

Question on notice no. 129

Portfolio question number: BE23-130

2023-24 Budget estimates

Legal and Constitutional Affairs Committee, Attorney-General's Portfolio

Senator David Shoebridge: asked the Federal Court of Australia on 25 May 2023—

Senator SHOEBRIDGE: Ms Lagos, in answering my questions, if the answer to my first question about whether or not the Chief Justice was informed of the matter is no, can you also please provide an explanation of why you think it is a reasonable action of the court to not inform the Chief Justice of that matter?

CHAIR: Of course, Senator Shoebridge will have the opportunity to provide you further questions on notice, and I am sure they will be drafted very carefully.

Senator SHOEBRIDGE: Will you take that last question on notice?

Ms Lagos: Yes.

Answer —

Please see the attached answer

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

ATTORNEY-GENERAL'S PORTFOLIO

BUDGET ESTIMATES 2023-2024

PA-Federal Court of Australia

BE23-130 - Chief Justice's awareness of Mr B only being admitted as a legal practitioner for less than a month

Senator David Shoebridge asked the following question on 25 May 2023:

Senator SHOEBRIDGE: Ms Lagos, in answering my questions, if the answer to my first question about whether or not the Chief Justice was informed of the matter is no, can you also please provide an explanation of why you think it is a reasonable action of the court to not inform the Chief Justice of that matter?

CHAIR: Of course, Senator Shoebridge will have the opportunity to provide you further questions on notice, and I am sure they will be drafted very carefully.

Senator SHOEBRIDGE: Will you take that last question on notice?

Ms Lagos: Yes.

The response to the senator's question is as follows:

As outlined in responding to the first question, despite undertaking searches back to January 2019 in relation to advice to the former Chief Justice, no records were identified which enable the Court to answer in the affirmative or negative the question of whether the Chief Justice was advised that Mr B had been admitted as a legal practitioner for less than a month at the time the former Chief Justice delegated the powers.

By way of context, the Court's established practice is that the delegation of powers by the Chief Justice follows proximately upon the formal appointment of a registrar. At the relevant time the Court had (and continues to have) a work structure and allocation process for ensuring that:

- a) powers are only exercised after appropriate induction and training, including supervision by senior and experienced registrars; and
- b) the permitted exercise of delegated powers is managed through administrative processes that restrict the exercise of different powers by registrars according to their seniority and experience.

In the case of Mr B, the former CEO appointed Mr B as a Registrar on 21 February 2019. The duties that Mr B initially performed upon appointment and delegation were at the most junior registrar level, predominantly concerned with internal administrative processes for the allocation (under supervision and guidance) of registrar and judicial workload.

The administrative nature of those duties did not give rise to circumstances in which delegated judicial powers would be exercised. As set out in answer to the second question, the first occasion identified by the Court that Mr B exercised a power delegated to him as a registrar of the Federal Court was on 2 December 2020 – 21 months after being sworn in and delegated those powers.