

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S DEPARTMENT

Sub Program 1.1.1

Question No. 37

Senator Barnett asked the following question at the hearing on 19 October 2009:

With regard to the recent High Court judge vacancy, how many nominated persons were provided to the Attorney-General for his consideration? Provide further, relevant particulars concerning the process.

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

The most recent appointment to the High Court was Justice Virginia Bell on 3 February 2009. The process used included:

- The Attorney-General invited nominations from a broad range of individuals and organisations (see list below).
- Letters inviting nominations were also sent to State Attorneys-General (for High Court appointments this is required under section 6 of the *High Court of Australia Act 1979*), Justices of the High Court, State and Territory Chief Justices.
- Candidates met the relevant qualifications set out in section 7 of the *High Court Act 1979* that “a person shall not be appointed as a Justice unless:
 - (a) he or she is or has been a Judge of a court created by the Parliament or of a court of a State or Territory; or
 - (b) he or she has been enrolled as a barrister or solicitor, as a barrister and solicitor, or as a legal practitioner, of the High Court or of the Supreme Court of a State or Territory for not less than 5 years.”
- The Attorney-General considered the candidates nominated and made recommendations to Government.

On 12 September 2008 the Attorney-General invited nominations from:

- Chief Justices of the Federal Court of Australia and the Family Court of Australia and the Chief Federal Magistrate
- Heads of each State and Territory Bar Association and Law Society
- Heads of the Law Council of Australia and the Australian Bar Association
- Head of Australian Women Lawyers
- Heads of the National Association of Community Legal Centres and the Legal Aid Directors' Secretariat
- Deans of Law Schools
- Council of Australasian Tribunals

The Department forwarded 40 different names of nominated persons to the Attorney-General for consideration.