

PARLIAMENTARY QUESTIONS

Statement

HON TJORN SIBMA (North Metropolitan) [6.36 pm]: I rise to make some observations about some of my personal experiences in dealing with this state's freedom of information process and what that might suggest about this government's professed commitment to provide greater accountability. It is clear to me, a year on from the election of the McGowan Labor government, that its commitment to transparency, openness and accountability is probably more honoured in the breach than in the observance. Although no-one in this place is gifted with precognition, it seems to me, after a year of observation, that the government has on occasion demonstrated a disdain for the discipline of public accountability; a reflexive political instinct to take credit for the work of others, and to shift blame onto others; a disregard for the welfare of communities that might be categorised as traditionally non-Labor electorates; and a general aura of expedience when it comes to public administration. I make the observation that that kind of tendency leads in only one direction, and it is not a particularly positive one.

I am not suggesting that this government is without honour or that its members are without personal integrity; in fact, far from it. I very much believe the opposite to be true. However, I am disturbed about the emerging modus operandi of this government as it applies to government responses to questions put to it in this place. Transparency of government and accountability to the public should find satisfaction and fulfilment in this place. I do not think that fulfilment has been found. The justification for this position is observations that I have made about the last two days of question time. Yesterday's question time was a particularly bad example of ministerial incompetence and disorganisation. Government members were not prepared to answer quite reasonable questions. I would further put it that few questions were answered meaningfully yesterday—if, indeed, they were answered at all. That puts non-government members of this chamber at a distinct disadvantage. We have very limited avenues of seeking information to hold the government to account—effectively to discharge our responsibility to the people who elected us. One of the few opportunities or avenues that we do have is recourse through the freedom of information process. My personal view is that that should be undertaken by exception after giving consideration to the issues at hand and with recognition that it is a resource-intensive process to go through. It should be taken seriously.

I want to give one example of a freedom of information application that I submitted last year as it pertains to the member for Darling Range. I am not going to go into the ins and outs of that saga, but I will say that at the conclusion of last year's parliamentary year, I did not find that questions that I had put to the Leader of the House representing the Premier had been appropriately answered, and that some of the answers I received actually begged further questions. Bearing in mind where we were in the parliamentary year and understanding that it would be three months before this house next sat, the best opportunity I found to discharge my responsibility was to put in a freedom of information application, and I submitted one on 14 December last year. I will give a brief time line of my experience. It is not the only such experience I have had, but it is the most recent one. This might bore members but it is important to document the process of this application.

I submitted an application to the Premier's office. I wanted to effectively capture discussion documentation between the Premier's office and the member for Darling Range on an issue of public interest. I think we can all admit that. On 22 December, the department's FOI coordinator got in touch with me and asked me to narrow the scope of my request. That happens regularly and I thought that was a reasonable request and I so did. It also happens on occasion that extensions to a deadline are sought, but for this particular application, I have been asked to extend the deadline on four occasions over a three-month period. Ordinarily—there is some complexity to this—if a freedom of information application is reasonably straightforward and is dealt with by the coordinator, a determination should be received within a 45-day period. Ordinarily, that is how it should work. Yesterday I received my fourth request for an extension. It was to extend the deadline until 9 April. I say to the chamber that it is probably the last extension I will have the capacity to agree to. But it underscores a problem. It just begs further questions about why something as straightforward as this should require four extensions.

I am not necessarily a conspiratorially minded person. My early years were formed in a federal bureaucracy, so if there is an opportunity to think about lack of capacity or conspiracy, my normal reaction is to go for lack of capacity—or probably a term that is more unparliamentary that I will not mention! But it does beg some questions. As a member of this house, I felt compelled to go down a freedom of information avenue. I also felt compelled to grant extensions, because I am genuinely interested in the kinds of information that this process might elicit. If I say no, I will get no information at all or partial information at best. Some of the applications I have made that have gone the full course have delivered me documents that are so seriously disfigured by redactions that they are completely worthless. There might need to be some kind of investigation into the gamesmanship that applies to FOI processes.

Hon Adele Farina: You can appeal those redactions.

Hon TJORN SIBMA: Yes, I can, member. I understand that, and in this case I am likely to. I have before and I will.

Getting back to the point, I have to ask why, in relation to a freedom of information application made about a particular public issue as it concerns the involvement, potentially, of the Premier's office with the member for Darling Range during a particularly interesting moment in that member's parliamentary career, that information has not been provided. I make two assumptions. One is that there might be a political judgement being made that documents being provided to me are best provided to me after the Procedure and Privileges Committee in the other place hands down its report. That is one assumption I have made. The other assumption, which I actually think is the one more likely to be true, is that freedom-of-information coordinators in the Premier's department and, indeed, across a range of government agencies, are utterly overwhelmed by their workload. An individual application can involve hundreds or thousands of documents. That is why people are effectively asked to narrow the search. I think also the surge in volume of these applications can be traced back to the government's incapacity and reluctance to answer parliamentary questions in this place during question time, and its disdain for that process.

