

Question No: 005
Reference: Page 47
Committee Member: Senator Paterson

Questions:

CHAIR: Yes. Before we move on to Mr Shipton's matter, just so I understand: a decision was taken around May of 2020 to not seek a determination from the Remuneration Tribunal at that point.

Mr Savundra: No, Senator. I'd have to take on notice when the decision was made not to go to the Remuneration Tribunal. What the advice in May sought to raise is what the options were; what an application to the Remuneration Tribunal might look like and the merits of that, but also what the other options were. But also, a critical aspect of any application to the Remuneration Tribunal is that it would require the support of the minister.

CHAIR: Ms Chester, perhaps you can jump in here and enlighten us. Quite a significant amount of time had elapsed between the August internal advice that said, it may be within the rules, subject to some information, and this May advice that says, we may need to go to the Remuneration Tribunal. And then a decision is taken after that not to go to the Remuneration Tribunal. Is that right?

Mr Savundra: That's right, Senator.

CHAIR: Sorry; Ms Chester, were you going to add something to that?

Ms Chester: No; sorry, I thought you had a question for me. I'll hold fire.

CHAIR: Mr Savundra, going back to Mr Shipton's matter, could you take me through the same sequence of advice?

Mr Savundra: Again, I'd like to take on notice the exact chronology, in terms of advices that were provided, as to whether there was any internal advice provided in relation to Mr Shipton. I might come back to that if there are other questions, just so I can refresh my own memory. But certainly external advice was sought from AGS. That advice is dated 17 August this year, 2020. Really the summary of the advice that AGS provided is that AGS considered it was reasonable in the circumstances for ASIC to have proceeded on the basis that the expenses incurred by the ASIC chair, incurred in obtaining specialist taxation assistance, were expenses incurred on geographic relocation within the meaning of the 2017 determination. The short summary of that is really: AGS thought that the approach that ASIC had adopted in not going to the Remuneration Tribunal in relation to Chair Shipton's expenses was reasonable.

CHAIR: Coming back to you, Ms Chester, on this question of why Remuneration Tribunal advice was not sought, am I recalling correctly that your previous evidence is: the reason why the commission didn't decide to do that is that insufficient disclosures were made to the commission in order for it to form that view?

Ms Chester: I think my previous testimony was that it wasn't a decision of the commission. This was a matter that the commission did not have full line of sight over.

CHAIR: So this advice was not presented to the commission?

Ms Chester: No.

CHAIR: Who did the advice go to?

Ms Chester: I'm assuming the accountable authority, but I think Mr Savundra can confirm that.

Mr Savundra: I just want to clarify. Are we talking here about Mr Crennan's—

CHAIR: Mr Crennan's matter.

Mr Savundra: Yes, those advices went. Again, I would like to take it on notice just to be doubly sure, but my recollection is that they were provided to the accountable authority.

CHAIR: Why wouldn't it have gone to the commission as a whole?

Ms Chester: Chair, I think you're asking Mr Savundra a question that's a question that should be put to the accountable authority, or the accountable authority at that time.

Answers:

A decision not to approach the Remuneration Tribunal in relation to Mr Crennan's matter was made on 15 October 2020 following ASIC accepting Mr Crennan's offer to voluntarily repay the rental assistance provided by ASIC.

The Australian Government Solicitor advice on that matter was dated 4 September 2020 and was provided to the accountable authority on 9 September 2020.

An internal briefing note dated 7 May 2020 on the issues associated with Mr Crennan's rental assistance was provided to the accountable authority on 11 May 2020.