

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
ATTORNEY-GENERAL'S DEPARTMENT

Output 1.2

Question No. 303

Senator Bishop asked the following question at the hearing on 31 October 2005:

Is the Minister aware of Health Policy Directive #904 issued by the Surgeon General of the Department of Defence 31 October 1991 contains the following statement at paragraph 8:

ADF personnel do not have a specific statutory right to be indemnified by the Commonwealth for liability for acts of negligence in the course of a member's duties, although the Commonwealth may choose to do so. From a practical point of view, it is considered most unlikely that a member of the ADF Health Services would be made personally responsible for meeting any judgement given in respect of negligent acts occurring in the course of the member's duty.

If so, (a) was the Minister's department ever consulted on this contradictory drafting, (b) what review have ever been conducted of such a policy by the Department of Defence, (c) when, and (d) by whom.

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

(a) The Department has not located any record of such consultation, but the Surgeon General's Directive, which was given in 1991, pre-dates the Legal Services Directions.

(b), (c) and (d) I am not in a position to answer these questions, which should be directed to the Minister for Defence.