



## Administrative Appeals Tribunal

20 October 2021

Senator the Hon Sarah Henderson  
Chair  
Senate Legal and Constitutional Affairs Legislation Committee  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

Dear Senator Henderson,

### **Issues raised in relation to answers to questions taken on notice during Budget Estimates 2020–21, LCC-BE20-126 and LCC-BE20-127**

I write in response to the letter of 8 October 2021 asking the Administrative Appeals Tribunal to respond to the claims advanced by Senator the Hon Kim Carr in the documents attached to the letter. The issues raised by Senator Carr relate to responses to LCC-BE20-126 and LCC-BE20-127, questions taken on notice by the AAT during Budget Estimates 2020–21.

I am mindful of the serious nature of Senator Carr's concerns. I would like to confirm at the outset that at no time did the Tribunal intend to mislead the Committee.

### **Usual process in relation to questions on notice**

The Attorney-General's Department coordinates the processing of responses to questions taken on notice by agencies within the Attorney-General's portfolio, including those of the AAT. The Department distributes question on notice indexes and response templates. The AAT may liaise with the Department about particular 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 identifying information each agency holds that is relevant to a question.

The AAT prepares responses and sends them to the Attorney-General's Department which then sends the responses to the Attorney-General's Office. On some occasions, the AAT receives written questions or comments about these 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, usually sends any revised responses to the Department. The Department then coordinates the tabling of responses.

## **Responses to LCC-BE20-126 and LCC-BE20-127**

In the course of responding to questions LCC-BE20-126 and LCC-BE20-127, a number of versions of the responses to both questions were prepared. These versions are listed below and a copy of each is attached for the Committee's reference.

- **Version 1**

These versions were sent to the Attorney-General's Department on 4 December 2020. To the AAT's knowledge, they were not sent to the former Attorney-General's Office.

- **Version 2**

These versions were sent to the Attorney-General's Department on 9 December 2020. They were prepared by the AAT after discussing the original responses with the Attorney-General's Department.

The AAT reconsidered the level of detail included in the responses taking into account the work involved in preparing the detailed responses and the impact of responding to similar questions in the future. The revised responses also included an introductory paragraph about the usual processes relating to responding to questions on notice. The AAT sought input into its responses from the Attorney-General's Department regarding a description of the Department's role and that of the Attorney-General's Office. These responses included placeholder text for receipt of this input from the Attorney-General's Department.

- **Version 3**

These versions were sent to the Attorney-General's Department on 15 December 2020 in the context of the AAT following up outstanding input from the Department. They are the same as Version 2 with the exception of the placeholder text.

- **Version 4**

These versions were sent to the Attorney-General's Department on 15 December 2020. They incorporate input from the Attorney-General's Department describing its role.

- **Version 5**

These versions were tabled on 16 December 2020. As outlined below, they are consistent with the substance of changes that were agreed verbally in a conversation I had on this date with a Senior Adviser in the former Attorney-General's Office.

### **Issues raised by Senator Carr**

- **Tabled responses were written and finalised by the office of the former Attorney-General without the Tribunal's knowledge**

On 16 December 2020, while I was on annual leave, I received a telephone call from a Senior Adviser in the former Attorney-General's Office. The Senior Adviser and I discussed potential changes to the AAT's responses to questions LCC-BE20-126 and LCC-BE20-127 so they

would be less detailed and focus on the high-level processes involved in responding to questions on notice. Matters discussed included the impact on the AAT's operations of preparing detailed responses to these and future questions, and the potential adverse impact on the ability to have frank engagement relating to the answering of questions on notice. In the course of the conversation, I considered and agreed to the changes discussed.

I do not recall that the Senior Adviser and I explicitly discussed whether the changes discussed would be returned to the AAT for consideration. However, I assumed that the usual process would be followed. I telephoned an officer in the AAT's Governance team to inform him of the discussion with the Senior Adviser and indicate he could expect written suggestions for changes to the AAT's responses to these questions. As I was on leave, I indicated that the then acting Registrar and Chief Legal Officer should consider the changes and finalise the AAT's responses.

When I returned from annual leave on 18 January 2021, I became aware that revised responses to these questions were tabled on 16 December 2020 on the basis that the Attorney-General's Office understood these had been agreed with the AAT. On this occasion the AAT was not sent the suggested changes in writing nor did it provide revised responses. I reviewed the tabled responses and found them to be consistent with the substance of the approach I had agreed with the Senior Adviser. Apart from an additional sentence describing the role of the Attorney-General's Office, the final content about the processes was content that had been submitted by the AAT in our responses sent on 15 December 2020.

