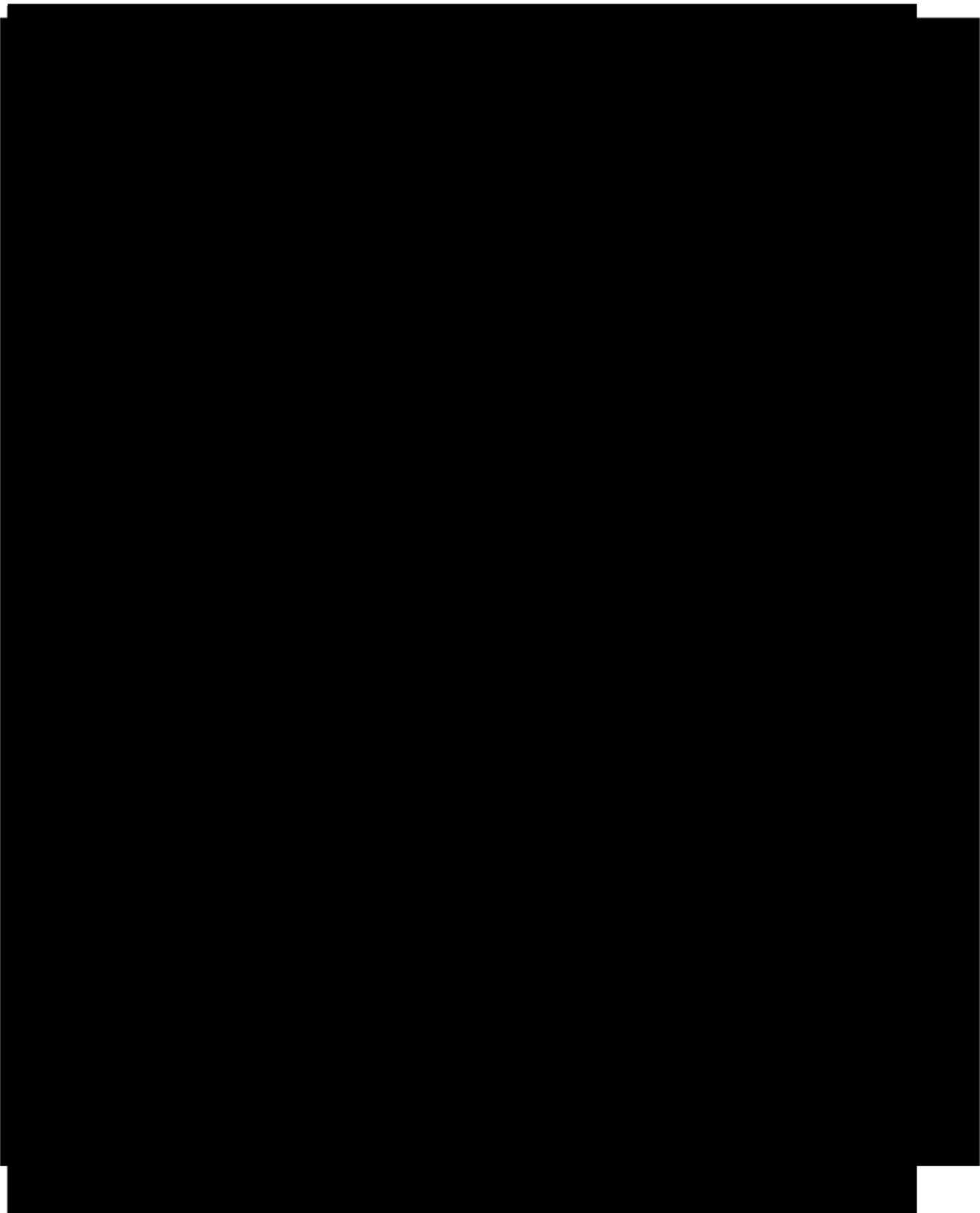
IMPORTANT:

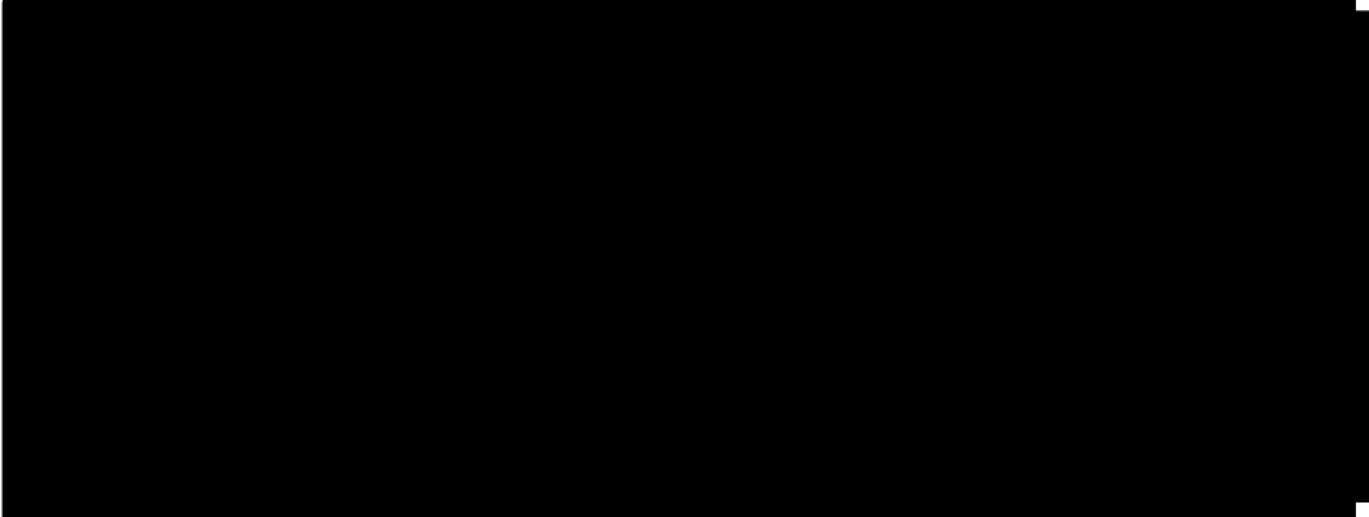
Please refer to the AAT website for information about temporary changes in place to respond to the impact of COVID-19 on services, including special measures practice directions: <http://www.aat.gov.au/impact-of-coronavirus-covid-19-on-our-services>

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If you have received this transmission in error please notify us immediately by return e-mail and delete all copies. If this e-mail or any attachments have been sent to you in error, that error does not constitute waiver of any confidentiality, privilege or copyright in respect of information in the e-mail or attachments.

s47C(1)





- a. What questions?
 - b. Who did you discuss your responses with (the AG or the AG's office)?
 - c. On what dates?
2. Following last Senate Estimates process in October 2019, did the Attorney-General or the Attorney-General's office ask you to – or suggest that you – amend any responses to questions you took on notice? If so:
- a. What questions did those responses relate to?
 - b. Who asked you to amend – or suggested that you amend – those responses (the AG or the AG's office)?
 - c. What specifically did the AG or the AG's office (as applicable) ask you to – or suggest that you – amend?
 - d. Did you make any amendments in response to the feedback from the AG or the AG's office?
3. Following the Senate Estimates process in October 2019, did the Attorney-General or the Attorney-General's office ask you not to respond to any questions you took on notice? If so:
- a. What questions?
 - b. Who asked you not to respond to the question(s) (the AG, the AG's office and/or the Department)?
 - c. Why did the AG, the AG's office or the Department (as applicable) ask you not to respond?
 - d. Did you agree not to respond?
4. In respect of any of your responses to questions you took on notice following the Senate Estimates hearing in October 2019, did you provide multiple drafts of any of your responses to the Attorney-General or the Attorney-General's office? If so, what questions did those responses relate to?

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

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s47C



- a. What questions?
 - b. Who did you discuss your responses with (the AG or the AG's office)?
 - c. On what dates?
2. Following last Senate Estimates process in March 2020, did the Attorney-General or the Attorney-General's office ask you to – or suggest that you – amend any responses to questions you took on notice? If so:
- a. What questions did those responses relate to?
 - b. Who asked you to amend – or suggested that you amend – those responses (the AG or the AG's office)?
 - c. What specifically did the AG or the AG's office (as applicable) ask you to – or suggest that you – amend?
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ATTACHMENT E

From: s 47E(c) Imran
To: Strategy, Communications and Governance mailbox
Cc: Chris Matthies
Subject: RE: Draft revised QoNs 126 & 127 [SEC=OFFICIAL]
Date: Thursday, 10 December 2020 11:22:37 AM
Attachments: image001.png

EXTERNAL EMAIL

"Do not click any links or open any attachments unless you trust the sender, are expecting this email and know the content is safe."

OFFICIAL

Hi Julian

Thanks for sending that through, that's helpful. I've put a call in to our Estimates team to seek some input from them, and I'm hopeful that I'll be able to discuss with them and hopefully get something back to you this afternoon at least in terms of the process between the department and the AAT, if not also the involvement of the Attorney's Office.

Imran

Imran s 47E(c) | Legal System Branch
 Ph 02 6141 s 47E(d)

OFFICIAL

From: Strategy, Communications and Governance mailbox [mailto:SCG@aat.gov.au]
Sent: Wednesday, 9 December 2020 3:15 PM
To: s 47E(c) Imran s 47E(d) @ag.gov.au
Cc: Chris Matthies <Chris.Matthies@aat.gov.au>; Strategy, Communications and Governance mailbox <SCG@aat.gov.au>
Subject: Draft revised QoNs 126 & 127 [SEC=OFFICIAL]

CAUTION: This email originated from outside of the organisation. Do not follow guidance, click links, or open attachments unless you recognise the sender and know the content is safe.

