Parliamentary Debates
(HANSARD)

FORTY-FIRST PARLIAMENT
FIRST SESSION
2024

LEGISLATIVE ASSEMBLY

Tuesday, 18 June 2024

Legislative Assembly

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THE SPEAKER (Mrs M.H. Roberts) took the chair at 1.00 pm, acknowledged country and read prayers.

ESPERANCE SENIOR HIGH SCHOOL

Petition

MR P.J. RUNDLE (Roe — Deputy Leader of the Opposition) [1.01 pm]: I have an e-petition that has been certified by the clerks from 332 petitioners in relation to the upgrade of Esperance Senior High School in the following terms —

> To the Honourable the Speaker and Members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned, say
>
> as a community we are grateful for the high quality of teaching and learning experiences provided by staff at Esperance Senior High School, despite the dilapidated and, in some parts, unsafe condition of school infrastructure that continues to undermine the educational opportunities and outcomes for students at Esperance Senior High School. We are disheartened that Esperance's most valuable asset, our young people, is repeatedly overlooked by the Cook Labor Government, which is completely aware of the dire conditions staff and students continue to endure.
>
> Now we ask the Legislative Assembly
>
> to acknowledge the deplorable state of the Esperance Senior High School and the need for the Cook Labor Government to urgently commit to an extensive upgrade of the school, such that the young people of Esperance can flourish and achieve their potential in parity with their counterparts in the Perth metropolitan area.

[See petition 57.]

A similar petition was tabled by **Mr P.J. Rundle** containing 68 signatures.

[See petition 58.]

PAPERS TABLED

Papers were tabled and ordered to lie upon the table of the house.

BILLS

Notice of Motion to Introduce

1. Collie Coal (Griffin) Agreement Amendment Bill 2024.

Notice of motion given by **Mr D.A. Templeman (Leader of the House)** on behalf of Mr R.H. Cook (Minister for State and Industry Development, Jobs and Trade).

2. Family Violence Legislation Reform Bill 2024.

3. Criminal Code Amendment (Prohibition on the Display of Nazi Symbols and Gestures) Bill 2024.

Notices of motion given by **Mr J.R. Quigley (Attorney General)**.

COOK GOVERNMENT — PERFORMANCE

Notice of Motion

Mr R.S. Love (Leader of the Opposition) gave notice that at the next sitting of the house he would move —

> That this house condemns the Cook Labor government for its performance in its first 12 months under Premier Cook's leadership, demonstrating that despite new leadership it remains the same old Labor government, failing to address the concerns of Western Australians, and highlighting the urgent need for a change in government.

COOK MINISTRY — CONSTITUTION

Removal of Order — Statement by Speaker

THE SPEAKER (Mrs M.H. Roberts) [1.07 pm]: I inform members that the private members' business order of the day that appeared on the last notice paper as "Ministerial Portfolios" has not been debated for more than 12 calendar months and has been removed from the notice paper.

ABC RADIO PERTH — CENTENARY

Statement by Minister for Culture and the Arts

MR D.A. TEMPLEMAN (Mandurah — Minister for Culture and the Arts) [1.08 pm]: I am very pleased to acknowledge an important milestone in our state's broadcasting history. On 4 June 1924—100 years ago—the radio service that would later become ABC Radio Perth made its first broadcast from Wellington Street, Perth. Radio station 6WF was established by Westralian Farmers, now known as Wesfarmers, to improve the lives and livelihoods of farmers and rural communities in Western Australia. Tastes ranged from highbrow to populist, with opinions divided on whether radio should educate or simply entertain. News segments and lecturettes were paired with racing and cricket reports, time signals, orchestral performances and bedtime stories for children.

Since that inaugural broadcast in 1924, 6WF and ABC Radio Perth have played a crucial role in the lives of Western Australians through times of celebration and crisis. Recently, the State Library of Western Australia partnered with ABC Radio Perth and the Perth Symphony Orchestra to commemorate exactly 100 years since the first broadcast. The *WA Mornings* program was broadcast from the State Library on 4 June 2024. Accompanying the broadcast, a display of heritage material was held in the State Library's collections, including original broadcast logs, photographs and the commemorative program from the inaugural broadcast. Musicians from Perth Symphony Orchestra performed a live selection of the exact music featured in that original broadcast. In addition, there was a celebration at the ABC in the evening, and I was delighted to attend and speak with so many people who have made the ABC what it is today, from Earl Reeve, who started working for the ABC as a cadet radio announcer in 1951, to the delightful Sabrina Hahn and the entertaining Mark Gibson. It was a fantastic evening.