I subsequently raised the apparent departure from the usual process with staff from the Attorney-General's Department, with a view to understanding what had occurred in order to clarify future processes.

- **The Tribunal did not contact the Committee when it became aware that responses to LCC-BE20-126 and LCC-BE20-127 had been tabled**

When I became aware the responses to these questions had been tabled, I reviewed the responses and established their content was consistent with the substance of my discussion with the Senior Adviser. For this reason, I did not consider it necessary to contact the Committee.

- **When subsequently asked about the tabled responses, the Tribunal misled the Committee by representing that it – and not the office of the Attorney-General – had written and finalised those responses.**

In the 'Background' document, Senator Carr raises concerns about the AAT's responses to two questions he has asked regarding liaison with the former Attorney-General and his Office in relation to questions, including LCC-BE20-126 and LCC-BE20-127.

Senator Carr notes the AAT's statement in its response to question LCC-AE21-45 that the Tribunal "considered the comments and suggestions and made changes to its responses where considered appropriate by the AAT" and states that it appears the Tribunal had not been given an opportunity to consider the comments and suggestions by the former Attorney-General's Office in relation to the finalisation of the responses to questions LCC-BE20-126 and LCC-BE20-127.

This part of the AAT's response to question LCC-AE21-45 related to various questions on notice and referred to discussions with the Attorney-General's Office, written comments, questions or suggestions from the Attorney-General's Office received by/provided to the AAT and comments and suggestions considered by the AAT. It sought to summarise the processes that occurred in relation to responding to the various questions. The process followed in finalising the responses to LCC-BE20-126 and LCC-BE20-127 was broadly consistent with the above statement in that I considered and verbally agreed to the substance of the suggested changes. However, I acknowledge that the Tribunal's response did not identify that on this occasion there was a departure from the usual process described in the response in relation to these particular questions. We are writing to the Committee to clarify this aspect of our response to question LCC-AE21-45.

Senator Carr also notes the statement in the AAT's response to question LCC-BE21-63 that "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" and is concerned this cannot be reconciled with the evidence that 2 responses to questions on notice were finalised without the Tribunal's knowledge or consent. As previously indicated, I am satisfied that the substance of the tabled responses was consistent with my conversation with the Senior Adviser and I wish to assure the Committee that there was no intention to mislead. However, I acknowledge that the response did not identify how the process for finalising the responses to questions LCC-BE20-126 and LCC-BE20-127 differed from the usual process. The AAT is preparing a revised response to question LCC-BE21-63. We will clarify the position in relation to the tabled responses to questions LCC-BE20-126 and LCC-BE20-127 in the revised response.

I acknowledge the important role of the Committee in scrutinising the AAT's operations. I trust this information explains what occurred and apologise that our earlier responses required clarification.

Yours sincerely,

**Sian Leathem**  
**Registrar**

**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:**

Information that responds to questions 1 and 2 is set out below in relation to each question on notice that falls within the scope of the relevant question.

In relation to question 3, neither the Attorney-General nor the Attorney-General's office asked the AAT not to respond to any questions that the AAT took on notice.

In relation to question 4, the AAT did not provide drafts of any response to the Attorney-General or the Attorney-General's office. All responses to questions on notice were sent to the Cabinet, Legislation & Estimates Section within the Attorney-General's Department (AGD CL&E Section). The AAT has identified below all questions in relation to which it sent a revised response to the AGD CL&E Section.

**LCC-SBE19-05 – Non-appearance rate of Malaysian protection visa applicants**

On 4 December 2019, the AAT received an email from the AGD CL&E Section setting out a question from the Attorney-General's office relating to the AAT's response. The AAT emailed the AGD CL&E Section a response to the question on 6 December 2019.

**LCC-SBE19-11 – Number and payment of applications about Parenting Payment**

On 20 November 2019, the AAT received an email from the AGD CL&E Section setting out a comment from the Attorney-General's office that it was not clear what the phrase "broken down by the first recorded decision under review" meant.

On the same day, the AAT emailed the AGD CL&E Section a revised response with changed wording to clarify the meaning of the phrase.

