

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

Program 1.3

Question No. 35

Senator Brandis asked the following question at the hearing on 16 October 2012:

Senator BRANDIS: Let me ask again: were the instructions to bring the application to summarily determine Mr Ashby's application confirmed in writing? If so, by whom?

Mr Wilkins: I will have to take that on notice. I do not have the information, actually.

Senator BRANDIS: Do you not know whether—

Mr Wilkins: No, I do not know, Senator. That is why I am taking it on notice.

...

Senator BRANDIS: Mr Govey, the Australian Government Solicitor had the conduct of the proceedings. You are familiar with the principle of practice, to which I have referred, that one does not make an application of this kind without explicit instructions. Did the Australian Government Solicitor, on this occasion, observe that principle?

Mr Govey: I would need to take that on notice, Senator.

...

Mr Govey: I was responding to your specific request about whether I knew the precise details about this so-called correspondence, and I have no knowledge about that so I would need to take it on notice.

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

Instructions to prepare an application seeking to have judgment given against the applicant because the proceeding as against the first respondent is an abuse of process of the court were provided by email by Mr Matt Minogue, First Assistant Secretary, Civil Law Division on 10 June 2012. The decision to file the application was confirmed at the conference of 13 June 2012 between Counsel, the Attorney-General, officers of the Attorney-General's Department and lawyers from the Australian Government Solicitor.