

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 13 FEBRUARY 2012

IMMIGRATION AND CITIZENSHIP PORTFOLIO

(AE12/0492) Program 4.3 Offshore Asylum Seeker Management

Senator Hanson-Young asked:

In November 2010, the High Court held that offshore asylum seekers hold the right to exercise judicial review. In February 2011, the Government allocated \$107.7 million over four years to support the new process for determination of refugee status for “offshore entry persons”. Why did the Government not allocate any additional funding for the provision of legal advice/representation or interpreters for judicial review?

Answer:

The Government provided total funding of \$107.71 million over four years to support the new process for determination of refugee status for offshore entry persons.

Inclusive in this amount was an allocation of \$26.15 million over two years, specifically for the internal and external legal expenses associated with anticipated judicial reviews of refugee status determinations.

The cost of interpreters is met from Program 4.3 no win/no loss funding for the management and care of Irregular Maritime Arrivals.

Under the National Partnership Agreement on Legal Assistance Services, the Australian Government funds legal aid commissions to provide legal assistance services to disadvantaged people who have legal problems that come within Commonwealth legal aid priorities. This includes services that may be accessed by asylum seekers. Asylum seekers may also have access to free legal assistance through community legal centres or pro-bono referral schemes depending on their circumstances.

The grounds and conditions for access to this publicly-funded legal assistance are determined by, and a matter for, the State and Territory legal aid commissions and community legal centres. Portfolio responsibility for Commonwealth funded legal assistance services lies with the Attorney-General's Department.

The Australian Government provided an additional \$154 million over four years for legal assistance services in the 2010-11 Budget.

This was the biggest injection of funding to legal assistance services in well over a decade and brings the Australian Government's total contribution for legal assistance services to over \$1.3 billion over four years.

Last year, the Government accepted all of the recommendations made in a report provided by Professor John McMillan AO into the judicial review process for irregular maritime arrivals, while noting it would not pursue the suggestion to 'consider' a provisional test case scheme.

As Professor McMillan noted in his report, the Commonwealth already funds test case litigation through the Commonwealth Public Interest and Test Cases Scheme, which is administered through the Attorney-General's Department.

Further questions on this matter of policy are better directed to the Minister.