We all join in congratulating ABC Radio Perth on this significant milestone, and we wish it many happy returns.

MAGABALA BOOKS

Statement by Minister for Culture and the Arts

MR D.A. TEMPLEMAN (Mandurah — Minister for Culture and the Arts) [1.10 pm]: I am very proud to announce that on 19 May 2024, Kimberley-based publisher Magabala Books won the Small Publisher of the Year award at the Australian Book Industry Awards for the second time. Magabala Books first won the Small Publisher of the Year award in 2020. In 2023, it was the Oceania winner of the Bologna Prize for the Best Children's Publisher of the Year. It is a testament to First Nations literary excellence that in 2024 alone, the Indigenous Literacy Foundation has won the Astrid Lindgren Memorial Award, and Huia Publishers, based in Aotearoa, New Zealand, was the Oceania winner of the Bologna Prize for the Best Children's Publisher of the Year.

Magabala Books is a world-renowned Kimberley-based publisher and is among Australia's leading First Nations publishers. Magabala Books publishes Aboriginal and Torres Strait Islander authors, artists and illustrators from all over Australia. An independent, not-for-profit Indigenous corporation, Magabala Books is governed by a dedicated board of Kimberley Aboriginal educators, business professionals and creative practitioners. Magabala publishes up to 18 new titles annually across a range of genres, including children's picture books, memoirs, fiction—junior, young adult and adult—non-fiction, graphic novels, social history and poetry.

The resounding success of Magabala Books benefits the wider publishing community in Western Australia, as well as the writers, illustrators and narrators whose work it tirelessly promotes. It is especially wonderful to see this level of leadership coming from, and international recognition for, a regionally based organisation in Western Australia. The publisher is committed to developing new and emerging writers and illustrators and continues to provide training and professional development opportunities for First Nations people. Magabala Books plays a significant advisory role within the publishing industry, modelling best practice for the publishing of First Nations stories. It acts as an advocate and guardian, protecting the cultural and intellectual property rights of its creators, and delivers a range of innovative social and cultural initiatives.

I sincerely extend my congratulations to Magabala Books on winning the ABIA Small Publisher of the Year award for a second time and promoting the literary talent from Western Australia to the world.

KING'S BIRTHDAY HONOURS LIST

Statement by Minister for Citizenship and Multicultural Interests

DR A.D. BUTI (Armadale — Minister for Citizenship and Multicultural Interests) [1.13 pm]: I am delighted to congratulate the Western Australians from culturally and linguistically diverse backgrounds who have been recognised in the recent King's Birthday honours list. We know that for many in our culturally diverse communities, contributing, either through volunteerism or paid employment, is second nature and often done without expectation of reward or recognition. It is, however, pleasing to see the contribution of a number of these individuals is valued and recognised.

The King's Birthday honours list includes several Western Australians from Greek backgrounds. Mr Michael Litis has been awarded the Medal of the Order of Australia for his service to the community through sports organisations.

Mr Litis has demonstrated extensive leadership and dedication to the community through his work at the Hellenic Lawn Bowling Club of the Castellorizian Association of WA, the Hellenic Football Club and the Royal Perth Golf Club, among others. Assistant Commissioner Arlene Mavratsou, another member of the WA Greek community, has been awarded the Australian Police Medal. The medal recognises her leadership in enhancing community safety and effective law enforcement. The Ambulance Service Medal has been awarded to Mr Philip Stanaitis, a paramedic with St John Ambulance WA. The medal recognises his compassion and dedication, as well as his commitment to community resilience, particularly within Aboriginal communities in WA's Pilbara region.

Two Western Australians from Italian backgrounds have also been recognised for their service to the Italian community of Fremantle. Mr Gino Monaco has been awarded the Medal of the Order of Australia for his service to the Italian Club Fremantle, where he has served as a board member for 30 years. Mr Domenico Rechichi has received the Medal of the Order of Australia for his extensive work for the Fremantle Italian Club, the Italian Village Fremantle and the Associazione Nazionale Famiglie Emigrati.

