

Senate Finance and Public Administration Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
SUPPLEMENTARY BUDGET ESTIMATES 2011-2012

Department of the Prime Minister and Cabinet Portfolio

Department/Agency: Office of the Commonwealth Ombudsman

Outcome/Program: Office of the Commonwealth Ombudsman

Topic: Conduct of the Commonwealth Ombudsman

Senator: Senator Thistlethwaite

Question reference number: 125

Type of question: Written

Date set by the committee for the return of answer: 2 December 2011

Number of pages: 3

Question:

With reference to evidence given by the Ombudsman before the Senate Finance and Public Administration Estimates Committee on Monday 17 October 2011 and emails between the Ombudsman's office and Senator Hanson-Young's office that were recently tabled in response to questions on notice before the Senate Legal and Constitutional Affairs Committee.

1. Would you agree that "independence, impartiality and integrity" are values that should characterise the office of the Ombudsman?
2. Who in the Ombudsman's office wrote the suggested questions that Senator Hanson-Young might ask the Ombudsman at the May 2011 Estimates hearing?
3. Has the Ombudsman or anyone in his office communicated with Senator Hanson-Young or her office since Friday 7 October? If so, what was this communication in regard to? Please provide the committee with any correspondence – emails, file notes – that relate to any such communication with Senator Hanson-Young's office?
4. Has the Ombudsman had staff in his office approach him concerning their future at the organisation following these revelations?
5. What was discussed at that meeting?
6. Did the Ombudsman or his office discuss at this meeting or afterwards with the Senator or her staff, the possibility of issuing complementary media releases (as what occurred on Friday 27 May 2011) from your office and the Senator's office?
7. Was a file note of this meeting kept? If not, why not? Would the Ombudsman or his office normally not keep notes for a meeting with a stakeholder? If notes were kept, could the committee please have a copy?

In a statement the Ombudsman released this week you say that "In the last Budget, the Ombudsman's office was given extra responsibilities in relation to immigration detention on Christmas Island but no additional funding".

8. What extra responsibilities did the Government give you in the Budget?

9. Did any of these extra responsibilities relate to discretionary own-motion inquiries?
10. How many own-motion inquiries have been announced by the Ombudsman over the last 10 years [by financial year]?

During the evidence the Ombudsman gave before this committee on 17 October 2011, he referred to correspondence that went to the Minister for Immigration and Citizenship relating to his funding situation.

11. What correspondence is he referring to? Could the committee please have copies of this correspondence?
12. Does the Ombudsman think that the events of last week – with the revelation that you privately sent suggested questions for Senator Hanson-Young to ask you during Senate Estimates – are consistent with the values of independence, impartiality and integrity?
13. Do you think it's a fair observation of Senators on this committee or members of the parliament or the public more broadly, that your reputation and therefore your office has been brought into disrepute, because there is now a perception that you colluded with an individual Senator to have your issues raised during the Senate Estimates process?

In a statement the Ombudsman released last week, he said that:

“The Office of the Commonwealth Ombudsman is statutorily independent from both the Parliament and the Executive, and the Ombudsman may disclose information about any issue within his jurisdiction if he believes it is in the public interest.”

14. Hasn't this *independence* been jeopardised by your actions?
15. Do you believe it was in the *public interest* to privately send scripted questions to Senator Hanson-Young to then ask you at a Senate Estimate Committee hearing?

Answer:

1. Yes.
2. They were drafted by a member of staff, under direction from the former Commonwealth Ombudsman, Mr Allan Asher.
3. No.
4. We are not aware of anyone approaching the Ombudsman concerning their future at the organisation as a result of discussions held at the Finance and Public Administration Legislation Committee Estimates hearing of 17 October 2011.
5. We presume the question relates to the meeting held between Mr Asher and Senator Hanson-Young in May 2011, in which case, is a question that can only be answered by Mr Allan Asher, who is no longer the Commonwealth Ombudsman.
6. There is no record of any discussions.
7. No file note was kept of the meeting. Mr Asher did not always keep file notes of meetings.

8. There were no additional responsibilities for the Commonwealth Ombudsman announced in this year's Budget. However, as provided on page 460 of the Portfolio Budget Statements 2011–12 for the Prime Minister and Cabinet portfolio, a new expense measure entitled 'Commonwealth Ombudsman – scrutiny of processing of refugee claims' was provided in the 2011–12 budget. This recognised the costs associated with the significant increase in the number of irregular maritime arrivals and the increase in the number of immigration detention facilities in which they were detained and the impact on our oversight function. Funding for the Ombudsman to provide external independent scrutiny of the detention of irregular maritime arrivals and DIAC's processing of their refugee claims was initially provided for in 2008. Our office was required to provide offset funding for the expense measure.
9. The responsibilities did not specifically address own-motion inquiries, but did refer to identifying systemic issues and making recommendations to DIAC to improve administration.
10. There have been 40 own-motion inquiries published (we are unsure what exactly the term 'announced' includes and only hold records for published own-motion inquiries) from 2001-02 to 2010-11. The break-down by financial year is:

2001/2	0
2002/3	0
2003/4	1
2004/5	2
2005/6	5
2006/7	10
2007/8	5
2008/9	7
2009/10	5
2010/11	5

11. We are unable to identify the documentation referred to by Mr Asher.
12. The question is one that can only be answered by Mr Allan Asher, who is no longer the Commonwealth Ombudsman.
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