

Queensland Chief Justice

The following statement can be attributed to Mr Michael Colbran QC, President, Law Council of Australia:

The Law Council of Australia notes with grave concern the statement made by Mr Peter Davis QC, in resigning his office as President of the Queensland Bar Association.

In his statement on Friday, Mr Davis explained that what he had said in confidence to the Queensland Attorney-General and a member of his staff had been relayed to others and in an incomplete and inaccurate way:

“Some of that information could only have come from a participant in the meeting. Some of the information was a distortion of what had been said.”

Mr Davis said that as a result his position was no longer tenable:

“The Bar Association ought to be involved in the process of appointment of judges. That is done through the President. As I have no faith in the integrity of the process, I cannot engage further in it.”

Public confidence in the judiciary demands that judicial appointments are made impartially and on the basis of suitability for the office.

While appointment to judicial office is always ultimately (and properly) a matter for the Executive government, it is widely recognised that the interests of the community require that the risk of a perception of political bias in any appointment is carefully avoided.

For this reason there are well established principles and processes which ensure that appointments are made by governments on a fully informed basis. One of these basic steps is to consult on a confidential basis with relevant stakeholders.

Confidentiality is essential to the frankness and therefore the utility of those consultations. This important safeguard for the community, and for the system of justice, is swept away if confidentiality cannot be assured.

Consultation with professional Associations such as the Law Society and Bar Association is invariably regarded as an important part of the process toward any judicial appointment.

It seems that this principle was observed to a point by the Queensland Government in its approach to consultations prior to the appointment of the Chief Justice but, according to the statement of Mr Davis, the essential feature of confidentiality was disregarded.

If that is so, it is a matter of very significant concern and regret.

The independence of the judiciary is a bedrock principle underpinning respect for the rule of law. It is vital to maintaining public confidence in judicial appointments and hence in the administration of justice that the established processes of appointment are respected and

followed. The whole community is diminished if there is a credible suggestion that any judicial appointment is not free of political taint.

The Law Council notes that late last week Mr Davis made it clear that neither he nor the Queensland Bar Association would support or oppose the, then, expected appointment of Judge Carmody.

Mr Davis took the position, with which the Law Council respectfully agrees, that the integrity, reputation and standing of the Courts are paramount considerations.

The office of Chief Justice is the highest office of the judicial arm of government. The Law Council is concerned that the respect of the public for that office must be preserved and it makes no criticism of the qualifications or personal qualities of Judge Carmody for appointment to that office.

Nevertheless, the events which appear to have surrounded the announcement are highly regrettable and unless satisfactorily explained by the Queensland Government threaten important safeguards which exist to protect the community's interest in public respect for the judiciary and the administration of justice.

The Law Council of Australia Policy Statement on Judicial Appointments is available [online](#).

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