

Select Committee on Administration of Sports Grants

ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Topic: Submission - Changes to the third-round project

Senator: Gallagher

Question reference number: 001

Type of question: Hansard, page 3, 22 July 2020

Date set by the committee for the return of answer: 7 August 2020

Number of pages: 1.

Question:

Senator GALLAGHER: I have read your submission to the committee. It doesn't mention the changes to the third-round project list that were requested by the Prime Minister on 10 or 11 April. Why is that?

Mr Gaetjens: I could take that on notice. I think what we did was, through my report and the analysis that was then put in the submission, basically approach the outcomes of all three rounds of the funding. I wasn't necessarily interested in the process; it was the outcomes of the funding round compared to—

Senator GALLAGHER: But the process is pretty important here, isn't it, in terms of allegations of pork-barrelling and political interference? You would have thought the process leading to those decisions—

Mr Gaetjens: The process was fully outlined in the Auditor-General's report.

Answer:

The advice provided by the Secretary of the Department of the Prime Minister and Cabinet, Mr Philip Gaetjens, to the Prime Minister, the Hon Scott Morrison MP, regarding the administration of the Community Sport Infrastructure Grants Program, and his Submission to the Inquiry, was prepared before the information about the emails from the Prime Minister's Office to the Office of the then Minister for Sport, Senator the Hon Bridget McKenzie, was known to Mr Gaetjens or the Department.

Evidence subsequently provided to the Select Committee on Administration of Sports Grants Inquiry (on 13 February 2020) by Mr Boyd of the Australian National Audit Office indicated that not all representations resulted in projects being funded, and that those which came from the Prime Minister's Office were not necessarily more successful than other representations.

Select Committee on Administration of Sports Grants

ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Topic: Letter – 20 January 2020

Senator: Gallagher

Question reference number: 002

Type of question: Hansard, pages 5-6, 22 July 2020

Date set by the committee for the return of answer: 7 August 2020

Number of pages: 1

Question:

Senator GALLAGHER: Then that was followed up with a letter. Why did the letter take until Monday 20 January to turn up, just out of interest?

Mr Gaetjens: I have no idea.

Senator GALLAGHER: Was the letter via email? Is that normally how these things get done?

Mr Gaetjens: I can't remember. We got the letter on Monday.

Senator GALLAGHER: Okay. Did the letter differ from the verbal instruction you'd received?

Mr Gaetjens: No.

Senator GALLAGHER: Are you able to provide the committee with a copy of the letter? I'm not sure we've received that.

Mr Gaetjens: I think that was written for the purposes of an inquiry that ended up in the Governance Committee of cabinet, so it's cabinet in confidence.

Senator GALLAGHER: Are you going to refer that for a public interest immunity claim?

Mr Gaetjens: I'll take it on notice.

Answer:

The letter of 17 January 2020 from the Prime Minister, the Hon Scott Morrison MP, to the Secretary of the Department of the Prime Minister and Cabinet, Mr Philip Gaetjens, requesting advice under the *Statement of Ministerial Standards* informed, and was the subject of, Cabinet deliberations.

Select Committee on Administration of Sports Grants

ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Topic: Copies of correspondence

Senator: Gallagher

Question reference number: 009

Type of question: Hansard, page 13, 22 July 2020

Date set by the committee for the return of answer: 7 August 2020

Number of pages: 1

Question:

Senator GALLAGHER: So you interviewed Senator McKenzie. Can you recall the date? Mr Reid, I'm sure you've got it there—that first interview.

Mr Gaetjens: It was 29 January, and that, I think, was after we'd actually sent her some letters, too. I should add that the interviews occurred after we wrote one or two letters asking questions, and I think there might have been various emails as well.

Senator GALLAGHER: You were commissioned, basically, on the 17th, but effectively started on 20 January, and in between the 20th and the 29th there was correspondence between you and Minister McKenzie in the lead-up to an interview on the 29th of January. Is that correct?

Mr Gaetjens: Yes. So I wrote to Senator McKenzie on 22 January, asking questions.

Senator GALLAGHER: Can the committee have any of these letters? It's pretty fundamental to understanding your submission, I think, and the findings you have in your submission.

Mr Gaetjens: I'll take that on notice. Again, they were for the purposes of—

Senator GALLAGHER: But ultimately you'll be the decision-maker on that, won't you? What—are you going to go away and ask yourself if you can give letters to the committee?

Mr Gaetjens: No, I'll ask Cabinet Division. We have a store of knowledge within the department. I'm not going to make decisions on a knee-jerk reaction now. I will take it on notice and come back.

Answer:

The Secretary of the Department of the Prime Minister and Cabinet, Mr Philip Gaetjens' letters of 22 and 24 January 2020 to Senator McKenzie requesting information for his advice to the Prime Minister, the Hon Scott Morrison MP, under the *Statement of Ministerial Standards* informed, and were the subjects of, Cabinet deliberations.

Select Committee on Administration of Sports Grants

ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Topic: The report submitted by the Secretary of the Department of the Prime Minister and Cabinet Mr Philip Gaetjens

Senator: Rice

Question reference number: 011

Type of question: Hansard, page 17, 22 July 2020

Date set by the committee for the return of answer: 7 August 2020

Number of pages: 1

Question:

Senator RICE: Okay, so can you take that on notice then? Going to you being appointed to do this inquiry, beyond the letter that you received on 20th, did you receive any documents or evidence from the Prime Minister's office?