**LCC-SBE19-12 – Applications about Centrelink decisions that the AAT cannot review**

On 28 November 2019, the AAT received an email from the AGD CL&E Section attaching the AAT's response with minor editorial amendments suggested by the Attorney-General's office to make the final sentence clearer. The suggested amendments did not alter the substance of the response.

On the same day, the AAT emailed the AGD CL&E section a revised response that incorporated the suggested changes.

**LCC-SBE19-20 – Mr Carney's appointment to the AAT**

On 4 December 2019, the AAT received an email from the AGD CL&E Section attaching the AAT's response with amendments to the wording in the response suggested by the Attorney-General's office to clarify the confidential nature of the President's advice about appointments and the public interest in maintaining its confidentiality in connection with Cabinet deliberations. The suggestions did not alter the essential content of the response.

On the same day, the AAT emailed the AGD CL&E Section a revised response that incorporated the suggested changes.

### **LCC-SBE19-21 – Mr Carney’s decision in regard to Centrelink debt scheme**

On 28 November 2019, the AAT received an email from the AGD CL&E Section attaching the AAT’s response with the following amendments suggested by the Attorney-General’s office:

- move the placement of the sentence that is the second paragraph in the response that was tabled;
- delete a sentence which noted the Tribunal’s finding in each of the decisions that there was insufficient evidence to establish an overpayment or its size and stated the Tribunal’s formal decision; and
- delete a sentence which stated that none of the decisions were appealed by the Secretary.

On the same day, the AAT emailed the AGD CL&E Section a revised response that incorporated the suggested changes.

On 3 December 2019, the AAT emailed the AGD CL&E Section a further revised response on its own initiative.

### **LCC-SBE19-78 – Number of cases finalised by full-time members**

On 4 December 2019, the Attorney-General’s office emailed the AAT indicating they would like to discuss the AAT’s response. In a telephone discussion with the AAT on 6 December 2019, the Attorney-General’s office suggested the response include a reference to the single case management solution project which will improve data retrieval and reporting. On the same day, the AAT received an email from the AGD CL&E Section attaching the AAT’s response with a suggestion from the Attorney-General’s office to include 2 new sentences in the response.

On the same day, the AAT emailed the AGD CL&E Section a revised response which incorporated the suggested changes, being the second and third sentences in the tabled response, subject to one minor wording change.

### **LCC-SBE19-162 – Terry Carney and “robo-debt”**

On 16 January 2020, the AAT received an email from the AGD CL&E Section attaching the AAT’s response with an amendment suggested by the Attorney-General’s office to correct an apparent error in a date included in the response.

On the same day, the AAT emailed the AGD CL&E Section a revised response with the reference to “31 August 2019” changed to “31 August 2016”.

### **LCC-SBE19-165 – Warrants under the *Telecommunication (Interception and Access) Act 1979* issued by the AAT**

On 24 January 2020, the AAT received an email from the AGD CL&E Section attaching the AAT’s response with the following amendments suggested by the Attorney-General’s office:

- delete 2 sentences in the response to question 1 which provided context as to why the question should be directed to the Department of Home Affairs: further detail about the responsibilities of the Department of Home Affairs under the legislation in relation to

reporting and that the AAT has no role in providing information for reporting purposes and does not have systems in place for this purpose;

- delete words in the responses to questions 12b–c and 13 referring to the content of these 2 sentences;
- delete a sentence in the responses to each of questions 11a and 12a stating that the names of the relevant AAT members can be provided to members of the Committee on a confidential basis.

The response attached to the email also included a comment from the Attorney-General's office referring the AAT to a comment made by the Attorney-General's office in relation to the AAT's response to questions 14–15 in LCC-SBE19-203 (see below).

On 29 January 2020, the AAT sent the AGD C&LE Section a revised response that:

- included comments noting the AAT had included the sentences stating that the names of the relevant AAT members can be provided to members of the Committee on a confidential basis in relation to paragraph (4) of the Senate Order dated 13 May 2009 on Public Interest Immunity Claims; and
- made changes to the response to questions 14–15 in response to the comment.

On 4 February 2020, the AAT had a telephone discussion with the Attorney-General's office in relation to 2 questions the office had about the AAT's response.

#### **LCC-SBE19-166 – Use of consultants**

On 20 January 2020, the AAT received an email from the AGD Financial Management Branch of AGD advising that the Attorney-General's office had asked that the responses to questions 2 and 3 be amended to refer to information in the AAT's annual reports.

On 22 January 2020, the AAT emailed the AGD Financial Management Branch a revised response which included the location of the requested information in the AAT's annual reports.