OFFICIAL

Hi Imran,

Attached are our latest draft responses to QoNs 126 and 127.

Also, we've received advice from the Senate Estimates team about writing to the Committee Secretariat (see email below with example letter attached).

Regards

Julian

Julian s 47E(c)
 Assistant Director, Governance
Administrative Appeals Tribunal
Principal Registry, Sydney
 Strategy, Communications & Governance
 T: 02 9276 s 47E(d)
 E s 47E(d) @aat.gov.au
www.aat.gov.au

From: Senate Estimates Inbox <Senate.EstimatesInbox@ag.gov.au>
Sent: Tuesday, 8 December 2020 10:48 AM
To: Strategy, Communications and Governance mailbox <SCG@aat.gov.au>
Cc: Senate Estimates Inbox <Senate.EstimatesInbox@ag.gov.au>
Subject: RE: Writing to the Senate Committee [SEC=OFFICIAL]

EXTERNAL EMAIL

"Do not click any links or open any attachments unless you trust the sender, are expecting this email and know the content is safe."

OFFICIAL

Good morning Julian,

In relation to the three SEQoNs that are not able to be responded to by the tabling date of 16 December.

- 54 – Mr Barry payments (verbal, Senator Carr)
- 86 – Members performance, availability, leave, conflict of interest, and outside employment (written, Senator Carr)
- 129 – Members eligibility for termination, paid outside employment and absence (written, Senator Carr).

I have confirmed with the Committee Secretariat that a letter from Ms Leatham identifying the late SEQoNs and the reason for the delay and when they can expect a response would be appreciated by the Committee. I attach the only example of a similar letter from 2019 which you may find useful.

Committee Secretary, Ms Sophie Dunstone
Senate Legal and Constitutional Affairs Committee
PO Box 6100

Parliament House, Canberra ACT 2600

We will pass this letter on via email to the committee secretariat if you email us a pdf version to senate.estimateinbox@ag.gov.au. We have also advised the AGO of the situation regarding these three late SEQoNs and they have asked if you can please provide an approximate ETA of when you expect them to be ready.

In relation to the other AAT SEQoNs can I please also have an ETA on the following:

LCC-BE20-53 – Part time members engaged in paid employment that conflicts or may conflict with the proper performance of duties

LCC-BE20-79 – Mr Barry's employment

LCC-BE20-126 – October 2019 Supplementary Budget Estimates – Liaison with the AG and AGO

LCC-BE20-127 – March 2020 Additional Budget Estimates – Liaison with the AG and AGO

Please do not hesitate to contact us if you have any further questions.

Kind Regards,

Kirra

Kirra § 47E(c)

Coordination Officer

Cabinet, Legislation and Estimates Section | Strategy and Governance Branch

Attorney-General's Department

T: (02) 6141 § 47E(d)

E § 47E(d) [@ag.gov.au](mailto:§ 47E(d)@ag.gov.au)

(Please note I work Tue-Thur)

2586 Indigenous signature block NEW3 (2)



OFFICIAL

From: Strategy, Communications and Governance mailbox [<mailto:SCG@aat.gov.au>]

Sent: Friday, 4 December 2020 11:03 AM

To: Senate Estimates Inbox <Senate.EstimatesInbox@ag.gov.au>

Cc: Strategy, Communications and Governance mailbox <SCG@aat.gov.au>; Chris Matthies <Chris.Matthies@aat.gov.au>; § 47E(c) Ingrid § 47E(d) [@ag.gov.au](mailto:§ 47E(d)@ag.gov.au); § 47E(c) Kirra

s 47E(d) @ag.gov.au>; s 47E(c) Alicia s 47E(d) @ag.gov.au>

Subject: RE: Writing to the Senate Committee [SEC=OFFICIAL]

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Thanks Alicia.

Other than the QoNs that will be late, the outstanding QoNs now are:

- 79 – Part time members engaged in paid employment that conflicts or may conflict with the proper performance of duties – we're hoping to get this to you today or Monday
- 82 – Mr Barry payments – we're hoping to get this to you today or Monday
- 2300 – AAT Legal training (this QoN from Senator Watt came to us outside the Senate Estimates process from Parliamentary@ag.gov.au) – we're hoping to get this to AGD on Monday

Regards

Julian

From: Senate Estimates Inbox <Senate.EstimatesInbox@ag.gov.au>

Sent: Friday, 4 December 2020 10:48 AM

To: Julian s 47E(c) s 47E(d) @aat.gov.au>

Cc: Strategy, Communications and Governance mailbox <SCG@aat.gov.au>; Chris Matthies <Chris.Matthies@aat.gov.au>; s 47E(c) Ingrid s 47E(d) @ag.gov.au>; Senate Estimates Inbox <Senate.EstimatesInbox@ag.gov.au>; s 47E(c) Kirra <s 47E(d) @ag.gov.au>; s 47E(c) Alicia s 47E(d) @ag.gov.au>

Subject: RE: Writing to the Senate Committee [SEC=OFFICIAL]

EXTERNAL EMAIL

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OFFICIAL

Hi Julian,

There isn't a process as such for late responses, but we will check with the Secretariat if there is a preference. It may be that we provide an response to the QON advising that further information will be provided.

We will also advise the AGO.

Do you have an ETA on the remaining responses? We would really like to get them to the AGO today if possible.

Kind regards,

Alicia

OFFICIAL

From: Julian s 47E(c) [mailto:s 47E(d) @aat.gov.au]

Sent: Friday, 4 December 2020 10:31 AM

To: Senate Estimates Inbox <Senate.EstimatesInbox@ag.gov.au>

Cc: Strategy, Communications and Governance mailbox <SCG@aat.gov.au>; Chris Matthies <Chris.Matthies@aat.gov.au>

Subject: Writing to the Senate Committee [SEC=OFFICIAL]

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OFFICIAL

Hi Team,

The AAT is proposing to write to the Senate Committee to advise that we will not be able to provide responses to the QoNs listed below by the due date, but we are working hard on them

and will have the responses to them ASAP.

- 80 – Mr Barry payments (verbal, Senator Carr)
- 81 – Members performance, availability, leave, conflict of interest, and outside employment (written, Senator Carr)
- 129 – Members eligibility for termination, paid outside employment and absence (written, Senator Carr).

Can you please advise how we arrange this letter, including:

- Do you have a template?
- Do you have some previous examples?
- What is the process? (who sends the letter, who needs to be consulted, etc).

Thanks for your advice!

Julian

Julian s 47E(c)

Assistant Director, Governance

Administrative Appeals Tribunal

Principal Registry, Sydney

Strategy, Communications & Governance

T: 02 9276 s 47E(d)

E s 47E(d) [@aat.gov.au](mailto: @aat.gov.au)

www.aat.gov.au

The Administrative Appeals Tribunal acknowledges the traditional owners and custodians of country throughout Australia and acknowledges their continuing connection to land, waters and community. We pay our respects to the people, the cultures and the elders past, present and emerging.

IMPORTANT:

Please refer to the AAT website for information about temporary changes in place to respond to the impact of COVID-19 on services, including special measures practice directions: <http://www.aat.gov.au/impact-of-coronavirus-covid-19-on-our-services>

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From: [Strategy, Communications and Governance mailbox](#)
To: ["senate.estimateinbox@ag.gov.au"](mailto:senate.estimateinbox@ag.gov.au)
Cc: [Strategy, Communications and Governance mailbox](#)
Subject: QONS 79 & 82 [SEC=OFFICIAL]
Date: Tuesday, 8 December 2020 5:28:18 PM
Attachments: [SQON 82 - Response.docx](#)
[SQON 79 - Response.docx](#)

OFFICIAL

Hi Alicia,

Our responses to QONS 79 and 82 are attached.

Regards

Julian

Julian s 47E(c)

Assistant Director, Governance

Administrative Appeals Tribunal

Principal Registry, Sydney

Strategy, Communications & Governance

T: 02 9276 s 47E(d)

E: s 47E(d) [@aat.gov.au](mailto: @aat.gov.au)

www.aat.gov.au

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S PORTFOLIO
BUDGET ESTIMATES 2020-21

PA-Administrative Appeals Tribunal

LCC-BE20-79 Part-time members engaged in paid employment that conflicts or may conflict with the proper performance of duties

Senator Kim Carr asked the following question on 22 October 2020:

Mr Anderson: Outside employment is under section 11 of the act. It reads:

(1) A full-time member must not engage in paid employment outside the duties of his or her office without the President's approval.

(2) A part-time member must not engage in any paid employment that, in the President's opinion, conflicts or may conflict with the proper performance of his or her duties ... unless, of course, they hold an appointment in the Defence Force. That's a separate thing.

Senator KIM CARR: So the military is separate from that. Registrar, in the president's opinion, have there been any members of the tribunal that have met any of those conditions?

Ms Leathem: I don't believe there have been any members that have met those conditions, certainly not to my knowledge.

Senator KIM CARR: Not to your knowledge, but what about the president's opinion?

Ms Leathem: I would have to ask the president, but, of course, he's not here this evening.

Senator KIM CARR: Do you want to take that on notice? You've asked in regard to yourself to take it on notice as to the president's knowledge.

Ms Leathem: Yes.

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

s47C(1)



SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**ATTORNEY-GENERAL'S PORTFOLIO****BUDGET ESTIMATES 2020-21****PA-Administrative Appeals Tribunal****LCC-BE20-82 Mr Barry's employment**

Senator Kim Carr asked the following question on 22 October 2020:

Senator KIM CARR: Has the President been made aware of Mr Barry's employment as a paid lobbyist?

Ms Leathem: I would have to take that on notice.