Dr Anh Nguyen, the president of the WA chapter of the Vietnamese Community in Australia, has been awarded the Medal of the Order of Australia for his service to the state's Vietnamese community. I am pleased to say that I have worked extensively with Dr Nguyen, as he is a much-valued member of my Ministerial Multicultural Advisory Council.

I commend these dedicated individuals for their tireless contributions to our multicultural society and am sure that members will join me in applauding them for their exceptional service and achievements.

EDUCATION — MINISTER'S INNOVATION CHALLENGE

Statement by Minister for Education

DR A.D. BUTI (Armadale — Minister for Education) [1.16 pm]: I am pleased to inform the house of the launch of the 2024 Minister's Innovation Challenge. The innovation challenge is a great opportunity for year 8 students to work together to come up with solutions to real-world issues. Through participating in the challenge, students explore and build on important skills such as creativity, critical thinking and the ability to collaborate with others. These are all skills that are highly valued in the workforce and will be beneficial to students as they continue their studies and enter employment.

The challenge is the first step in an ongoing immersive journey of design thinking and innovation learning for Western Australian public school students, supported by their school and a local industry mentor. Since it began in 2022, the challenge has grown each year to keep up with increased interest from schools and students. Following its success, this year we are increasing the number of participating schools from 30 to 40 to provide opportunities to a larger number of year 8 students; extending the length of the challenge from five weeks to six weeks; increasing the total prize money from $10 000 to $35 000, which is funded through the Career Learning Toolkit election commitment; and sharing the $35 000 cash prize between the five top-ranked teams.

Bloom Centre for Youth Innovation will deliver the challenge again in 2024. Bloom is a Western Australian youth-led, non-profit organisation that has been providing entrepreneurship and innovation programs to young people since 2015. Bloom also provides training to upskill teachers in effective approaches for teaching entrepreneurial education and design thinking.

Expressions of interest are now open, and schools have until 2 August 2024 to nominate a team of six to eight year 8 students to compete in the challenge, which commences on 7 October 2024. I am delighted the challenge will involve more year 8 students and provide meaningful opportunities to engage with industry to solve local problems. I encourage all schools to register their interest in taking part in this challenge.

CONSTRUCTION INDUSTRY PORTABLE PAID LONG SERVICE LEAVE ACT — REVIEW

Statement by Minister for Industrial Relations

MS S.F. McGURK (Fremantle — Minister for Industrial Relations) [1.19 pm]: I rise to inform the house that the independent review report of the Construction Industry Portable Paid Long Service Leave Act 1985 has been released today. The act, administered by MyLeave, was introduced by the then Labor Government to allow construction workers to carry long service leave entitlements from employer to employer. After almost four decades of operation, a review into the act was announced by my predecessor last year to ensure that the act remains fit for purpose for the modern construction industry.

KPMG Australia has undertaken the review to ensure that portable long service leave arrangements continue to benefit construction workers and employers in Western Australia. Overall, the review found that the act has been historically effective in providing benefits for the construction workforce. KPMG made 14 findings and recommendations for legislative reform regarding coverage and eligibility under the act and treatment of benefits and entitlements, as well as compliance, regulatory and administrative matters.

The Cook Labor government will introduce priority amendments to the act later this year, including two review recommendations to accommodate construction work on ships and to allow early access to entitlements for workers due to permanent injury or disablement, terminal illness or death. Additional priority amendments include allowing days of service while stood down or while receiving workers compensation and improving the effective and efficient operation of the board. Importantly, the amendments related to construction work on ships and allowing days of service while stood down will deliver on 2021 election commitments.

KPMG has been engaged to carry out additional stakeholder consultation on the remaining recommendations of the review. The Cook government will consider further legislative reform based on KPMG's final recommendations. After more than 37 years of the operation of the act and nearly $600 million paid in benefits to workers, I am pleased to see that the review has reinforced the importance of portable long service leave in the construction industry and its workforce through attraction, retention and recognition of workers' service.