#### **LCC-SBE19-167 – Questions arising from additional findings in Callinan report**

On 31 January 2020, the AAT had 2 telephone discussions with the Attorney-General's office about the AAT's response. In the second discussion, the office asked the AAT to provide in the response to questions 11–14 some more detail in relation to the types of legal issues staff may identify when reviewing draft decisions or correspondence at the request of a member.

On 31 January 2020, the AAT received an email from the AGD CL&E Section attaching the AAT's response with the following amendments suggested by the Attorney-General's office:

- delete the last 3 sentences in what is the second paragraph of the response to question 10 in the response that was tabled;
- delete the first 3 sentences of the final paragraph of the response to question 10 that was tabled; and
- delete a further paragraph which described the complexity of the migration jurisdiction, including statistical information about the volume of applications in the Migration and Refugee Division and applications for judicial review of decisions of the Migration and Refugee Division.



The response attached to the email also included a comment from the Attorney-General's office referring to the earlier discussion with the AAT.

On 3 February 2020, the AAT emailed the AGD CL&E Section a revised response. In response to the feedback, the AAT replaced the further paragraph in the response to question 10 describing the complexity of the migration jurisdiction with the last 3 sentences of the response to question 10 in the response that was tabled.

#### **LCC-SBE19-197 – Other AAT appointments**

On 16 January 2020, the AAT received an email from the AGD CL&E Section setting out some questions from the Attorney-General's office about the AAT's response, including asking the AAT to explain why Member William Frost did not have a benchmark in 2019–20. On the same day, the AAT was copied into an email from the Attorney-General's office advising that the AAT need not respond to some of the questions. On the same day, the AAT emailed the AGD CL&E Section a response to one question.

On 17 January 2020, the AAT emailed the AGD CL&E Section a response to another question.

On 3 February 2020, the AAT received an email from the AGD CL&E Section which stated that the Attorney-General's office had asked that the response include further explanation about the situation regarding Member Frost.

On the same day, the AAT emailed the AGD CL&E Section a revised response which included the footnote to the table in the response to questions 2a–b relating to Member Frost.

On 4 February 2020, the AAT had a telephone discussion with the Attorney-General's office in relation to a question the office had about the AAT's response.

#### **LCC-SBE19-198 – Michael Cooke**

On 3 February 2020, the AAT had a telephone discussion with the Attorney-General's office in relation to a question the office had the AAT's response.

#### **LCC-SBE19-203 – Warrants under the Surveillance Devices Act**

On 24 January 2020, the AAT received an email from the AGD CL&E Section attaching the AAT's response with the following amendments suggested by the Attorney-General's office:

- delete 2 sentences in the response to question 1 which provided context as to why the question should be directed to the Department of Home Affairs: further detail about the responsibilities of the Department of Home Affairs under the legislation in relation to reporting and that the AAT has no role in providing information for reporting purposes and does not have systems in place for this purpose;
- delete words in the responses to questions 12b–c and 13 referring to the content of these 2 sentences;
- delete a sentence in the responses to each of questions 11a and 12a stating that the names of the relevant AAT members can be provided to the Committee on a confidential basis.

The response attached to the email also included a comment from the Attorney-General's office that the response to questions 14–15 did not seem to answer the question and this needs to be made clear if additional information relating to the topic is to be provided.

On 29 January 2020, the AAT sent the AGD C&LE Section a revised response that:

- included comments noting the AAT had included the sentences stating that the names of the relevant AAT members can be provided to members of the Committee on a confidential basis in relation to paragraph (4) of the Senate Order dated 13 May 2009 on Public Interest Immunity Claims; and
- made some changes to the response to questions 14–15 in response to the comment.

On 3 February 2020, the AAT had a telephone discussion with the Attorney-General's office in relation to 2 questions the office had about the AAT's response.

**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:**

1. Around 23 April 2020, the AAT had a telephone discussion with the Attorney-General's office which requested information about the basis for the AAT's responses that to provide the information requested in the following questions on notice would involve an unreasonable diversion of resources: LCC-AE20-59; LCC-AE20-71; LCC-AE20-126; LCC-AE20-128; LCC-AE20-129 to LCC-AE20-212; LCC-AE20-215.

On 23 April 2020, the AAT emailed the Attorney-General's office information regarding the basis for the AAT's responses.

