



STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY

Mr Jeremy Hanson MLA (Chair), Dr Marisa Paterson MLA (Deputy Chair),
Ms Jo Clav MLA

Inquiry into ACT Budget 2021–22
ANSWER TO QUESTION ON NOTICE

Asked by Mr Peter Cain MLA on 26 October 2021:

Ref: Solicitor-General

In relation to:

1. Are you the sole provider of legal advice to, and tribunal and court representation for, ACT Government agencies and directorates?
 - a. Do any agencies or directorates receive legal advice, or legal representation in the tribunal and courts, from private firms?
 - b. If so, how are those firms selected? Is there a panel, or some other procurement process followed?
 - c. By agency/directorate, what is the breakdown of the area of law with respect to requests for legal advice during 2019-20, 2020-21 and 2021-22 (to date)?
 - d. By agency/directorate, what is the breakdown of the area of law with respect to legal representation in the tribunal or courts for 2019-20, 2020-21 and 2021-22 (to date)?

Solicitor-General: The answer to the Member's question is as follows:–

1 (a) I draw the member's attention to page 80 of the proof transcript of evidence following the Solicitor-General's appearance on 26 October 2021 before the Standing Committee on Justice and Community Safety Committee's Inquiry into the ACT Budget 2021-22. Territory legal work is delivered through several approaches, including by the ACT Government Solicitor (**ACTGS**), engagement of either local or interstate counsel, or use of legal service providers.

1 (b) Consistent with the *Law Officers (General) Legal Services Directions 2012* the use of external legal service providers is approved by the Solicitor-General. As outlined at page 46 of the 2019-20 Justice and Community Safety Annual Report, during that reporting period the ACTGS completed a tender process to refresh the previous arrangements for use of legal service providers and, in doing so, established a new Legal Services Panel (**LSP**).

The LSP provides efficient access to engage external legal service providers for Territory legal work across a broad capability and comprises 24 law firms of diverse size and scope across 26 practice areas. The LSP is generally used where ACTGS government lawyer expertise is unavailable, for example specialist taxation advice, or where the resourcing requirement exceeds that of ACTGS or is considered that the use of an external provider may be more cost effective. The use of external legal service providers is guided by the Legal Services Directions and *Government Procurement Act 2006*.

1 (c) With the exception of standing arrangements for transactional activity such as conveyancing the engagement of external providers is generally on an individual matter basis.

Noting that the LSP became operational in 2020-21, comparative data reported by area of practice as detailed in the table below is not available for 2019-20. The following table details by practice area of law and agency/directorate engagements involving the provision of advice by external providers. Noting that service provision arrangements generally span the life of a matter, which may cover more than one financial year, the information includes engagements from the commencement of the 2020-21 financial year to date.

Practice Area	Agency/Directorate
Administrative Law	<ul style="list-style-type: none"> • Chief Minister, Treasury and Economic Development Directorate • Health Directorate
Complex Property Advice and Transactions, including Unit Title	<ul style="list-style-type: none"> • Suburban Land Agency • City Renewal Authority
Conveyancing – General	<ul style="list-style-type: none"> • Suburban Land Agency • Community Services Directorate • Environment, Planning and Sustainable Development Directorate
Probity	<ul style="list-style-type: none"> • Suburban Land Agency • Education Directorate • Environment, Planning and Sustainable Development Directorate • Justice and Community Safety Directorate • Long Service Leave Authority • Major Projects Canberra • Transport Canberra and City Services Directorate
Taxation and Goods and Services Tax	<ul style="list-style-type: none"> • Suburban Land Agency
General Commercial, Corporate and Contractual matters, including Major Projects	<ul style="list-style-type: none"> • Environment, Planning and Sustainable Development Directorate • Transport Canberra and City Services Directorate
Infrastructure and Construction Projects (including PPPs)	<ul style="list-style-type: none"> • Chief Minister, Treasury and Economic Development Directorate • Major Projects Canberra • Transport Canberra and City Services Directorate
Information Technology and Communications Contracts (not including telecommunications agreements)	<ul style="list-style-type: none"> • Chief Minister, Treasury and Economic Development Directorate • Health Directorate • Transport Canberra and City Services Directorate
Utilities and Energy and Resources Law	<ul style="list-style-type: none"> • Environment, Planning and Sustainable Development Directorate

1 (d) Generally, the ACTGS represents the Territory and its agencies/directorates in all litigation either in person or using Counsel briefed. External legal service providers are, however, engaged from time to time for the representation of statutory bodies established for third party claims. To assist the ACT Insurance Authority in the management of these matters, the LSP has been utilised to establish standing arrangements for representation of the relevant fund in such matters, or where the ACTGS is unable to act for a statutory body because ACTGS has a conflict.

The table below outlines the areas of legal practice in which the ACTGS represents Territory agencies and directorates.

Practice Area
Child Welfare Litigation
Commercial Litigation
Constitutional Litigation and Intervention
Discrimination and Human Rights Litigation
Employment and Industrial Relations Litigation
Administrative Law Litigation
Personal Injury Claims
Planning Litigation
Proceedings before the Coroner
Property and Construction Disputes
Regulatory Litigation
Revenue Litigation

Approved for circulation to the Standing Committee on Justice and Community Safety

Signature:

Date:

By the Solicitor-General for the Australian Capital Territory, Mr Peter Garrisson AM SC