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

s47C(1)



<PLEASE DELETE TIP SHEET PRIOR TO FINALISING RESPONSE>

Tips for responding to Questions on Notice

- Always use the template provided by CLES or available in PDMS.
- Complete the cover sheet provided for PQoNs and CQoNs. Provide a contact name and phone number in the PDMS item for all QoNs.
- Responses must be unclassified and appropriate for public release.
- Remain within the parameters of the question asked, and refer to (rather than reproduce) publicly available information or previously answered questions when possible.
- Adhere to applicable style guide requirements, including:
 - Expand acronyms when first used.
 - Do not capitalise 'department' when referring to AGD.
 - Acts should be italicised. Bills and Regulations should not.
- Ensure cross referencing to similar/related QoNs has been considered. This will assist the AGO when reviewing. These can be linked in PDMS or noted in the response.
- Replicate the approach adopted in relation to similar questions on previous occasions (reflecting any AGO feedback on the previous response).
- When coordinating a whole-of-portfolio response, ensure a uniform approach (e.g. answers at the same level of detail across all agencies and line areas).
- Provide any additional detail in an email or PDMS processing instructions (e.g. any guidance provided by PM&C or approaches being taken by other agencies where available/known).
- Public Interest Immunity (PII) claims can be made by the Minister to protect against the disclosure of information or documents, where disclosure would damage the public interest. If you think the Minister may wish to claim PII please contact CLES early.
- Consider whether answering the question would be an unreasonable diversion of resources (particularly in multi-part or complex questions). Please discuss this response with CLES early.

Locating tabled Questions on Notice

Current questions on notice or tabled responses can be found on the APH website. By including some key criteria you can narrow the search down by Ministry, Senator, date or QoN number.

[Senate - Notice Paper - Questions on Notice](#)
[House of Representatives - Questions in Writing](#)

Answers to Committee Questions on Notice can be found by searching for the relevant Senate Committee and navigating to the additional documents page.

[Current Senate Inquiries](#)
[Current House Inquiries](#)

For further information regarding rules and guidelines regarding Parliamentary Questions on Notice, the following links may be helpful:

[APH - Guides to Senate Procedure – No. 6 Questions](#)

[APH - Senate Standing Orders - Chapter 11 - Questions seeking information](#)

Contact us

Please contact CLES at parliamentary@ag.gov.au or senate.estimateinbox@ag.gov.au with any questions on timeframes, process or any other queries relating to questions on notice.

ATTACHMENT F

From: [Strategy, Communications and Governance mailbox](#)
To: s 47E(c) Imran; [Senate Estimates Inbox](#)
Cc: [Chris Matthies](#); [Strategy, Communications and Governance mailbox](#)
Subject: QoNs 126 & 127 [SEC=OFFICIAL]
Date: Tuesday, 15 December 2020 2:35:59 PM
Attachments: [SQON 127 - Response.docx](#)
[SQON 126 - Response.docx](#)

OFFICIAL

Hi Imran, Kirra,

Please find attached our responses to QoN 126 and 127. We understand that the Department may wish to suggest some additional text for the first paragraph in each response to provide further information about the processes described in the paragraph.

Kirra, will you be actioning the collation of the tabled responses to the QoNs referred to in the attached responses as requested by Imran?

Regards

Julian

Julian s 47E(c)

Assistant Director, Governance

Administrative Appeals Tribunal

Principal Registry, Sydney

Strategy, Communications & Governance

T: 02 9276 s 47E(d)

E s 47E(d) @aat.gov.au

www.aat.gov.au

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**ATTORNEY-GENERAL'S PORTFOLIO****BUDGET ESTIMATES 2020-21****PA-Administrative Appeals Tribunal****LCC-BE20-126 October 2019 Supplementary Budget Estimates - Liaison with the Attorney-General and Attorney-General's office**

Senator Kim Carr asked the following question on 06 November 2020:

1. Following the Senate Estimates process in October 2019, did you discuss – or exchange any correspondence about – your responses to any of the questions you took on notice with the Attorney-General or the Attorney-General's office? If yes:
 - a. What questions?
 - b. Who did you discuss your responses with (the AG or the AG's office)?
 - c. On what dates?

2. Following last Senate Estimates process in October 2019, did the Attorney-General or the Attorney-General's office ask you to – or suggest that you – amend any responses to questions you took on notice? If so:
 - a. What questions did those responses relate to?
 - b. Who asked you to amend – or suggested that you amend – those responses (the AG or the AG's office)?
 - c. What specifically did the AG or the AG's office (as applicable) ask you to – or suggest that you – amend?
 - d. Did you make any amendments in response to the feedback from the AG or the AG's office?

3. Following the Senate Estimates process in October 2019, did the Attorney-General or the Attorney-General's office ask you not to respond to any questions you took on notice? If so:
 - a. What questions?
 - b. Who asked you not to respond to the question(s) (the AG, the AG's office and/or the Department)?
 - c. Why did the AG, the AG's office or the Department (as applicable) ask you not to respond?
 - d. Did you agree not to respond?

4. In respect of any of your responses to questions you took on notice following the Senate Estimates hearing in October 2019, did you provide multiple drafts of any of your responses to the Attorney-General or the Attorney-General's office? If so, what questions did those responses relate to?

s47C(1) [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

s47C(1)



SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**ATTORNEY-GENERAL'S PORTFOLIO****BUDGET ESTIMATES 2020-21****PA-Administrative Appeals Tribunal****LCC-BE20-127 March 2020 Additional Budget Estimates - Liaison with the Attorney-General and Attorney-General's office**

Senator Kim Carr asked the following question on 06 November 2020:

1. Following the Senate Estimates process in March 2020, did you discuss – or exchange any correspondence about – your responses to any of the questions you took on notice with the Attorney-General or the Attorney-General's office? If yes:
 - a. What questions?
 - b. Who did you discuss your responses with (the AG or the AG's office)?
 - c. On what dates?

2. Following last Senate Estimates process in March 2020, did the Attorney-General or the Attorney-General's office ask you to – or suggest that you – amend any responses to questions you took on notice? If so:
 - a. What questions did those responses relate to?
 - b. Who asked you to amend – or suggested that you amend – those responses (the AG or the AG's office)?
 - c. What specifically did the AG or the AG's office (as applicable) ask you to – or suggest that you – amend?
 - d. Did you make any amendments in response to the feedback from the AG or the AG's office?

3. Following the Senate Estimates process in March 2020, did the Attorney-General or the Attorney-General's office ask you not to – or suggest that you not – respond to any questions you took on notice? If so:
 - a. What questions?
 - b. Who asked you not to respond to the question(s) (the AG or the AG's office)?
 - c. Why did the AG or the AG's office (as applicable) ask you not to – or suggest that you not – respond?
 - d. Did you agree not to respond?

4. In respect of any of your responses to questions you took on notice following the Senate Estimates hearing in March 2020, did you provide multiple drafts of any of your responses to the Attorney-General or the Attorney-General's office? If so, what questions did those responses relate to?"

s47C(1)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

From: s 47E(c) Imran
To: Strategy, Communications and Governance mailbox; Senate Estimates Inbox
Cc: Chris Matthies
Subject: RE: QoNs 126 & 127 [SEC=OFFICIAL]
Date: Tuesday, 15 December 2020 2:48:31 PM

EXTERNAL EMAIL

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OFFICIAL

Hi Julian

Thanks for this, but I think AGO needs them in PDMS. Where are the QoNs currently in the PDMS system – with the department or the AAT?

s47C(1)
[Redacted]

Thanks

Imran

Imran s 47E(c) | Legal System Branch

Ph 02 6141 s 47E(d)

s47C(1)
[Redacted]

OFFICIAL

From: Strategy, Communications and Governance mailbox [mailto:SCG@aat.gov.au]

Sent: Tuesday, 15 December 2020 2:36 PM

To: s 47E(c) Imran s 47E(d) @ag.gov.au; Senate Estimates Inbox <Senate.EstimatesInbox@ag.gov.au>

Cc: Chris Matthies <Chris.Matthies@aat.gov.au>; Strategy, Communications and Governance mailbox <SCG@aat.gov.au>

Subject: QoNs 126 & 127 [SEC=OFFICIAL]

OFFICIAL

Hi Imran, Kirra,

Please find attached our responses to QoN 126 and 127. We understand that the Department may wish to suggest some additional text for the first paragraph in each response to provide further information about the processes described in the paragraph.

Kirra, will you be actioning the collation of the tabled responses to the QoNs referred to in the attached responses as requested by Imran?

