

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

Output 1.2

Question No. 305

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

Is the Minister's department aware of the application of the Directions by the Department of Defence to the defence of naval reservist Commander in an inquiry conducted by the Medical Board of WA in which Commander McKenzie received the benefit of \$377,000 in legal costs notwithstanding findings of negligence, as well as having 80% of the Board's legal costs charged to him, paid by the Department of Defence; if so, (a) what action has been taken by way of investigation, (b) has any breach of the Directions been identified, (c) what sanctions can be applied in the event of an identified breach, and (d) what power exists to have the cost charged to Commander McKenzie in light of the findings of negligence against him.

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

- (a) An investigation into this matter is being undertaken by my Department.
- (b) This investigation has not yet been finalised.
- (c) Possible sanctions for breaches of the Legal Services Directions are set out in the *Compliance Strategy for Enforcement of the Legal Services Directions*, available on the website of the Office of Legal Services Coordination at www.ag.gov.au/olsc.
- (d) The Legal Services Directions contain no provision for recovery of payments for legal assistance. The question whether the Department of Defence has any other means to recover a payment or charge costs is one that should be directed to the Minister for Defence.