HOMELESSNESS — DIVERSIONARY YOUTH PILOT PROGRAM

Statement by Minister for Homelessness

MR J.N. CAREY (Perth — Minister for Homelessness) [1.21 pm]: I rise to update the house on the Cook government's significant investment into homelessness services, supporting Western Australia's most vulnerable. This year alone, we have invested an additional $140 million into 130 homelessness services and initiatives. I am pleased to inform the house that $2.4 million is being invested in a new diversionary youth homelessness pilot program in Parkerville. This initiative will be delivered in partnership with Parkerville Children and Youth Care and the Sisters of St John of God. Ruby's, a first-of-its-kind early intervention and diversion service, will support young people aged 12 to 17 years who are at risk of homelessness. The program aims to stabilise at-risk family units by focusing on improved communication and cooperation, ultimately enhancing family stability and reducing the risk of homelessness. The Ruby's pilot will also provide comprehensive support for young people experiencing mental health issues, drug and alcohol misuse and family conflicts. This service will commence on 1 July this year, operating seven days a week out of the Parkerville Children and Youth Care facility. It will run under a two-and-a-half-year pilot program, which includes an evaluation component to assess its effectiveness.

As I say in this place often, the state government is committed to supporting Western Australia's most vulnerable and has invested a record $3.2 billion in housing and homelessness measures since 2021. But there is always more to do, and, as the Minister for Housing; Homelessness, I will always explore every opportunity to ensure that everyone in Western Australia has a safe, secure and affordable place to call home. We announced last month an unprecedented $92.2 million in funding for homelessness initiatives as part of the 2024–25 budget. Our message is clear: we are doing everything we can to provide support for those who need it most.

ALCOHOL BEVERAGES ADVERTISING CODE

Statement by Minister for Racing and Gaming

MR P. PAPALIA (Warnbro — Minister for Racing and Gaming) [1.24 pm]: The ABAC Scheme—Alcohol Beverages Advertising Code—is a not-for-profit organisation established to promote the responsible marketing of alcoholic beverages in Australia. The ABAC Scheme is governed by a management committee composed of industry, government and advertising representatives. The Responsible Alcohol Marketing Code sets high standards for alcohol marketing, including digital marketing and social media, and interacts with other regulations, including Australian laws. The code prevents alcohol advertisements showing or encouraging irresponsible alcohol use, such as excessive or rapid alcohol consumption; irresponsible alcohol-related behaviour; strong or evident appeal to minors or images of people aged under 25 years; alcohol improving mood, overcoming problems, causing success, being necessary for a celebration or offering health benefits; and consuming alcohol before or during risky activities, like driving or swimming.

Complaints regarding alcohol advertising can be lodged with ABAC and are assessed by an independent adjudication panel chaired by former Attorney General Michael Lavarch, AO. One of the frequently reported issues to ABAC is the use of reminiscent content, which is when alcoholic products are promoted in ways that trigger a childhood resonation response—for example, cocktails containing lollies. This type of marketing can be enticing or appealing to minors as it does not necessarily depict alcohol as the primary ingredient.

ABAC has recently produced the *ABAC Best Practice for Responsible Digital Marketing* guide, which aims to assist the alcohol industry in maintaining high standards of social responsibility in the management of digital alcohol marketing. The guide includes information regarding responsible messaging, proximity marketing, content placement, download and forwarding controls, and pre-bid audience verification tools. ABAC has also developed an information sheet as a resource for members of Parliament and electorate office staff. This is designed to assist in directing any concerns from constituents about alcohol marketing to the independent ABAC adjudication panel. ABAC will soon be sending this information to all elected representatives in Australia to assist them in dealing with complaints made by constituents. I encourage members to use the information provided by ABAC to assist their constituents in lodging complaints about alcohol advertising.

CORRECTIVE SERVICES — DEPUTY COMMISSIONER FOR YOUNG PEOPLE

Statement by Minister for Corrective Services

MR P. PAPALIA (Warnbro — Minister for Corrective Services) [1.26 pm]: I rise to inform the house of the appointment of Mr Rick Curtis to lead the youth justice team as our new deputy commissioner for young people for corrective services. Mr Curtis has had a distinguished career in emergency services, working in senior roles at the Department of Fire and Emergency Services for 27 years, most recently as assistant commissioner for learning and development. He has played a leading role in response and recovery operations and strategic planning for major bushfires, tropical cyclones and flooding events, including his involvement in the response to cyclone Seroja and COVID crisis management team.