On the same day, the Attorney-General's office responded to the email stating they would come back to the AAT if there were any specific questions and confirming it is ultimately a matter for the AAT.

2. Neither the Attorney-General nor the Attorney-General's office asked the AAT to, or suggested that the AAT, amend any responses to any questions that the AAT took on notice.
3. Neither the Attorney-General nor the Attorney-General's office asked the AAT not to respond to any questions that the AAT took on notice.
4. The AAT did not provide drafts of any response to the Attorney-General or the Attorney-General's office. All responses to questions on notice were sent to the Cabinet, Legislation & Estimates Section within the Attorney-General's Department.

On 16 April 2020, the AAT emailed a revised response to LCC-AE20-58 to the Attorney-General's Department.

**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 Administrative Appeals Tribunal prepares responses to questions on notice and sends them to the Attorney-General's Department. The department then sends the responses to the Attorney-General's Office. [AGD expected to provide some further information to include relating to these processes.] 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.

1. Yes.

- a. LCC-SBE19-05; LCC-SBE19-11; LCC-SBE19-12; LCC-SBE19-20; LCC-SBE19-21; LCC-SBE19-78; LCC-SBE19-162; LCC-SBE19-165; LCC-SBE19-166; LCC-SBE19-167; LCC-SBE19-197; LCC-SBE19-198; and LCC-SBE19-203.
- b. Attorney-General's Office.
- c. 20 and 28 November 2019; 3, 4 and 6 December 2019; 16, 17, 20, 22, 24, 29 and 31 January 2020; 3 and 4 February 2020.

2. Yes.

- a. LCC-SBE19-11; LCC-SBE19-12; LCC-SBE19-20; LCC-SBE19-21; LCC-SBE19-78; LCC-SBE19-162; LCC-SBE19-165; LCC-SBE19-166; LCC-SBE19-167; LCC-SBE19-197; and LCC-SBE19-203.
- b. Attorney-General's Office.
- c. Comments and suggestions related to:
  - editorial changes, including correcting a typographical error and the ordering of content;
  - referring to existing public sources of requested information;
  - clarifying the meaning of particular information;
  - adding further information; and
  - removing information that may not be required to respond to the question asked.
- d. Yes, where considered appropriate by the AAT.

3. No.

- a. Not applicable.
- b. Not applicable.
- c. Not applicable.

4. The AAT sent revised responses to the department (either on its own initiative or following consideration of feedback from the department or the Attorney-General's Office) in relation to the following questions: LCC-SBE19-11; LCC-SBE19-12; LCC-SBE19-20; LCC-SBE19-21; LCC-SBE19-78; LCC-SBE19-162; LCC-SBE19-165; LCC-SBE19-166; LCC-SBE19-167; LCC-SBE19-197; and LCC-SBE19-203.

**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 Administrative Appeals Tribunal prepares responses to questions on notice and sends them to the Attorney-General's Department. The department then sends the responses to the Attorney-General's Office. [AGD expected to provide some further information to include relating to these processes.] 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.

1. Yes.
  - a. LCC-AE20-59; LCC-AE20-71; LCC-AE20-126; LCC-AE20-128; LCC-AE20-129 to LCC-AE20-212; and LCC-AE20-215.
  - b. Attorney-General's Office.
  - c. Around 23 April 2020.
2. No.
  - a. Not applicable.
  - b. Not applicable.
  - c. Not applicable.
3. No.
  - a. Not applicable.
  - b. Not applicable.
  - c. Not applicable.
4. The AAT sent a revised response to LCC-AE20-58 to the Attorney-General's Department.

**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 Administrative Appeals Tribunal prepares responses to questions on notice and sends them to the Attorney-General's Department. The department then 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 sends any revised responses to the department.

1. Yes.

- a. LCC-SBE19-05; LCC-SBE19-11; LCC-SBE19-12; LCC-SBE19-20; LCC-SBE19-21; LCC-SBE19-78; LCC-SBE19-162; LCC-SBE19-165; LCC-SBE19-166; LCC-SBE19-167; LCC-SBE19-197; LCC-SBE19-198; and LCC-SBE19-203.
- b. Attorney-General's Office.
- c. 20 and 28 November 2019; 3, 4 and 6 December 2019; 16, 17, 20, 22, 24, 29 and 31 January 2020; 3 and 4 February 2020.

