

**Senate Standing Committee on Education Employment and Workplace
Relations**

**QUESTIONS ON NOTICE
Budget Estimates 2012-2013**

Outcome 4 – Workplace Relations and Economic Strategy

DEEWR Question No. EW0278_13

Senator Abetz asked on 29 May 2012, Hansard page 69

Question

HSU

Senator ABETZ: Parliamentary Secretary, was there any discussion with the Prime Minister's office by Minister Shorten's office prior to this intervention? Senator Jacinta Collins: I will need to take that on notice. Senator ABETZ: When was legal advice obtained in relation to this intervention and from whom was it obtained? Who has been briefed in relation to this matter? Is it the Australian Government Solicitor? Mr Kovacic: No, we have engaged Corrs Chambers Westgarth as solicitors and counsel is Herman Borenstein, SC. I am advised he is supported by Richard Nylen. In terms of the questions you asked about when we obtained legal advice and from whom, we will take that on notice. Senator ABETZ: In taking on notice with whom the minister met prior to intervening in this court action, please also advise us whether or not he met with Ms Kathy Jackson, the HSU national secretary. If not, was any request made to meet with her, and if so, was that request denied? Please take that on notice. Senator Jacinta Collins: Yes, we will take that on notice. Senator ABETZ: I think I asked about the ACTU? I did and we have no answer on that. Please also take on notice asking the minister to respond to this: on what basis did he find that the HSU had fallen into 'dysfunctionality', the term he used in talking to the media; when did he find that 'dysfunctionality'; and was it related to Ms Jackson taking court proceedings, seeking to remove certain individuals from the HSU national executive?

Answer

Was there any discussion with the Prime Minister's office by Minister Shorten's office prior to this intervention?

The Minister's office informed the Prime Minister's office of developments relating to the intervention in the Federal Court proceedings.

When was legal advice obtained in relation to this intervention and from whom was it obtained?

Corrs Chambers Westgarth were engaged to provide advice and act for the Minister in relation to this matter on 12 April 2012.

Preliminary advice of a general nature was also obtained from Australian Government Solicitor on 27 and 30 March 2012 and from Minter Ellison on 2 April 2012.

Please also advise us whether or not he met with Ms Kathy Jackson, the HSU national secretary. If not, was any request made to meet with her, and if so, was that request denied? that on notice.

Ms Jackson requested a meeting with the Minister earlier this year. However, no such meeting ever took place.

Senator ABETZ: I think I asked about the ACTU? I. Please also take on notice asking the minister to respond to this: on what basis did he find that the HSU had fallen into 'dysfunctionality', the term he used in talking to the media; when did he find that 'dysfunctionality'; and was it related to Ms Jackson taking court proceedings, seeking to remove certain individuals from the HSU national executive?

The dysfunctionality in the HSU was evident from the findings of the reports of FWA and ongoing internal disputation that was the subject of widespread public comment. The Minister's concerns regarding the dysfunctionality in the HSU were in no way related to Ms Jackson's application.

Section 323(1)(a) of the Fair Work (Registered Organisations) Act 2009 (the Act) provides that an application may be made to the Federal Court for a declaration that part of the organisation (which may include a branch):

has ceased to function effectively and there are no effective means under the rules of the organisation or branch by which it can be reconstituted or enabled to function effectively.

The Minister sought legal advice about whether the requirements of Section 323(1)(a) of the Act were satisfied prior to making his application to the Federal Court.