In addition to Mr Curtis' position at DFES, from 2021 to 2024, he was the executive officer of the State Emergency Management Committee, WA's peak emergency management body. He also served in the Western Australia Police Force for a period as a metropolitan and regional-based police officer and engaged with young people throughout his time at WA police through policing activities and participating in mentoring programs with local Aboriginal youth and cadet programs.

Mr Curtis already has active experience in engaging with the Department of Justice, as he was instrumental in establishing the statewide partnership between DFES and the Department of Justice in the engagement of section 95 prisoners in emergency service activities. Through his MBA studies, Rick also researched the concept of a partnership model between DFES and the Department of Justice that included a cadet program in a youth justice setting. This, along with his vast experience in managing teams and building an engaged culture, will see Rick well placed to oversee the youth justice directorate and continue to build on its skills and community values. Developing the potential of young men has also been a part of his coaching roles in the West Australian Football League at Perth and Subiaco footy clubs.

The deputy commissioner position is newly created following a decision to create a young people directorate within corrective services. The new directorate is responsible for providing youth justice services in the community and managing youth detention facilities. I extend my thanks to Christine Ginbey for her dedication and efforts in holding the dual women and young people responsibility since her appointment in 2022. During a challenging period, Christine has led the team through significant change and improvements, laying the foundations for the model of care and overseeing its implementation at Banksia Hill Detention Centre, as well as the recent enhancements in youth detention that have seen a significant improvement in out-of-cell hours. Mr Curtis will commence his new role on 8 July 2024.

CIVIL LIABILITY AMENDMENT (PROVISIONAL DAMAGES FOR DUST DISEASES) BILL 2024

Third Reading

MR J.R. QUIGLEY (Butler — Attorney General) [1.29 pm]: I move —

That the bill be now read a third time.

MR R.S. LOVE (Moore — Leader of the Opposition) [1.29 pm]: I rise very briefly to speak on the third reading of the Civil Liability Amendment (Provisional Damages for Dust Diseases) Bill 2024—a very important bill. As I said during discussion on this legislation, the opposition is supportive of it. The member for Cottesloe and I spoke about the importance of this legislation. Consideration in detail took place last week. If I remember rightly, because an amendment or two was moved, the bill was held over to this week, although I do not think it was too difficult to understand the amendments.

I would like to thank the advisers who provided the Attorney General with advice, giving him the ability to respond to the very astute questioning that he received on all aspects of the bill. Without their good advice, I am sure he would have struggled to answer the questions. It was good that they were here and able to provide authoritative answers in response to the questions asked. Some questions remain. We support the legislation. There was a discussion on the introduction of the provisional damages regime, about which I highlighted some of the concerns of the Insurance Commission of Western Australia that were raised during the estimates committee hearings and what that might mean for the industry. In totality, as the Attorney General said, it is probably not a significant concern given the size of the insurance market and the relatively small number of people who will be affected by this legislation.

We were told that certain claims could not be pursued if a court hearing had already commenced. For instance, at the time of the introduction of this legislation, they would not be covered by it. Going forward, people will be able to exercise their rights under this rule. All the issues around engineered stone benchtops and other things have been very well publicised, which largely led to the discussion.

The passage of this legislation through Parliament should be assured. If the government is willing to make sure that it is progressed quickly, it will protect people in the near future. With those comments, I will wind up and thank the Attorney General for his patience throughout consideration in detail and for going through many of the matters, questions about which were asked at some length.

MR J.R. QUIGLEY (Butler — Attorney General) [1.33 pm] — in reply: The Civil Liability Amendment (Provisional Damages for Dust Diseases) Bill 2024 is important legislation, hopefully, for a few people. When I say "hopefully, for a few people", we hope that people do not contract a terminal disease subject to an initial diagnosis. Sadly, too many people have been on that journey. This bill delivers justice for those sufferers who will be seeking damages for their disease, not knowing whether their condition will deteriorate to a terminal disease in the future, maybe decades down the track.

I thank all members of Parliament for their support for this bill. I particularly thank the Leader of the Opposition and the opposition for their support for this bill. I commend it to the house.

Question put and passed.

Bill read a third time and transmitted to the Council.