I think it is time for the Premier and the government to walk the talk on accountability. It is probably the most used and abused term in this Parliament, and it will no doubt be used and abused tomorrow during private members' business —

Hon Stephen Dawson: Are you telling us what you're going to say tomorrow?

Hon TJORN SIBMA: I might entertain that interjection by way of foreshadowing a theme, but I think there is a serious issue at heart here. A good first step for avoiding these kinds of members' statements and backlogs in freedom-of-information processing would be just to answer questions as they are put by members in this place.

Statement

HON ALISON XAMON (North Metropolitan) [6.46 pm]: What a pertinent contribution from Hon Tjorn Sibma. It is a theme that I intend to elaborate on right now. The reason I rise is that I cannot let pass some of the Attorney General's appalling answers to simple questions, during this week in particular. I will also express my concerns about some of the answers that have been given to previous questions I have asked.

I will say that I have taken up the offer from the Leader of the House to discuss this matter behind the Chair, and she has very kindly agreed to raise the issue on my behalf with the Attorney General, particularly in relation to the two most offensive answers, and for that I am grateful. I appreciate that. I will also say that I recognise that there are ministers in this government who answer questions comprehensively and in a very professional way. I have 22 portfolios, so I end up asking questions of most of the ministers in this government at one time or another, including the Premier. Because I am about to have a go at the Attorney General, I am also going to give out a few bouquets. I feel I get comprehensive and appropriate answers from Minister Dawson, Minister McGurk, Minister Cook and Minister Johnston. That is my experience, and I thought I would put it out there, because I want to make it clear that I do not think it is the case that a standard has been set that can justify the way in which the Attorney General is choosing to answer questions.

I want to speak specifically about two questions I asked of the Attorney General. I note that I put them both in on the same day and they were both answered on the same day, so I do not know if it had anything to do with the staff member involved. I know some of the staff members who work for the Attorney General and they are excellent people, so I would expect better, but I do not know whether there was something wrong that happened on that particular day, but if that is the case, I would suggest that it be remedied as soon as possible. One of the questions I asked the Attorney General was whether he would issue model litigant guidelines for legal practitioners acting for the state and its agencies. That required a straightforward "Yes", "No", or "I'm actually going to be thinking about this issue". It is a policy-based question; it does not require much research. I happen to know that this is an issue that the Attorney General knows a lot about and it would have been pretty straightforward for him to be able to give some indication as to whether it is something that this government is even contemplating. It came up in the previous government. There is a particular reason I am asking about this policy now. It is very pertinent to this state. I will not go into any detail at this point. The Attorney General should know this, and I suspect he does. The answer I got was simply —

I thank the honourable member for some notice of the question. Given the detail of the question and the answer required, the Attorney General requests this question be placed on notice.

I remind members that this is a policy-based question, so it is simply a matter of the Attorney General indicating whether this is something he is looking at. It requires a yes or no response, yet I have been told that I need to put this question on notice. This is absolutely unacceptable. I want to know why the Attorney General is hedging around this and why he is not prepared to answer the question. It strikes me that he is being particularly evasive.

Hot on the heels of another question that I asked, last week I spoke in this place and asked a question about the historical practice of recording care and protection applications as offences on children's criminal histories. I was told last week that the data that was required in order to answer that question—whether we do that as a practice in

Western Australia—was too much and that I needed to put it on notice. I dutifully put it on notice but then I stood in this place and spoke about why this issue is so significant. It is so significant because care leavers are looking towards the outcomes of the royal commission and the national redress scheme, anticipating that they will be undertaking processes through it, and they want to know whether this is an issue within Western Australia. The Attorney General should have some notice of this. It has arisen in the Victorian Parliament to the point that it is talking about issuing an apology. This issue has national attention. I would have thought that any Attorney General worth his or her salt would at least have started looking into this issue and would be able to have an answer to the question of whether that is the case. I can tell members that people want to know this information and they want to know it now. I knew that I would not get the detail of that question in a hurry so I simply pared it down to one critical question, which was basically: did this practice occur in Western Australia? Again, it required a yes or no answer. I anticipated that the Attorney General should have been able to answer this question and simply give me the information. It is not just me; as Hon Tjorn Sibma has pointed out, we are here doing a job representing constituents and stakeholders, and they have a right to know and they want to know. The answer I received basically pointed out that I asked a question on this matter last week, which has since been put on notice. It stated —

Given that Legislative Council question on notice ... is in the process of being responded to, I would encourage the member to await the contents of that answer prior to raising this issue again.

Oh, my God! That is one of the most offensive and patronising statements I have ever seen in an answer to a formal question that has been put on notice and has had time to be considered. What an offensive response! It is offensive to me—I will not be spoken to in that way—and it is offensive to the people who need this information. I say to the Attorney General: this is not good enough. I know he is a man who is across his portfolio areas. I know that he knows the answer to the first question and he is not being forthcoming with the answer. He should have the answer to the second question. If he does not, that means that he has not been doing his job. I want to say thanks again to those ministers who clearly take their jobs a little more seriously and are prepared to be accountable in this place. But absolute brickbats to the Attorney General for his complete failure to answer simple yes or no questions. I expect this to be the last time this ever happens.