Regards

Julian

Julian s 47E(c)

Assistant Director, Governance

Administrative Appeals Tribunal

Principal Registry, Sydney

Strategy, Communications & Governance

T: 02 9276 ^{s 47E(d)}
E: ^{s 47E(d)} @aat.gov.au
www.aat.gov.au

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ATTACHMENT G

From: [Senate Estimates Inbox](#)
To: [Strategy, Communications and Governance mailbox](#); s 47E(c) Imran
Cc: [Chris Matthies](#)
Subject: RE: QoNs 126 & 127 [SEC=OFFICIAL]
Date: Tuesday, 15 December 2020 3:03:23 PM

EXTERNAL EMAIL

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OFFICIAL

Hi all,
PDMS is the system that we use to send responses up to the AGO, now that we have the responses to 126 and 127 we will process from our end.
Kind Regards,
Kirra

OFFICIAL

From: Strategy, Communications and Governance mailbox [mailto:SCG@aat.gov.au]
Sent: Tuesday, 15 December 2020 2:58 PM
To: s 47E(c) Imran s 47E(d) @ag.gov.au>; Senate Estimates Inbox <Senate.EstimatesInbox@ag.gov.au>
Cc: Chris Matthies <Chris.Matthies@aat.gov.au>; Strategy, Communications and Governance mailbox <SCG@aat.gov.au>
Subject: RE: QoNs 126 & 127 [SEC=OFFICIAL]

OFFICIAL

Hi Imran. I don't know what PDMS is. It sounds like a Department thing that we at the AAT don't use and don't have access to.
I've added that extra line into our responses (attached).
I'm not sure I need to do anything from here. It sounds like Kirra or Alicia need to take it from here?
Regards
Julian

From: s 47E(c) Imran s 47E(d) @ag.gov.au>
Sent: Tuesday, 15 December 2020 2:48 PM
To: Strategy, Communications and Governance mailbox <SCG@aat.gov.au>; Senate Estimates Inbox <Senate.EstimatesInbox@ag.gov.au>
Cc: Chris Matthies <Chris.Matthies@aat.gov.au>
Subject: RE: QoNs 126 & 127 [SEC=OFFICIAL]

EXTERNAL EMAIL

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OFFICIAL

Hi Julian
Thanks for this, but I think AGO needs them in PDMS. Where are the QoNs currently in the PDMS system – with the department or the AAT?
The additional text for part 1 that we've proposed from the department's perspective is below

s47C(1)
[Redacted text block]

Thanks

Imran

Imran ^{s 47E(c)} | Legal System Branch

Ph 02 6141 ^{s 47E(d)}

^{s47C(1)}

OFFICIAL

From: Strategy, Communications and Governance mailbox [<mailto:SCG@aat.gov.au>]

Sent: Tuesday, 15 December 2020 2:36 PM

To: ^{s 47E(c)} Imran ^{s 47E(d)} @ag.gov.au; Senate Estimates Inbox
<Senate.EstimatesInbox@ag.gov.au>

Cc: Chris Matthies <Chris.Matthies@aat.gov.au>; Strategy, Communications and Governance mailbox <SCG@aat.gov.au>

Subject: QoNs 126 & 127 [SEC=OFFICIAL]

OFFICIAL

Hi Imran, Kirra,

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Kirra, will you be actioning the collation of the tabled responses to the QoNs referred to in the attached responses as requested by Imran?

Regards

Julian

Julian ^{s 47E(c)}

Assistant Director, Governance

Administrative Appeals Tribunal

Principal Registry, Sydney

Strategy, Communications & Governance

T: 02 9276 ^{s 47E(d)}

E ^{s 47E(d)} @aat.gov.au

www.aat.gov.au

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IMPORTANT:

Please refer to the AAT website for information about temporary changes in place to respond to the impact of COVID-19 on services, including special measures practice directions: <http://www.aat.gov.au/impact-of-coronavirus-covid-19-on-our-services>

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ATTACHMENT H

From: [Strategy, Communications and Governance mailbox](#)
To: [Monique Adofaci](#); [Chris Matthies](#)
Cc: [Strategy, Communications and Governance mailbox](#); [Sian Leathem](#)
Subject: QoNs 126 & 127 [SEC=OFFICIAL]
Date: Wednesday, 16 December 2020 1:04:50 PM

OFFICIAL

Hi,

I just had a call from Sian, who wanted to tell me about a phone call she just received from Michelle **s 47E(c)** from the AGO's office. The topic of discussion was QoNs 126 and 127, which are about liaison with the AGO over QoNs on previous rounds.

s47C(1)

s47C(1) Sian is happy for you two to consider the AGO's suggested changes and finalise our response. **s47C(1)**

In terms of the letter to the Committee Secretariat about our other late QoNs about members, I still haven't heard back from AGO, and nor was the letter raised with Sian by Michelle just now. Alicia (from AGD Senate Estimates) had previously said that AGO might have some concern with the date we put in the letter about when we thought the responses would be ready, and we've been waiting to hear back from the AGO about the letter. Alicia asked AGO about the letter this morning and will ask them about it again around 2pm. Alicia doesn't want to send the letter without approval by the AGO, but made the point that ultimately it is the AAT's decision about when the letter gets sent. I'll hold off doing anything with the letter for a couple more hours.

Regards

Julian

Julian **s 47E(c)**

Assistant Director, Governance

Administrative Appeals Tribunal

Principal Registry, Sydney

Strategy, Communications & Governance

T: 02 9276 **s 47E(d)**

E **s 47E(d)** [@aat.gov.au](mailto: @aat.gov.au)

www.aat.gov.au

ATTACHMENT I

From: § 47E(c) Alicia
To: [Strategy, Communications and Governance mailbox](#); Julian § 47E(c)
Cc: [Senate Estimates Inbox](#)
Subject: 126 and 127 [SEC=OFFICIAL]
Date: Monday, 21 December 2020 9:31:20 AM
Attachments: [LCC-BE20-127.docx](#)
[LCC-BE20-126.docx](#)

EXTERNAL EMAIL

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Hi Julian,

Apologies I missed your call on Friday. The AGO cleared 126 and 127 on Wednesday and they were tabled – final responses *attached*.

Understand these responses were agreed with the Register, but please do let me know if that is not your understanding.

Kind regards,

Alicia

Alicia § 47E(c)
 A/g Director
 Cabinet, Legislation and Estimates Section
 Attorney-General's Department
 3-5 National Circuit | Barton ACT 2600
T: +61 2 6141 § 47E(c) | **E:** § 47E(c) [@ag.gov.au](#)

OFFICIAL

ATTACHMENT J

From: Julian [s 47E\(c\)](#)
To: [s 47E\(c\)](#) "Rohan"
Cc: Michaela [s 47E\(c\)](#)
Subject: RE: Quick catch up today - QONs [SEC=OFFICIAL]
Date: Monday, 15 March 2021 11:58:38 AM

Hi Rohan, Michaela will give you a call shortly to find a time that will suit you and us. (I'm working remotely today and am in mobile phone black spot so can't make or receive any calls!).

Just to confirm:

- Is it just you at your end, or will Imran be attending as well?
- Is this to discuss the QoN 126/127 issue, where those QoNs were finalised without being returned to us? Do you also want to discuss any of the member QoNs? (This helps me to know who to invite at our end).

Thanks
Julian

From: [s 47E\(c\)](#) Rohan [s 47E\(d\)](#) @ag.gov.au>
Sent: Monday, 15 March 2021 11:44 AM
To: Julian [s 47E\(c\)](#) [s 47E\(d\)](#) @aat.gov.au>
Subject: RE: Quick catch up today - QONs [SEC=OFFICIAL]

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OFFICIAL

Hello Julian,

Grateful if you can advise a time we can chat today. Should only take 5-10mins.

OFFICIAL

From: Sian Leathem [<mailto:Sian.Leathem@aat.gov.au>]
Sent: Monday, 15 March 2021 10:33 AM
To: [s 47E\(c\)](#) Rohan [s 47E\(d\)](#) @ag.gov.au>
Cc: Julian [s 47E\(c\)](#) <[s 47E\(d\)](#) @aat.gov.au>
Subject: RE: Quick catch up today - QONs [SEC=OFFICIAL]

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OFFICIAL

Hi Rohan,

I am sure Julian in our Governance team will be able to find 15 mins today.

Regards,

Sian

From: s 47E(c) Rohan <s 47E(d) @ag.gov.au>
Sent: Monday, 15 March 2021 9:24 AM
To: Sian Leathem <Sian.Leathem@aat.gov.au>
Subject: Quick catch up today - QONs [SEC=OFFICIAL]

EXTERNAL EMAIL

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OFFICIAL

Hello Sian,

Do you have 5mins to discuss the response to QONs issue today.

We have done some background research on how the QONs progressed and wanted to make sure we are all on the same page.

Regards

Rohan s 47E(c)
Administrative Appeals Tribunal Section
Attorney-General's Department
02 6141 s 47E(d)

OFFICIAL

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The Administrative Appeals Tribunal acknowledges the traditional owners and custodians of country throughout Australia and acknowledges their continuing connection to land, waters and community. We pay our respects to the people, the cultures and the elders past, present and emerging.

IMPORTANT:

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ATTACHMENT K

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VERBAL QONS

Q. No.	Senator	Subject	Question	Hansard Page	Notes
LCC- BE20-53 (formerly 79)	Carr	Part-time members engaged in paid employment that conflicts or may conflict with the proper performance of duties.	<p>Mr Anderson: Outside employment is under section 11 of the act. It reads: (1) A full-time member must not engage in paid employment outside the duties of his or her office without the President's approval. (2) A part-time member must not engage in any paid employment that, in the President's opinion, conflicts or may conflict with the proper performance of his or her duties ... unless, of course, they hold an appointment in the Defence Force. That's a separate thing</p> <p>Senator KIM CARR: So the military is separate from that. Registrar, in the president's opinion, have there been any members of the tribunal that have met any of those conditions?</p> <p>Ms Leathem: I don't believe there have been any members that have met those conditions, certainly not to my knowledge.</p> <p>Senator KIM CARR: Not to your knowledge, but what about the president's opinion?</p> <p>Ms Leathem: I would have to ask the president, but, of course, he's not here this evening.</p> <p>Senator KIM CARR: Do you want to take that on notice? You've asked in regard to yourself to take it on notice as to the president's knowledge.</p> <p>Ms Leathem: Yes.</p>	p.82 Draft Hansard link	<p>Link to response</p> <p>Comments: Sent to AGD on 8/12. Returned on 9/12 with a suggested change from AGO. Advised AGD that we wished to keep our response as is. Formerly QoN 79.</p> <p>Status: Tabled 15/12.</p>
LCC- BE20-54 (formerly 80)	Carr	Mr Barry payments	<p>Senator KIM CARR: I see. How much is Mr Barry being paid?</p> <p>Ms Leathem: As a part-time member, he would be getting a daily rate for work that he undertakes for the tribunal—</p> <p>Senator KIM CARR: How much has he been paid?</p> <p>Ms Leathem: I'd have to take that on notice.</p>	p.84 Draft Hansard link	<p>Link to response</p> <p>Comments:</p>

