

Question on notice no. 146

Portfolio question number: BE23-149

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: Because of the time, I'm going to ask you three questions that I'll ask you to take on notice and provide a full response to. The first question is this: was His Honour the Chief Justice advised that Mr B had been admitted as a legal practitioner for less than a month at the time the Chief Justice granted him that suite of extensive delegated powers? That's my first question. Will you take that notice?

Ms Lagos: Yes, Senator.

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

B23-149 - Chief Justice's awareness regarding Mr B's appointment

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Ms Lagos: Yes, Senator.

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

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 this question in the affirmative or negative.

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.