Statement

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [6.53 pm]: I rise briefly to comment on some of the contributions that were made by the previous two speakers. Hon Alison Xamon made the point that she spoke to the Leader of the House behind the Chair this afternoon. The Leader of the House undertook to raise the concerns mentioned by Hon Alison Xamon with the Attorney General.

Hon Martin Aldridge: But they were your answers.

Hon STEPHEN DAWSON: The member can make a statement afterwards, please. I just want to say a few words; I do not want to keep people here all night. The member can certainly make a statement afterwards.

The Leader of the House undertook to raise those concerns with the Attorney General's office. I am advised that conversations have happened between Minister Ellery's and the Attorney General's staff already and hopefully those concerns can be brought to the Attorney General himself as soon as possible.

Hon Tjorn Sibma obviously has a very short memory. As a staff member in the Barnett Liberal government —

Hon Tjorn Sibma: It was 2011.

Hon STEPHEN DAWSON: He would be aware that the freedom of information laws that existed then are the same FOI laws that exist now. Ministers do not process FOI requests; it is, in fact, public servants and public sector workers. That has not changed from the last government to this government. I understand there is a bit of frustration and my ministerial colleagues and I certainly try to answer the questions as best we can. The fact of the matter is we have three or four hours to prepare answers to questions without notice of which some notice is given. The level of detail asked for in some of these questions is great. Madam President pointed out today in question time that there were some very long multi-part questions and it is not always possible to provide answers in that time. That is why members are asked to place questions on notice. Again, that is in our standing orders. We try not to do it, but from time to time we cannot always provide an answer on the day, whether it is because the public sector workers and agencies who deal with issues are not around or for whatever reason. Yesterday, I could not provide an answer to one of Hon Robin Scott's questions. I told him I could not do it and undertook to get him the information today, and I did. We do that from time to time. We try to assist. We are happy to organise briefings for members on issues, but it is not a failsafe process.

Standing order 105 refers to questions being concise. We all have a role to play in this place. Our role is to provide answers. The former President used to say that the answer is the answer. A member might not like the answer, but it is the answer given. I try to provide an answer that is appropriate. If a member asks me a question, I try to answer that question, and I am sure my colleagues who are ministers and parliamentary secretaries who provide answers here try to do the same. From time to time we have to rely on answers provided by the other place. When members

express concerns to us about the quality of the answers or the speed in which they are given, I assure them that we bring those concerns to the attention of the appropriate people in the other place. Again, the Leader of the House has raised Hon Alison Xamon's concern with the Attorney General's office. If members have concerns, they should please find us in this place and we will try to provide an answer.

We all have a role to play. Let us make sure that our questions are as concise as they can be. If they are not concise, it is highly appropriate for a minister to ask the member to please put the question on notice, because, quite simply, the level of detail and work required to get an answer takes time. The rule is that we have 10 sitting days to get back to members with questions on notice. It takes time occasionally. I certainly hear the frustrations expressed tonight. We are all here to do our jobs and represent our constituents in this state, so let us all keep doing our job and we will try to get answers to questions as quickly as possible when asked.

Statement

HON MARTIN ALDRIDGE (Agricultural) [6.58 pm]: I thought I would just add a few remarks to the comments that have been made. I really want to make two points. One is in reference to the comments made by Hon Alison Xamon. Although a lot of that criticism was directed at the Attorney General—quite rightly, because he would have been the one providing the advice to the minister—the minister's response in this place is the minister's responsibility, and that was clearly pointed out by Madam President's statement last year and I think was reinforced by the President before Madam President, Hon Barry House, when he said that a minister's answer to this house is that minister's answer. I too would like to praise Hon Stephen Dawson for the calibre of the answers he provides to this place. I do not think there would be a week that passes when Hon Stephen Dawson does not rise, particularly when he is representing another minister, to say that he is not happy with the answer he has been provided to a member's question and that he will seek a different one. I do not see too many other ministers or parliamentary secretaries taking a similar approach to Hon Stephen Dawson, but it is something that happens.

Yesterday's question time was quite an appalling waste of the Parliament's time, in my view, because we got very few answers. That, in part, was due to the Leader of the House being stuck at the committee table leading up to question time. I think a debate we revisit almost on a four-yearly basis is whether we should have a short break on Tuesdays, in part to deal with the answering of questions. If I could make an observation, it was interesting that at the start of yesterday's question time the Leader of the House said that she was unable to answer questions that had been asked of her, but that she was able to answer questions that had been asked in her capacity as a representative of another minister. I find that rather odd, because the minister is ultimately responsible for every question she answers to this house. What I took from what the Leader of the House said to this chamber during question time yesterday was that she needed time to read the answers that had been prepared for her as Minister for Education and Training, but she did not need time to consider the answers that had been provided by other ministers, and she just delivered those.

House adjourned at 7.00 pm