Q. No.	Senator	Subject	Question	Hansard Page	Notes
			<p>Senator KIM CARR: He obviously wasn't paid very much for the first three months, was he?</p> <p>Ms Leathem: He would be paid nothing if he hadn't undertaken any work for us.</p> <p>Senator KIM CARR: And can you confirm what actually he was doing for those first three months that he was engaged at the tribunal?</p> <p>Ms Leathem: Senator, there is no obligation on part-time members to disclose other employment. Most of our part-time members are doing multiple jobs with other organisations and tribunals. It's when a conflict arises that they have an obligation to disclose them.</p> <p>Senator KIM CARR: Right. You'll come back to me on the amount he's been paid since that time?</p> <p>Ms Leathem: Yes.</p>		<p>On 16/12/20, letter was sent to the Committee Secretariat advising the response would not be tabled by the due date, and we hoped to table the responses by 5/2/21.</p> <p>On 3/2/21, a further letter was sent to the Committee Secretary advising the responses would not be tabled by 5/2/21 and we would provide them as soon as possible.</p> <p>On 5/2/21, a letter was received from the Committee asking us to table whatever information we have. Response was submitted to AGD on 5/2/21.</p> <p>On 10/2/21, AGD suggested changes to the response. The changes were accepted by AAT on 11/2/21.</p> <p>A further revised response was sent on 16/2/21.</p> <p>On 22/2/21, AGO asked whether further info should be included. A further revised response was sent on the same day. Sian spoke with the AGO that night who</p>

Q. No.	Senator	Subject	Question	Hansard Page	Notes
					<p>requested further info and a further revised response was sent on 23/2/21.</p> <p>Formerly QoN 80.</p> <p>Status: Tabled 25/2/21</p>
LCC-BE20-79 (formerly 82)	Carr	Mr Barry's employment	<p>Senator KIM CARR: Has the President been made aware of Mr Barry's employment as a paid lobbyist?</p> <p>Ms Leathem: I would have to take that on notice.</p>	<p>p.88</p> <p>Draft Hansard link</p>	<p>Link to response template</p> <p>Comments: Sent to AGD on 8/12. Formerly QoN 82.</p> <p>Status: Tabled 16/12</p>

WRITTEN QONS – AAT specific

QON No	Senator	Subject	Question	Allocation / Response
LCC-BE20-104	Siewert	AAT and Centrelink Support	<p>1. How many people have approached the AAT regarding their Cashless Debit Card exit or exemption application? What were the outcomes of these cases? Will this information be publicly available?</p> <p>2. Please provide the latest data available on the average and median time taken to finalise applications for review of decisions made by Centrelink at the first review and second review broken down by payment type (age pension, DSP, jobseeker, youth allowance, FTB and parenting payment)</p> <p>3. Please provide the number of applications lodged and finalised in the period from 31 January 2020 to date.</p> <p>4. Please provide the latest number of appeals broken down by Centrelink payment type.</p> <p>5. Could you please provide the number and nature of appeals regarding the disability support pension since the start of covid and how this compares to the same period last year?</p> <p>6. Could you please provide the number and nature of appeals regarding jobseeker payment since the start of covid and how this compares to the same period last year?</p>	<p>Link to response</p> <p>Comments: Sent to AGD on 30/11. AGO suggested revisions on 1/12 and a revised response sent the same day.</p> <p>Status: Tabled 16/12.</p>
LCC-BE20-126	Carr	October 2019 Supplementary Budget Estimates - Liaison with the Attorney-General and Attorney-General's office	See template	<p>Link to tabled response</p> <p>Comments: Sent to AGD on 4/12 but not escalated to AGO. Revised response sent to Senate Estimates team on 15/12. AGO discussed a revised response with Sian on 16/12. We were expecting to receive a revised response from AGO but subsequently found out it was tabled without being returned to us first.</p>

				Status: Tabled 16/12/20
LCC-BE20-127	Carr	March 2020 Additional Budget Estimates - Liaison with the Attorney-General and Attorney-General's office	See template	Link to tabled response Comments: Sent to AGD on 4/12 but not escalated to AGO. Revised response sent to Senate Estimates team on 15/12. AGO discussed a revised response with Sian on 16/12. We were expecting to receive a revised response from AGO but subsequently found out it was tabled without being returned to us first. Status: Tabled 16/12/20
LCC-BE20-128	Carr	Callinan Review – Implementation of recommendations	How many of the recommendations ("measures") of the Callinan Review have been implemented? Please provide details of what recommendations have been implemented in full, what recommendations have been implemented in part, what recommendations will be implemented and what recommendations will not be implemented.	Link to response (our previous response when question was asked in March) Comments: Sent to AGD on 30/11. AGO suggested revisions on 1/12. Revised response sent on 2/12 Status: Tabled 16/12/20

LCC- BE20- 129	Carr	Members – eligibility for termination, paid outside employment and absence	See template	<p>Link to response</p> <p>Comments:</p> <p>On 16/12/20, letter was sent to the Committee Secretariat advising the response would not be tabled by the due date, and we hoped to table the responses by 5/2/21.</p> <p>On 3/2/21, a further letter was sent to the Committee Secretary advising the responses would not be tabled by 5/2/21 and we would provide them as soon as possible.</p> <p>On 5/2/21, a letter was received from the Committee asking us to table whatever information we have. A response was submitted to AGD on 5/2/21.</p> <p>One part of the question not answered due to unreasonable disclosure of personal information.</p> <p>Status: Tabled 25/2/21</p>

<p>LCC-BE20-167-240</p> <p>Originally 81, then briefly changed to 86 late in the process, before being split into multiple QoNs 168-241.</p>	<p>Carr</p>	<p>Members – performance, availability, leave, conflict of interest, and outside employment</p>	<p>See template</p>	<p>Link to response</p> <p>Comments:</p> <p>These are 74 separate QoNs. QoN 171 is a duplicate of 173.</p> <p>On 16/12/20, letter was sent to the Committee Secretariat advising the response would not be tabled by the due date, and we hoped to table the responses by 5/2/21.</p> <p>On 3/2/21, a further letter was sent to the Committee Secretary advising the responses would not be tabled by 5/2/21 and we would provide them as soon as possible.</p> <p>On 5/2/21, a letter was received from the Committee asking us to table whatever information we have. A response was submitted to AGD on 5/2/21.</p> <p>On 11/2/21, we received suggested edits from AGO. The following day we provided a revised response that included the AGO edits as well as further edits initiated by us.</p> <p>Further revised responses were provided on 15/2/21 and 24/2/21.</p>
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				<p>One combined document was submitted for each separate QoN in the series.</p> <p>These were originally one QoN (81, which was then briefly changed to 86 late in the process) before being split into multiple QoNs 168-241.</p> <p>Status: Tabled 25/2/21.</p>
2300	Watt	Member Legal training	<p>With reference to the Administrative Appeals Tribunal (and noting that there are no areas in connection with the expenditure of public funds where any person has a discretion to withhold details or explanations from the Parliament unless the Parliament has expressly provided otherwise) :</p> <p>1. To the best of the Tribunal's knowledge, is senior member Mr Andrew Nikolic studying law; if so:</p> <p>a. when did he begin his legal studies;</p> <p>b. where is he studying law;</p> <p>c. is his tuition being paid for, or subsidised, by the Commonwealth; and</p> <p>d. to date, how much has the Commonwealth spent on senior member Nikolic's legal studies.</p> <p>2. To the best of the Tribunal's knowledge, as at 9 November 2020, are any other members, senior members or deputy presidents of the Administrative Appeals Tribunal undertaking legal studies; if so:</p> <p>a. how many;</p> <p>b. who are they (i.e. can a list be provided of all relevant members, senior members and deputy members) ;</p> <p>c. is their tuition being paid for, or subsidised, by the Commonwealth;</p> <p>d. where are they studying; and</p> <p>e. to date, broken down by each member, how much money has the Commonwealth contributed to their legal studies.>.</p>	<p>Link to response</p> <p>Comments: First version sent to AGD on 8/12. AGO sent back with some suggested changes on 9/12. Revised response sent to AGD on 10/12. The question was asked again by Senator Watt, see SQoNs 2478 and 3015 below.</p> <p>Status: Tabled 16/12/2020. Response submitted to parliamentary@aq.gov.au.</p> <p>(Note: this question has been asked as part of the Parliamentary questions process, not the Senate Estimates process, but is due on the same date (25</p>

				Nov so have included it in this register)
2478	Watt	Member Legal training	Same as question 2300 above	Link to response Comments: First version sent to AGD. AGO suggested changes and revised version sent on 4 Feb. Status: Tabled 10/02/2021. (Note: this question has been asked as part of the Parliamentary questions process, not the Senate Estimates process)
SQoN 3015	Watt	Member Legal training	Same as question 2300 and 3015 above	Discussed with AAT Team on 24/2. AAT Team to discuss with AGD Parliamentary (the AAT does not think it is for us to answer). (Note: this question has been asked as part of the Parliamentary questions process, not the Senate Estimates process)

WRITTEN QONS – Whole of portfolio

QON No	Senator Due date	Subject	Question	Allocation / Response
LCC-BE20-115 (469)	Carr 19/11	PM's press conference warning of sophisticated state based campaign of cyber attacks	See template	<p>Allocation: ETG (Jason s47E)</p> <p>Link to response</p> <p>Comments: Finalised and sent to AGD on 20/11 Sent to Di s47E at AGD</p>
LCC-BE20-116 (470)	Carr 19/11	Protective Security Policy Framework - Australian Signals Directorate's 'Top Four' mitigation	See template	<p>Allocation: ETG (Jason s47E)</p> <p>Link to response</p> <p>Comments: Finalised and sent to AGD on 20/11 Sent to Di s47E at AGD</p>
LCC-BE20-117 (471)	Carr 19/11	Cyber Security spend	See template	<p>Allocation: ETG (Jason s47E)</p> <p>Link to response</p> <p>Comments: Finalised and sent to AGD on 20/11 Sent to Di s47E at AGD</p>