Mr Gaetjens: No.

Senator RICE: That's categorical.

Mr Gaetjens: Just hang on.

...

CHAIR: Sorry, Mr Gaetjens is just having a conversation with Mr Reid before he provides an answer.

Senator RICE: Okay.

Mr Gaetjens: We might just take that on notice. I'll just double check. I think there might have been some background information collected, but I will take it on notice.

Answer:

The Department of the Prime Minister and Cabinet received, on 21 January 2020, factual background information concerning then Minister for Sport, Senator the Hon Bridget McKenzie's declarations of interests to the Prime Minister, the Hon Scott Morrison MP.

Select Committee on Administration of Sports Grants

ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Topic: Letter from the Prime Minister requesting investigation

Senator: Rice

Question reference number: 012

Type of question: Written

Date set by the committee for the return of answer: 17 August 2020

Number of pages: 1

Question:

Please provide a copy of the letter from the Prime Minister requesting the investigation of whether Senator McKenzie breached the Statement of Ministerial Standards.

Answer:

The letter of 17 January 2020 from the Prime Minister, the Hon Scott Morrison MP, to the Secretary of the Department of the Prime Minister and Cabinet, Mr Philip Gaetjens, requesting advice under the *Statement of Ministerial Standards* informed, and was the subject of, Cabinet deliberations.

Select Committee on Administration of Sports Grants

ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Topic: Approval of expenditure

Senator: Rice

Question reference number: 013

Type of question: Written

Date set by the committee for the return of answer: 17 August 2020

Number of pages: 1

Question:

Does PM&C believe that the approval of expenditure under Round 3 of the CSIG after the start of caretaker period was in breach of the caretaker conventions?

Answer:

The caretaker conventions are not rules that can be breached, they are a set of protocols that have been accepted by successive governments. Government representatives, including officials of departments and agencies, should observe the conventions.

The Department of the Prime Minister and Cabinet (PM&C) publishes the *Guidance on Caretaker Conventions* (the Guidance) and provides advice on the application of the Guidance in the lead up to and during the caretaker period.

PM&C maintains records of caretaker advice and has no record of being asked for advice regarding the Community Sports Infrastructure Grants program in 2019.

Select Committee on Administration of Sports Grants

ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Topic: Legal authority for Senator McKenzie's role

Senator: Rice

Question reference number: 014

Type of question: Written

Date set by the committee for the return of answer: 17 August 2020

Number of pages: 1

Question:

Is the Department aware of any legal authority for Senator McKenzie's role as the decision maker in the CSIG?

- Has the Department seen advice provided to or by the Attorney-General in relation to the legal authority for Senator McKenzie's role as the decision maker in the CSIG?

If yes - what legal authority exists for her role as decision maker in the CSIG?

Answer:

The Department of the Prime Minister and Cabinet has not sought any legal advice about the legal authority for Senator McKenzie's role as decision maker in the Community Sport Infrastructure Grants Program, or any advice provided to or by the Attorney-General relating to the Program.

On 2 February 2020, the Prime Minister, the Hon Scott Morrison MP, said publicly that he had asked the Attorney-General to provide advice about the Auditor-General's conclusion in his report that the legal authority for Minister McKenzie to be the decision maker for the Community Sport Infrastructure Grant Program was not evident.

The Prime Minister said the Attorney-General consulted the Australian Government Solicitor and considers that the Auditor-General's assumption arising out of his apparent interpretation of Section 11 of the *Australian Sports Commission Act 1999* is not correct.

Select Committee on Administration of Sports Grants

ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Topic: Input to the report

Senator: Rice

Question reference number: 016

Type of question: Written

Date set by the committee for the return of answer: 17 August 2020

Number of pages: 1

Question:

At the meeting 31 January 2020, did the Prime Minister, the Deputy Prime Minister or their offices receive a copy of the draft or summary of the report, or advance notification of any of the recommendations?

- What input did the Prime Minister, the Deputy Prime Minister or their offices provide on the drafting of the report during or after the meeting on 31 January?

Answer:

Neither the Prime Minister, the Hon Scott Morrison MP, the Deputy Prime Minister, the Hon Michael McCormack MP, nor their Offices received a copy of the draft, a summary or recommendations from the Secretary of the Department of the Prime Minister and Cabinet (PM&C), Mr Philip Gaetjens.

Neither the Prime Minister, the Deputy Prime Minister nor their Offices provided any input to the drafting of the report during or after the meeting on 31 January 2020.

Select Committee on Administration of Sports Grants

ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Topic: Caretaker conventions – brief providing to Senator McKenzie

Senator: Rice

Question reference number: 017

Type of question: Written

Date set by the committee for the return of answer: 17 August 2020

Number of pages: 1

Question:

In relation to the briefs by PM&C for Ministerial advisers on the caretaker conventions (Hansard p. 23), was a brief provided to the office of Minister McKenzie ahead of the 2019 election?

Answer:

Please refer to Question on Notice 019.