PRIVACY AND RESPONSIBLE INFORMATION SHARING BILL 2024
INFORMATION COMMISSIONER BILL 2024

Cognate Debate

Leave granted for the Privacy and Responsible Information Sharing Bill 2024 and the Information Commissioner Bill 2024 to be considered cognately, and for the Privacy and Responsible Information Sharing Bill 2024 to be the principal bill.

Second Reading — Cognate Debate

Resumed from 16 May.

MR R.S. LOVE (Moore — Leader of the Opposition) [1.35 pm]: I rise to speak on behalf of the opposition on the Privacy and Responsible Information Sharing Bill 2024, which is being considered cognately with the Information Commissioner Bill 2024. I will talk on both bills through this debate. No doubt, we will have some rather in-depth discussions during the consideration in detail stage, which will no doubt follow because there are no less than 247 clauses in the Privacy and Responsible Information Sharing Bill. I think we will have quite a lengthy discussion.

The opposition will not oppose this legislation. We see merit in legislation like this. It is arguable that getting ahead of the curve when setting up parameters in which information can be shared might overcome the reluctance of some organisations to share information that can be safely shared. At the same time, the legislation will put some measures in place to ensure that information is shared only at the appropriate level and that the necessary safeguards are in place for people, especially some of the very personal information that government agencies hold on individuals throughout our state. There are a couple of examples within the legislation, which I will be asking questions about further down the track. No doubt we will have quite a bit of discussion on some of the parameters of the bill.

The view has been held for some time that we should have such legislation. Western Australia does not really have privacy legislation as such. We have freedom of information legislation and an Information Commissioner who holds a different role compared with the role that will be held by the new Information Commissioner, which will come about by virtue of the second bill we are considering—the Information Commissioner Bill. We will talk about that in a little while.

The importance of modern protection is highlighted by the frequency of inappropriate breaches of data. It is very important that government agencies are able to work together to ensure that information is held safely. That is something that the Auditor General raised. I note that this affects everyone from local government and all sorts of different agencies. The Auditor General has often brought the government's attention to the various risks that exist within local government agencies around a fairly slack approach to basic protections sometimes—for example, simply making sure that access to computers is not available when those agencies are the interface to that information database. I recommend members go through some of the reports recently produced by the Auditor General on those aspects of information protection and storage. When we are talking about information sharing, obviously, there is another parameter when one department sometimes discloses sensitive information to another department. We want to make sure that it is appropriate for that information to be shared and that appropriate protections are in place. Throughout the bill there are roles for the chief data officer and a range of individuals, and practices will be put in place. On the face of it, they appear to address many of those issues. However, as we know, this is a complex and ever-changing field. I am certainly no expert in data harvesting or data protection and sharing, so when I read through the second read speech, the explanatory memorandum and the bill, I could see that a fair bit of it had to be taken at face value and that faith must be put into the government officers and the commissioners who will be appointed to make the decisions that will protect that information and make sure that it is shared safely. It is important for people to feel that their personal information is being treated respectfully and will not be used for purposes that they do not feel is appropriate. If we look over time, we see, for instance, that during COVID-19 the then Commissioner of Police, or his force, used information that was gathered through the SafeWA COVID app.

That led to some investigations into information being accessed in a way that was never intended by the Parliament at the time the processes were put in place to harvest that information. However, because what occurred was not specifically ruled out and insufficient parameters were put in place by the Parliament at that stage—I say "Parliament", but it was the government because it dominated the Parliament—that led to the use of that information in a way that had not been expected. That then led to further changes to the law to clarify that. It goes to show that you never know what you don't know or what might be around the corner. This legislation will provide for a chief data officer and Information Commissioner who are on top of their game and able to make the necessary changes as time goes on to ensure that information sharing takes place safely.