QON No	Senator Due date	Subject	Question	Allocation / Response
LCC-BE20-118 (472)	Carr 19/11	PM's Press Conference Warning of Sophisticated State Based Campaign of Cyber Attacks - Additional Funding for cyber security	See template	<p>Allocation: ETG (Jason s47E)</p> <p>Link to response</p> <p>Comments: Finalised and sent to AGD on 20/11 Sent to Di s47E at AGD</p>
LCC-BE20-119 (473)	Carr 19/11	Domain-based Message Authentication, Reporting and Conformance Implementation in Commonwealth Government Entities	See template	<p>Allocation: ETG (Jason s47E)</p> <p>Link to response</p> <p>Comments: Finalised and sent to AGD on 20/11 Sent to Di s47E at AGD</p>
LCC-BE20-120 (474)	Carr 19/11	APS Staff Cyber Security Training	See template	<p>Allocation: ETG (Jason s47E)</p> <p>Link to response</p> <p>Comments: Finalised and sent to AGD on 20/11 Sent to Di s47E at AGD</p>

QON No	Senator Due date	Subject	Question	Allocation / Response
LCC-BE20-95	McKenzie	Working from home work force		<p>Question sent directly to Jacqueline Fredman from AGD Human Resources</p> <p>Comments: Jacqueline Fredman sent off the response on 16 November. Tabled 15/12.</p>
LCC-BE20-121	Gallagher 27/11 but AGD didn't sent this to AAT until 27/11	Expenditure on contractors	<p>Please provide the following figures:</p> <p>a. Expenditure on all contractors for 2019-20</p> <p>b. Expenditure on all contracts with labour hire firms for 2019-20</p> <p>c. Headcount of staff engaged through labour hire arrangements as at 30 June 2020</p> <p>i. In total</p> <p>ii. As a percentage of total staff headcount</p> <p>d. As a percentage mark-up on the cost of the contractor, the maximum and minimum fees paid to labour hire firms in 2019-20</p>	<p>Allocation: Business Support</p> <p>Link to response</p> <p>Send response to Caterina (Caterina.s47E@ag.gov.au)</p> <p>Comments: AGD did not notify the AAT of this QON until the day it was due to AGD Sent to AGD on 2/12</p>
LCC-BE20-122	Gallagher 27/11 but AGD didn't sent this to AAT until 27/11	Cost of engagement of contractors	<p>Has the agency performed any analysis on whether it costs more to engage staff as contractors compared with hiring staff as employees? If yes, please provide this analysis.</p>	<p>Allocation: Business Support</p> <p>Link to response</p> <p>Send response to Caterina (Caterina.s47E@ag.gov.au)</p> <p>Comments: AGD did not notify the AAT of this QON until the day it was due to AGD Sent to AGD on 2/12</p>

QON No	Senator Due date	Subject	Question	Allocation / Response
LCC-BE20-123	Gallagher 27/11	SES labour hire	Has the agency engaged any Senior Executive Service or equivalent positions on a contract/labour hire basis? If yes, please provide details.	<p>Allocation: HR</p> <p>Link to response</p> <p>Send response to S47E, Ross S47E Butler@ag.gov.au></p> <p>Comments: Finalised and sent to AGD on 27/11</p>
LCC-BE20-124	Gallagher 27/11 but AGD didn't sent this to AAT until 27/11	Contracts for market research	<p>In relation to contracts for market research:</p> <p>a. How much has been spent to date since 1 January 2020?</p> <p>b. How much has been spent since 24 August 2018?</p> <p>c. Please provide a table with all contracts entered into since 1 January 2020 along with the following information:</p> <p>i. Total contract value</p> <p>ii. Supplier</p> <p>iii. If it was approved by the Service Delivery and Coordination Committee</p>	<p>Allocation: Business Support</p> <p>Link to response</p> <p>Send response to Caterina (CaterinaS47E@ag.gov.au)</p> <p>Comments: AGD did not notify the AAT of this QON until the day it was due to AGD Sent to AGD on 2/12</p>
LCC-BE20-135	Kitching 23/11	Departmental functions	<p>1. In relation to expenditure on any functions or official receptions etc hosted by the Department or agencies within the portfolio for each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020 and 1 July 2020-30 September 2020, can the following be provided:</p> <p>a. List of functions.</p> <p>b. List of all attendees.</p> <p>c. Function venue.</p> <p>d. Itemised list of costs (GST inclusive).</p> <p>e. Details of any food served.</p> <p>f. Details of any wines or champagnes served including brand and vintage.</p>	<p>Allocation: Governance (Michaela)</p> <p>Link to response</p> <p>Send response to Caterina (CaterinaS47E@ag.gov.au)</p> <p>Comments:</p>

QON No	Senator Due date	Subject	Question	Allocation / Response
			g. Any available photographs of the function. h. Details of any entertainment provided.	Finalised and sent to AGD on 26/11
LCC-BE20-137	Kitching 23/11	Customised and special-order furniture and office supplies	For each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020 and 1 July 2020-30 September 2020, can the Department/agency advise the quantum spent on customised and special-ordered furniture and office supplies (excluding items such as ergonomic desks and chairs and items required for work, health and safety purposes). Please provide a full breakdown, descriptions and cost.	Allocation: Business Support Link to response Send response to Caterina (Caterina S47E @ag.gov.au) Comments: Finalised and sent to AGD on 26/11
LCC-BE20-138	Kitching 23/11	Facilities upgrades	1. Were there any upgrades to facility premises at any of the Departments or agencies for each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020 and 1 July 2020-30 September 2020. This includes but is not limited to: staff room refurbishments, kitchen refurbishments, bathroom refurbishments, the purchase of any new fridges, coffee machines, or other kitchen equipment. 2. If so, can a detailed description of the relevant facilities upgrades be provided together with an itemised list of costs (GST inclusive). 3. If so, can any photographs of the upgraded facilities be provided.	Allocation: Business Support Link to response Send response to Caterina (Caterina S47E @ag.gov.au) Comments: Finalised and sent to AGD on 26/11
LCC-BE20-139	Kitching 23/11	Staff travel	What is the total cost of staff travel for departmental/agency employees for each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020 and 1 July 2020-30 September 2020.	Allocation: Finance Link to response Send response to Caterina (Caterina S47E @ag.gov.au)

QON No	Senator Due date	Subject	Question	Allocation / Response
				Comments: Finalised and sent to AGD on 26/11
LCC-BE20-140	Kitching 23/11	Legal costs	What are the total legal costs for the Department/agency for each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020 and 1 July 2020-30 September 2020.	Allocation: Legal & Policy Link to response Send response to Caterina (Caterina s47E @ag.gov.au) Comments: Sent to AGD on 30/11 Returned on 1/12 asking us to split the first two time periods. Revised response sent to AGD on 8/12
LCC-BE20-133	Kitching 23/11	Executive management	In relation to executive management for the Department and its agencies, can the following be provided for each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020 and 1 July 2020-30 September 2020: a. The total number of executive management positions b. The aggregate total remuneration payable for all executive management positions. c. The change in the number of executive manager positions. d. The change in aggregate total remuneration payable for all executive management positions.	Allocation: Human Resources Link to response Send response to Angelina (Angelina s47E @ag.gov.au) Comments: Finalised and sent to AGD on 26/11
LCC-BE20-142	Kitching 23/11	Departmental staff allowances	Can a list of Departmental/agency allowances and reimbursements available to employees be provided.	Allocation: Human Resources Link to response

QON No	Senator Due date	Subject	Question	Allocation / Response
				<p>Send response to Angelina (Angelina.s47E@aq.gov.au)</p> <p>Comments: Finalised and sent to AGD on 26/11</p>
LCC-BE20-143	Kitching 23/11	Market research	<p>1. Does the Department/agency undertake any polling or market research in relation to government policies or proposed policies.</p> <p>2. If so, can the Department provide an itemised list of:</p> <ol style="list-style-type: none"> Subject matter Company Costs for each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020 and 1 July 2020-30 September 2020 Contract date period <p>3. Can the Department/agency advise what, if any, research was shared with the Minister or their office and the date and format in which this occurred.</p>	<p>Allocation: Communications</p> <p>Link to response</p> <p>Send response to Angelina (Angelina.s47E@aq.gov.au)</p> <p>Comments: Finalised and sent to AGD on 26/11</p>
LCC-BE20-144	Kitching 23/11	Advertising and information campaigns	<p>1. What was the Department/agency's total expenditure on advertising and information campaigns for each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020 and 1 July 2020-30 September 2020.</p> <p>2. What advertising and information campaigns did the Department/agency run in each relevant period. For each campaign, please provide:</p> <ol style="list-style-type: none"> When approval was first sought. The date of approval, including whether the advertising went through the Independent Campaign Committee process. the timeline for each campaign, including any variation to the original proposed timeline. <p>3. Can an itemised list of all Austender Contract Notice numbers for all advertising and information campaign contracts in each period be provided.</p>	<p>Allocation: Communications</p> <p>Link to response</p> <p>Send response to Angelina (Angelina.s47E@aq.gov.au)</p> <p>Comments: Finalised and sent to AGD on 26/11</p>

