

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

Program 1.5

Question No. 74

Senator Xenophon asked the following question at the hearing on 22 February 2011:

Senator XENOPHON—I will finish up shortly so that I can get my iPad back. The application for legal aid was made on 27 April 2010—as I have been informed in correspondence from Mr Richie Ah Mat, the Chairperson of the Cape York Land Council Aboriginal Corporation—and a decision was made in November by the department. How long does it normally take to deal with these applications?

Ms Jones—In relation to that application, there was actually a significant amount of contact between the department and the Cape York Land Council around their application, seeking further information, seeking clarification of the nature of the application, so it was not simply that we received the application and then did a slow process of assessing it. There was actually quite a lot of discussion back and forth between us and the council.

Senator XENOPHON—To save time, could you provide details on notice, even a chronology, of that? I do not necessarily need to see the documents. If I got permission from the applicants, maybe I could see the documents. Maybe that could resolve that issue. Normally these applications are dealt with in—what, two or three months?

Ms Jones—It will always depend on the amount of information that is provided with applications in relation to test-case type schemes. It is quite often the case that the department has to go back and forth quite a few times with the applicants to get additional information.

Senator XENOPHON—But can you give me a time frame, even a range, that it has normally taken? They are not that frequent, these test case applications, as I think Mr Wilkins has indicated. What is the time frame? What is the quickest an application has been dealt with previously and what is the longest an application has been dealt with previously, for test cases?

Ms Jones—I would have to take that on notice. We aim for an average turnaround of usually three to four weeks to assess an application like this, but it really will depend on the nature of the application. So I could take it on notice in terms of the average time for these types of applications.

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

The Department had contact with the Cape York Land Council nine times during the period from March 2010 to September 2010. This included responding to requests by the Cape York Land Council for updates on the status of its test case funding application and seeking additional information from the Cape York Land Council. The Department sought and received advice from independent counsel during August-September 2010. The Attorney-General received a letter from the Cape York Land Council in September 2010 to determine the status of the Council's funding application. The Department responded to the Cape York Land Council's letter on 8 November 2010, advising the Council of the decision reached.

The timeframe for assessing applications depends on whether the material submitted addresses the Indigenous test case guidelines and whether further information is required from the applicant. The complexity of the matter also impacts on the amount of time needed by the Department to complete an assessment, particularly if internal and external legal advice is required. Since July 2004, the minimum amount of time taken to assess an application under the Indigenous test case funding scheme was two days. The maximum amount of time taken was 359 days. The average amount of time taken was 105 days.