The second bill, the Information Commissioner Bill, will establish the role of a new Information Commissioner. The Information Commissioner will be different from the one who is currently designated as the Information Commissioner. There is a position with that title at the moment. That position and, I believe, the holder of the position, will transition to a different role. The new commissioner will be the information access commissioner, I think. That person will take on the role currently held under the Freedom of Information Act so that the new Information Commissioner will be responsible for the Freedom of Information Act, just as the current Information Commissioner is at the moment. On that matter, we know there have been a lot of delays, from the opposition's point of view, when putting in freedom of information requests through ministers. When one seeks a review, we know that for members of Parliament and also members of the public, there is a long wait time for the Information Commissioner's consideration. If we look at some statistics, we can see that 60.5 per cent of external reviews through the Information Commissioner were finalised in less than six months in 2018–19 and that had fallen to 36.7 per cent in 2022–23. It has gone from 60 per cent to just a little over one-third. About 5.3 per cent of those external reviews took more than 12 months in 2018–19 and 36.7 per cent in 2022–23. There has been, in my view, some under-resourcing of that office. The government needs to give an undertaking that it will make sure the new Information Commissioner will have the resources necessary to ensure a timely turnaround on freedom of information requests and reviews. The number of reviews finalised was 152 in 2018–19 and 139 in 2022–23. There has been a fall in the number of finalisations of reviews, even though there has been an increase of reviews on hand and sitting for quite some time waiting for the review period to run its course. We know that the average cost per external review finalised was $10 085. It is an expensive business going through some of this stuff. The target was $8 472 in the budget. That shows there are cost blowouts even in the Office of the Information Commissioner. No doubt it is overwhelmed, which makes it more difficult to get ahead of the backlog. We know that some funding was awarded—I think it was $1.7 million over two years—to increase the number of staff by three FTE to help reduce that backlog, but I am not sure whether that will make a significant difference. With the new parameters that will be put in place around information, perhaps very lengthy reviews will continue to take place. That becomes quite debilitating when trying to track down information. We know that ministers are always asking for extensions and come back for other extensions and reductions in scope to the point at which we think it is almost pointless carrying on with a request. We need the ability to go to the Information Commissioner and seek a review of the requests so that we can ensure that the role played by the commissioner under the Freedom of Information Act is being done effectively. In order to do that, we need those resources. I am not sure whether those three FTE will make a big difference in the backlog but there certainly is a backlog currently. Only recently I received an email from a constituent who had received a reply from the office saying that the review was very lengthy and they could expect an extended wait for a response on their matter, which was disappointing, no doubt, to the person who put in that application.

We know that at the back of the bill are a couple of schedules. Schedule 1 outlines 11 privacy principles that are said to guide the implementation of this bill and the carriage of the actions underneath the legislation. That is matched in schedule 2, which has five responsible-sharing principles relating to information. There is an attempt to outline some reasons why it is important to share the information and there certainly is a considerable amount of detail in the Privacy and Responsible Information Sharing Bill around how it will all work. We know that the matters outlined in the bill will be supported by the change from an Information Commissioner responsible entirely only for the Freedom of Information Act to an Information Commissioner who will have oversight of that and of the sharing of information, backed up by a deputy commissioner in each of those two roles in information sharing and the application of the Freedom of Information Act.

There will be a significant amount of change. At this stage, we have not been able to get information about the costs of some of those changes; perhaps the Attorney General might know that, and he may be able to outline matters such as what will be the expected cost of the creation of these new offices. It looks like it will be quite an expensive agency to set up. We know that, oftentimes, governments make promises about transparency. A promise about transparency is being made through this legislation, but whether we see that transparency emerge will be largely subject to the willingness of government agencies to actively participate in these processes. There are still a number of clauses within the legislation that will enable agencies to get out of sharing information, so it will be important for agencies to go through a shift in their mindsets in the way they handle and share information.

I think it will also be interesting to learn how, in the event of a breach, the role and powers of the new Information Commissioner will interface with the roles of other agencies such as the Corruption and Crime

Commission, for instance, which has reported in the past on inappropriate data sharing or access. Members will recall the situation with the Department of Transport and TRELIS, whereby the commission found that information had been unlawfully accessed on a number of occasions and the department had done very little about it. That goes back to the willingness of departments to make sure that they are doing their bit. That will also apply to agencies, because a whole range of agencies will be affected by this legislation—not just traditional departments, but also government enterprises and other government service providers will be bound by this legislation. It will be a complex piece of work to actually make it all gel together. As we know, in the world of bureaucracy, a principal aim of many is to increase the number of people working under them and treat it as some sort of matrix or metric of their success. I think people were a bit staggered to know how many people actually work under the Parliamentary Commissioner for Administrative Investigations, or the Ombudsman, in his role, because people have the view that the Ombudsman is just there to check up and make sure that due process is followed in situations whereby the council has told someone that their rates bill was going to be $3 000 and it is actually $4 000. We know the types of things many people think the Ombudsman is there for, but we also know that a lot of other very complex and quite harrowing matters are dealt with by that office—for instance, the situation of reportable conduct, whereby breaches or offences against children that have been reported in certain professions go to that office, which is charged with investigating and going through a lot of those matters. The office itself has the powers of a standing royal commission. It will be interesting to contrast that with how this commissioner will work. We will be able to draw parallels between the powers of the CCC and how it already operates in this space. The Ombudsman will interface with this office, and I think that adds another layer of complexity to the whole discussion on this legislation. I think it will be an interesting discussion.