QON No	Senator Due date	Subject	Question	Allocation / Response
LCC-BE20-145	Kitching 23/11	Promotional merchandise	<p>1. What was the Department/agency's total expenditure on promotional merchandise for each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020 and 1 July 2020-30 September 2020.</p> <p>2. Can an itemised list of all Austender Contract Notice numbers for all promotional merchandise contracts in that period please be provided.</p> <p>3. Can photographs or samples of relevant promotional merchandise please be provided.</p>	<p>Allocation: Communications</p> <p>Link to response</p> <p>Send response to Angelina (Angelina.s47E@ag.gov.au)</p> <p>Comments: Finalised and sent to AGD on 26/11</p>
LCC-BE20-147	Kitching 23/11	Social media influencers	<p>1. What was the Department/agency's total expenditure on social media influencers for each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020 and 1 July 2020-30 September 2020.</p> <p>2. What advertising or information campaigns did the Department/agency use social media influencers to promote.</p> <p>3. Can a copy of all relevant social media influencer posts please be provided.</p> <p>4. Can an itemised list of all Austender Contract Notice numbers for all relevant social media influencer contracts please be provided.</p>	<p>Allocation: Communications</p> <p>Link to response</p> <p>Send response to Angelina (Angelina.s47E@ag.gov.au)</p> <p>Comments: Finalised and sent to AGD on 26/11</p>
LCC-BE20-151	Kitching 23/11	Media monitoring	<p>1. What is the total cost of media monitoring services, including press clippings, electronic media transcripts etcetera, provided to the each Minister's office for each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020 and 1 July 2020-30 September 2020. a. Which agency or agencies provided these services.</p> <p>b. Can an itemised list of Austender Contract notice numbers for any media monitoring contracts in each period please be provided</p> <p>c. What is the estimated budget to provide these services for the FY 2020-21.</p> <p>2. What was the total cost of media monitoring services, including press clippings, electronic media transcripts etcetera, provided to the department/agency for each of the periods 1 July 2019-31 December 2019; 1</p>	<p>No response required</p> <p>Allocation: Information Management</p>

QON No	Senator Due date	Subject	Question	Allocation / Response
			<p>January 2020-30 June 2020 and 1 July 2020-30 September 2020. a. Which agency or agencies provided these services.</p> <p>b. Can an itemised list of Austender Contract Notice numbers for any media monitoring contracts in each period please be provided</p> <p>c. What is the estimated budget to provide these services for the year FY 2020-21.</p>	<p>Link to response</p> <p>Send response to Angelina (Angelina s47E @aq.gov.au)</p> <p>Comments: Finalised and sent to AGD on 27/11</p>
LCC-BE20-154	Kitching 23/11	Recruitment	<p>1.What amount has been expended by the department/agency on external recruitment or executive search services in each of the periods 1July 2019-31 December 2019; 1 January 2020-30 June 2020 and 1 July 2020-30 September 2020.</p> <p>2.Which services were utilised. Can an itemised list be provided.</p>	<p>Allocation: Human Resources</p> <p>Link to response</p> <p>Send response to Angelina (Angelina s47E @aq.gov.au)</p> <p>Comments: Finalised and sent to AGD on 26/11 Revised response sent to AGD on 27/11.</p>
LCC-BE20-155	Kitching 23/11	Staffing	<p>1.How many full-time equivalent staff were engaged at each of 30 June 2019, 30 June 2020 and at 10 November 2020.</p> <p>2.How many of these positions are (a) ongoing and (b) non-ongoing.</p> <p>3.How many redundancies have occurred in each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020 and 1 July 2020-30 September 2020. How many were:</p> <p>a. voluntary</p> <p>b. involuntary.</p> <p>4.How many of those redundancies occurred as a result of departmental restructuring. What is the total cost of those redundancies.</p> <p>5.What was the total value in dollar terms of all termination payments paid to exiting staff.</p>	<p>Allocation: Human Resources</p> <p>Link to response</p> <p>Send response to Angelina (Angelina s47E @aq.gov.au)</p> <p>Comments: Finalised and sent to AGD on 26/11.</p>

QON No	Senator Due date	Subject	Question	Allocation / Response
			<p>6. How much overtime or equivalent has been paid to staff in each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020 and 1 July 2020-30 September 2020.</p> <p>7. How many section 37 notices under the Public Service Act 1999 have been offered in each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020 and 1 July 2020-30 September 2020.</p>	<p>Email from AGD on 27 Nov indicated a revised response might be necessary. They wrote: "For Question 5: <i>What was the total value in dollar terms of all termination payments paid to exiting staff.</i>"</p> <p>[REDACTED]</p> <p>Revised response sent to workforceplanning@aq.gov.au on 30/11</p>
LCC-BE20-157	Kitching 23/11	Fair Work Commission	For each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020 and 1 July 2020-30 September 2020, how many references have been made to the Fair Work Commission within the Department or agency.	<p>Allocation: Human Resources</p> <p>Link to response</p> <p>Send response to Angelina (Angelina.s47E@aq.gov.au)</p> <p>Comments: Finalised and sent to AGD on 26/11</p>
LCC-BE20-158	Kitching 23/11	Fair Work Ombudsman	For each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020 and 1 July 2020-30 September 2020, how many references have been made to the Fair Work Ombudsman within the Department or agency.	<p>Allocation: Human Resources</p> <p>Link to response</p>

QON No	Senator Due date	Subject	Question	Allocation / Response
				<p>Send response to Angelina (Angelina.s47E@ag.gov.au)</p> <p>Comments: Finalised and sent to AGD on 26/11</p>
LCC-BE20-132	Kitching 23/11	Public interest disclosures	For each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020 and 1 July 2020-30 September 2020, how many public interest disclosures have been received.	<p>Allocation: Claire.s47E</p> <p>Link to response</p> <p>Send response to Angelina (Angelina.s47E@ag.gov.au)</p> <p>Comments: Finalised and sent to AGD on 26/11</p>
LCC-BE20-131	Kitching 23/11	Office of the Merit Protection Commissioner	For each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020 and 1 July 2020-30 September 2020, how many references have been made to the Office of the Merit Protection Commissioner within the Department or agency.	<p>Allocation: Human Resources</p> <p>Link to response</p> <p>Comments: Finalised and sent to AGD on 26/11</p>
2398	Kitching Due before 24/12	Bonuses, incentives, rewards or gifts	<p>In relation to bonuses, short-term incentives, rewards or gifts - monetary or otherwise - awarded to any executive, employee, officer, contractor or any other person, can the quantum of expenditure be provided for each of the following periods for the portfolio (all departments, agencies, government appointed boards, boards and structures):</p> <p>a. 1 July 2019 to 30 June 2020; and</p> <p>b. 1 July 2020 to 10 December 2020.</p>	<p>Allocation: Human Resources (with Business Support input)</p> <p>Response guidance: As they have asked for the 'quantum of expenditure' for the portfolio, it appears we can provide a single</p>

QON No	Senator Due date	Subject	Question	Allocation / Response
				<p>number that totals all amounts for the portfolio for each response.</p> <p>Link to response</p> <p>Status: Response sent to Ross Butler on 21/12.</p> <p>Send to s47E Ross s47E @ag.gov.au></p> <p>(Note: this question has been asked as part of the Parliamentary questions process, not the Senate Estimates process, but was asked around the same time so I have included it in this register)</p>
	Kitching 23/11	Ministerial functions	<p>In relation to any functions or official receptions hosted by Ministers or Assistant Ministers in the portfolio for each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020 and 1 July 2020-30 September 2020, can the following be provided:</p> <ol style="list-style-type: none"> List of functions. List of all attendees. Function venue. Itemised list of costs (GST inclusive). Details of any food served. Details of any wines or champagnes served including brand and vintage. Any available photographs of the function. Details of any entertainment provided. 	No response required

QON No	Senator Due date	Subject	Question	Allocation / Response
	Kitching 23/11	Executive office upgrades	Have any furniture, fixtures or fittings of the Secretary's office, or the offices of any Deputy Secretaries, been upgraded for each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020 and 1 July 2020-30 September 2020. If so, can an itemised list of costs please be provided (GST inclusive).	No response required
	Kitching 23/11	Secretariat travel	<p>1. Can an itemised list of the costs of all domestic and international travel undertaken by the Secretary of the Department for each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020 and 1 July 2020-30 September 2020 be provided including:</p> <p>a. Flights for the Secretary as well as any accompanying departmental officials, and identify the airline and class of travel.</p> <p>b. Ground transport for the Secretary as well as any accompanying departmental officials.</p> <p>c. Accommodation for the Secretary as well as any accompanying departmental officials, and identify the hotels the party stayed at and the room category in which the party stayed.</p> <p>d. Meals and other incidentals for the Secretary as well as any accompanying departmental officials. Any available menus, receipts for meals at restaurants and the like should also be provided.</p> <p>e. Any available photographs documenting the Secretary's travel should also be provided.</p>	No response required
	Kitching 23/11	Ministerial overseas travel	<p>1. Can an itemised list of the costs met by the department or agency for all international travel undertaken by Ministers or Assistant Ministers in the portfolio for each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020 and 1 July 2020-30 September 2020 please be provided including:</p> <p>a. Flights for the Minister and any accompanying members of the Minister's personal staff or family members, as well as any accompanying departmental officials, together with the airline and class of travel.</p> <p>b. Ground transport for the Minister and any accompanying members of the Minister's personal staff or family members, as well as any accompanying departmental officials.</p> <p>c. Accommodation for the Minister and any accompanying members of the Minister's personal staff or family members, as well as any accompanying</p>	No response required.