2. Yes.

- a. LCC-SBE19-11; LCC-SBE19-12; LCC-SBE19-20; LCC-SBE19-21; LCC-SBE19-78; LCC-SBE19-162; LCC-SBE19-165; LCC-SBE19-166; LCC-SBE19-167; LCC-SBE19-197; and LCC-SBE19-203.
- b. Attorney-General's Office.
- c. Comments and suggestions related to:
  - editorial changes, including correcting a typographical error and the ordering of content;
  - referring to existing public sources of requested information;
  - clarifying the meaning of particular information;
  - adding further information; and
  - removing information that may not be required to respond to the question asked.
- d. Yes, where considered appropriate by the AAT.

3. No.

- a. Not applicable.
- b. Not applicable.
- c. Not applicable.

4. The AAT sent revised responses to the department (either on its own initiative or following consideration of feedback from the department or the Attorney-General's Office) in relation

to the following questions: LCC-SBE19-11; LCC-SBE19-12; LCC-SBE19-20; LCC-SBE19-21; LCC-SBE19-78; LCC-SBE19-162; LCC-SBE19-165; LCC-SBE19-166; LCC-SBE19-167; LCC-SBE19-197; and LCC-SBE19-203.

**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 Administrative Appeals Tribunal prepares responses to questions on notice and sends them to the Attorney-General's Department. The department then 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 sends any revised responses to the department.

1. Yes.

a. LCC-AE20-59; LCC-AE20-71; LCC-AE20-126; LCC-AE20-128; LCC-AE20-129 to LCC-AE20-212; and LCC-AE20-215.

b. Attorney-General's Office.

c. Around 23 April 2020.

2. No.

a. Not applicable.

b. Not applicable.

c. Not applicable.

3. No.

a. Not applicable.

b. Not applicable.

c. Not applicable.

4. The AAT sent a revised response to LCC-AE20-58 to the Attorney-General's Department.

**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 Administrative Appeals Tribunal 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 sends any revised responses to the department.

1. Yes.

- a. LCC-SBE19-05; LCC-SBE19-11; LCC-SBE19-12; LCC-SBE19-20; LCC-SBE19-21; LCC-SBE19-78; LCC-SBE19-162; LCC-SBE19-165; LCC-SBE19-166; LCC-SBE19-167; LCC-SBE19-197; LCC-SBE19-198; and LCC-SBE19-203.
- b. Attorney-General's Office.
- c. 20 and 28 November 2019; 3, 4 and 6 December 2019; 16, 17, 20, 22, 24, 29 and 31 January 2020; 3 and 4 February 2020.

2. Yes.

- a. LCC-SBE19-11; LCC-SBE19-12; LCC-SBE19-20; LCC-SBE19-21; LCC-SBE19-78; LCC-SBE19-162; LCC-SBE19-165; LCC-SBE19-166; LCC-SBE19-167; LCC-SBE19-197; and LCC-SBE19-203.
- b. Attorney-General's Office.
- c. Comments and suggestions related to:
  - editorial changes, including correcting a typographical error and the ordering of content;
  - referring to existing public sources of requested information;
  - clarifying the meaning of particular information;
  - adding further information; and
  - removing information that may not be required to respond to the question asked.
- d. Yes, where considered appropriate by the AAT.

3. No.

- a. Not applicable.
- b. Not applicable.
- c. Not applicable.



4. The AAT sent revised responses to the department (either on its own initiative or following consideration of feedback from the department or the Attorney-General's Office) in relation to the following questions: LCC-SBE19-11; LCC-SBE19-12; LCC-SBE19-20; LCC-SBE19-21; LCC-SBE19-78; LCC-SBE19-162; LCC-SBE19-165; LCC-SBE19-166; LCC-SBE19-167; LCC-SBE19-197; and LCC-SBE19-203.

**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 Administrative Appeals Tribunal 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 sends any revised responses to the department.

1. Yes.
  - a. LCC-AE20-59; LCC-AE20-71; LCC-AE20-126; LCC-AE20-128; LCC-AE20-129 to LCC-AE20-212; and LCC-AE20-215.
  - b. Attorney-General's Office.
  - c. Around 23 April 2020.
2. No.
  - a. Not applicable.
  - b. Not applicable.
  - c. Not applicable.
3. No.
  - a. Not applicable.
  - b. Not applicable.
  - c. Not applicable.
4. The AAT sent a revised response to LCC-AE20-58 to the Attorney-General's Department.

# Version 5 of responses (16 December 2020) - tabled

## 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.

**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.

