

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S DEPARTMENT

Output 1.3

Question No. 61

Senator Stott Despoja asked the following question at the hearing on 18 February 2008:

It was reported in *The Australian Financial Review* on 30 November 2007 that Attorney-General Robert McClelland will have a 'broad framework consultation' into the need for a federal Charter of Human Rights & Responsibilities:

1. Has the proposed Human Rights Consultation received Cabinet approval?
2. Has the Attorney-General consulted with the Department or HREOC in relation to the proposed *Human Rights Consultation*?
3. If not, when does the Attorney-General expect to consult the agencies within his portfolio?
4. What is the proposed timeframe for the consultation?
5. Have funds or resources been allocated for the purpose of the consultation? If so, please provide details.
6. Has consideration been given to the format of the consultation?
7. What is the proposed format?
8. Have terms of reference for the consultation been formulated? If not, why not?
9. How have the terms of reference been formulated, or how does the Government propose to formulate the terms of reference?
10. Are you able to provide the Committee with a copy of the terms? If not, why not?
11. Who will have administrative responsibility for the conduct of the consultation?
12. Has the Attorney-General ruled out the enforceability of any Charter against corporations and private citizens, as reported in *The Sydney Morning Herald* on 1 December 2007?
13. If so, what utility does the Government see in a public consultation if the Government has already prescribed the scope of any Charter?
14. Having regard to the work on business and human rights by the UN Secretary General's Special Representative on Business and Human Rights in the lead-up to his expected mid-year report to the UN, will the Government ensure that, in the interest of both business and the community, the proposed public inquiry and consultation process will include potential business ramifications of any national legislative change in this area, including:

- (a) implications for Australia's responsibilities under international law, including governmental responsibilities to protect holders of human rights from infringement of their rights by corporate abuses of power?
- (b) adoption of human rights due diligence, human rights impact assessments, and human rights compliance measures by business and industry as a standard precondition where appropriate for public approvals, licences, and procurement? and
- (c) identification of human rights considerations as relevant considerations for public officials making decisions on business and industry proposals and applications?

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

1. The Attorney-General has advised that as the Cabinet's deliberations are confidential, except to the extent announced by the government, the Department should neither confirm nor deny whether a particular matter has been considered by the Cabinet.
2. The Attorney-General's Department has briefed the Attorney-General about options for conducting a national human rights consultation.

The Attorney-General has discussed the national human rights consultation with HREOC.

3. See answer to Question 2.
4. A decision has not been made about the timeframe for the national human rights consultation.
5. Administered funding of \$0.955m in 2007–08 and \$1.179m in 2008–09 has been allocated to the national consultation on human rights and responsibilities. Departmental funding of \$0.203m in 2007–08 and \$0.477m in 2008–09 has also been allocated. These figures were published in the Additional Estimates Statement 2007-08.
6. The Attorney-General's Department has briefed the Attorney-General about options for conducting a national human rights consultation.
7. A decision has not been made about the format of the consultation.
8. No. This is a matter for the Government's consideration.
9. See answer to Question 8.
10. See answer to Question 9.
11. The format for the human rights consultation has not been decided.
12. The Government has indicated that the consultation will consider a range of options for recognising and protecting human rights in Australia and that it will not presuppose any outcome. The Government has also indicated that a legislative charter of rights is one option, but that any new approach will flow from the views expressed by the Australian people.
13. See answer to question 12.
14. The terms of reference for the human rights consultation have not been decided.