QON No	Senator Due date	Subject	Question	Allocation / Response
			<p>departmental officials, and identify the hotels the party stayed at and the room category in which the party stayed.</p> <p>d. Meals and other incidentals for the Minister and any accompanying members of the Minister's personal staff or family members, as well as any accompanying departmental officials. Any available menus, receipts for meals at restaurants and the like should also be provided.</p> <p>e. Any available photographs documenting the Minister's travel should also be provided.</p>	
	Kitching 23/11	f	<p>1. For each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020 and 1 July 2020-30 September 2020, can the Department advise whether it has been the subject of any investigations involving Comcare. If yes, please provide details of the circumstances and the status.</p> <p>2. Can the Department advise the number of sanctions it has received from Comcare in the each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020 and 1 July 2020-30 September 2020.</p>	Response not required.
	Kitching 23/11	Guidelines relating to Official Gifts received	Please provide an itemised account of all payments made to the Collector of Public Monies by Ministers pursuant to the <i>Guidelines relating to Official Gifts Received</i> for each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020 and 1 July 2020-30 September 2020.	No response required
	Kitching 23/11	Commissioned reports and reviews	<p>1. For each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020 and 1 July 2020-30 September 2020, how many Reports or Reviews have been commissioned. Please provide details of each report including:</p> <ol style="list-style-type: none"> Date commissioned. Date report handed to Government. Date of public release. Terms of Reference. Committee members and/or Reviewers. <p>2. How much did each report cost/or is estimated to cost.</p> <p>3. The background and credentials of the Review personnel.</p> <p>4. The remuneration arrangements applicable to the Review personnel, including fees, disbursements and travel</p> <p>5. The cost of any travel attached to the conduct of the Review.</p>	No response required

QON No	Senator Due date	Subject	Question	Allocation / Response
			6. How many departmental staff were involved in each report and at what level. 7. What is the current status of each report. When is the Government intending to respond to each report if it has not already done so.	
	Kitching 23/11	Board appointments	1. Provide an update of portfolio boards, including board title, terms of appointment, tenure of appointment and members. 2. What is the gender ratio on each board and across the portfolio 3. Please detail any board appointments made from 30 June 2020 to date. 4. What has been the total value of all Board Director fees and disbursements paid. 5. What is the value of all domestic travel by Board Directors. 6. What is the value of all international travel by Board Directors.	No response required
	Kitching 23/11	Stationery	How much has been spent on ministerial stationery requirements in each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020 and 1 July 2020-30 September 2020.	No response required
	Kitching 23/11	Departmental staff in Minister's office	1. Can the Department provide an update on the total number of departmental staff seconded to ministerial offices, including: a. Duration of secondment. b. APS level. 2. Can the Department provide an update on the total number of DLOs/CLOs for ministerial offices including APS level.	No response required
	Kitching 23/11	CDDA payments	1. How many claims have been received under the Compensation for Detriment caused by Defective Administration scheme (CDDA) by the Department for each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020 and 1 July 2020-30 September 2020? 2. How many claims were: a. Accepted. b. Rejected. c. Under consideration.	No response required

QON No	Senator Due date	Subject	Question	Allocation / Response
			3. Of the accepted claims, can the Department provide: a. Details of the claim, subject to relevant privacy considerations b. The date payment was made c. The decisionmaker.	

ATTACHMENT L

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

ATTORNEY-GENERAL'S PORTFOLIO

ADDITIONAL ESTIMATES 2020-21

PA-Administrative Appeals Tribunal

LCC-AE21-45 - Consultation between AAT and Ministers Office regarding Questions on Notice

Senator Kim Carr asked the following question on 23 March 2021:

"Senator KIM CARR: Ms Leathem, you said you have normal consultation with the department in regard to answering your questions. But I'm also seeking to know what conversations took place with the Attorney-General or his office in relation to answering questions on notice. Did you and the staff of the tribunal have any conversation with the Attorney-General or his office in regard to answering the questions provided to this committee, or not provided to this committee, as the case may be?"

Ms Leathem: As we have responded, it is quite routine for the AAT to have conversations and exchange emails with both the Attorney-General's Department and the Attorney-General's office about responses to questions on notice.

Senator KIM CARR: Could you tell me the details of the contacts you had with the Attorney-General's office?

Ms Leathem: I have not got all of those details. There were many questions that were asked in relation to that.

Senator KIM CARR: Can you take those on notice? It will save me from FOI-ing them. Can you provide me with the dates and specific details of the contacts between the AAT and the minister's office in relation to the questions asked by me in regard to these matters over the last couple of estimates.

CHAIR: Do you want to take that on notice, Registrar?

Ms Leathem: Yes. I haven't got that information. "

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

The Administrative Appeals Tribunal (AAT) may liaise with the Attorney-General's Department about questions taken on notice, including confirming what questions have been taken on notice and their description, clarifying whether the Department or the AAT should respond to a particular question and engaging about information each agency holds that is relevant to a question. The AAT prepares responses to questions on notice and sends them to the Attorney-General's Department. The Attorney-General's Department reviews responses to questions on notice to ensure consistency across the portfolio and sends the responses to the Attorney-General's Office. On some occasions, the AAT receives written questions or comments about our responses from the Attorney-General's Department or the Attorney-General's Office (generally sent via the Department) and/or may discuss a response with an officer from the

Department or the Office. The AAT is responsible for finalising responses and, after considering any feedback, sends any revised responses to the Department.

Questions asked by Senator Carr at Additional Estimates 2019–20

The AAT had email and telephone contact with the Attorney-General's Office in relation to the following questions: LCC-AE20-126; LCC-AE20-128; and LCC-AE20-129 to LCC-AE20-212. The contact related to a request from the Attorney-General's Office for information about the basis for the AAT's responses that to provide the information requested would involve an unreasonable diversion of resources.

Neither the Attorney-General nor the Attorney-General's Office:

- asked the AAT to, or suggested that the AAT, amend any response to any question the AAT took on notice
- asked the AAT not to respond to any question the AAT took on notice.

The AAT did not provide drafts of any response to the Attorney-General or the Attorney-General's Office. However, the AAT did provide on its own initiative a revised response to LCC-AE20-58 to the Attorney-General's Department.

Questions asked by Senator Carr at Budget Estimates 2020–21

The AAT had discussions with the Attorney-General's Office or received written comments, questions or suggestions from the Attorney-General's Office via the Attorney-General's Department in relation to the following questions: LCC-BE20-53; LCC-BE20-54; LCC-BE20-126; LCC-BE20-127; LCC-BE20-128; and LCC-BE20-167–LCC-BE20-240.

Written comments and suggestions provided to the AAT related to:

- editorial changes, including changes to the order of content
- clarifying the meaning of, or checking, particular information
- adding further information, and
- removing information that may not be required to respond to the question asked.

The AAT considered the comments and suggestions and made changes to its responses where considered appropriate by the AAT.

Neither the Attorney-General nor the Attorney-General's Office asked the AAT not to respond to any question the AAT took on notice.

The AAT did not provide multiple drafts of any responses to the Attorney-General, the Attorney-General's Office or the Attorney-General's Department. However, the AAT did send revised responses to the Attorney-General's Department (either on its own initiative or following consideration of feedback from the Attorney-General's Office) in relation to the following questions: LCC-BE20-53; LCC-BE20-54; LCC-BE20-128 and LCC-BE20-167–LCC-BE20-240.

Attachment M

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

ATTORNEY-GENERAL'S PORTFOLIO

BUDGET ESTIMATES 2021-22

PA-Administrative Appeals Tribunal

LCC-BE21-63 - Questions on Notice - Amendments suggested by AGO

Senator Kim Carr asked the following question on 27 May 2021:

Senator KIM CARR: In regard to question 45, there was correspondence with the minister's office—that was the one that we got late in the piece. You indicated to me in that response that the minister's office had provided you with written comments, suggestions and editorial comments in response to your draft responses to questions on notice. The tribunal explains that it made changes to its responses to those questions as a result of feedback from the minister's office. Have I misrepresented that in any way?

Ms Leathem: No. There's nothing unusual about that.

Senator KIM CARR: I'd like to know what editorial changes, including changes to the order of content, the Attorney-General's office suggested.

Ms Leathem: We've sought to outline in that response the types of comments, feedback and suggestions that we receive. They are often just about the ordering of information and the submission of clarifying information. Occasionally they pick up errors that we've made in dates. I can assure you that we have never been asked not to answer a question, and we have never been directed how to answer a question. It's always the AAT that settles its responses.

Senator KIM CARR: Let's take the last round as an example, alright? I'd like to see all editorial changes that were suggested by the minister's office.

Ms Leathem: Again, I think that's one we would want the opportunity to take on notice and consider whether there are public interest immunity—

Senator KIM CARR: Yes, I expect you would—and you'll want to consult the minister's office about it, no doubt! I'd like to see what clarifications were made.

Senator Cash: Senator Carr, just to be clear, it is the former minister's office that is being referred to. I just wanted to make that clear to you.

Senator KIM CARR: That's a reasonable point. I'm not holding you personally responsible. Your time will come, Minister, I've got no doubt!

Senator Cash: Like you, Senator Carr, I look forward to being here for a very long time as well. But I just wanted to make that clear—

Senator KIM CARR: Let's see if we don't call the election before the next round! Let's get to the nitty-gritty in due course. Let's just be very specific: what changes were made or requested, given that they were so late, for the last two rounds? What additional information did the Attorney-General's office suggest that the tribunal make, given your independent status? What information did the Attorney-General's office suggest that the tribunal wish to remove? Editorial changes are what I'm looking for here.

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

The Administrative Appeals Tribunal (AAT) considers that it is not in the public interest to disclose the information requested. The AAT is of the view that it should be able to engage with the Attorney-General's Department and the Attorney-General's Office in the course of the standard processes that apply to the preparation of responses to questions on notice without concern that the specific detail of any discussions, comments or suggestions will be the subject of public disclosure. This would have an adverse impact on the ability to have frank engagement relating to the answering of questions on notice. The final version of the responses to questions on notice are made public and represent the AAT's concluded view on how to respond to the questions.