I understand that the government expects this legislation to be put through by some stage tomorrow. Again, I am not sure why the government has to rush legislation through this place. The whole idea of Parliament is to not only fully discuss legislation and try to unpick the meaning of a lot of the clauses, but also identify where there might be flaws in legislation. I think that the Attorney General may feel that his legislation is always perfect when it comes in, but, mysteriously, sometimes it is amended by his own actions.

Mr J.R. Quigley: And we make it more perfect!

Mr R.S. LOVE: I think that is what the Attorney General said to me in discussion. He brings in perfect legislation and he makes it more perfect. By definition, if it is perfect when it comes in, it cannot be made more perfect, so I think that the Attorney General may be claiming that accolade with a degree of tongue-in-cheek, shall we say! But we know that this is a very complex piece of legislation. As I said, there are hundreds of clauses to be dealt with between the two bills, which deal with the creation of these new offices, how they will interact with the chief data officer, the committee that will be formed to ensure that processes are carried out by government in the carriage of the powers of the act, and just what powers the Information Commissioner themselves will have. I think that it will be quite an eye-opening discussion, and we will be able to get to the bottom of some of those questions.

I do not know whether other speakers on the government side apart from the Attorney General want to talk on this bill, so I will keep talking on the matter.

As I said, in opposition, we know how important it is to have reasonable access to information. We know how often commercial-in-confidence is cited as some sort of measure for the government to not share information. It will be interesting to find out how that will play in with some of the information sharing that will be called for. Also, when the government says, as it does, that it will be using information for the formation of government policy, how will that be protected from the formation of party political policy for the government of the day? Governments already have a tremendous advantage of incumbency. If the government has access to a full suite of information right across government and is able to draw on that at its fingertips to, "make government policy", which is code for making party political policy, because the two are essentially the same thing when someone is in government, it will be important to make sure that there are protections around the use of that information pertaining to the production of party policies. For instance, it would be fair enough for the Department of Health to use information to design a better policy on how to address people when they enter an emergency department, but if it was about the Minister for Health having better access to information so that the government of the day can make policies using information that is not available to other people, I think that would be a problem. I will be interested to know what access other members of Parliament will have to some of the information that will be made into this huge data dump, which ministers will presumably be able to use at will. We also know that if a government department feels that sharing information is not appropriate, the minister of that department can —

The DEPUTY SPEAKER: Members, we are still in the middle of debate here. Can you keep the noise down, please.

Mr R.S. LOVE: We know that in a case in which a department might say that it is not really appropriate for information to be shared in some way, the minister of that department will be able to issue some directions. We will go through some reasons that might be the case and what the implications might be. One would think that a government department would be better placed than a member of Parliament to know what information is sensitive, but these are questions we will be seeking answers to in consideration in detail, which I assume will happen at some time after we debate the matter of public interest, which will follow question time. The Attorney General

will have a very lengthy period in the chamber today, as will the Leader of the Opposition. No doubt we will hear again how his so-called perfect legislation can be made more perfect by our interrogation of it, as we have seen before when he had to take it back and make it more perfect. I think the Electoral Act was the latest legislation that had to be made more perfect than it was when his perfect legislation came in. We have seen the perfect legislation that the Minister for Police brought in here, which was very imperfect and will need to be amended in this place.

Debate interrupted, pursuant to standing orders.

[Continued on page 3112.]

LEGISLATIVE ASSEMBLY AND PARLIAMENTARY SERVICES DEPARTMENT — MEMBER SURVEY

Statement by Speaker

THE SPEAKER (Mrs M.H. Roberts) [2.00 pm]: I have a little reminder for members ahead of question time today. For those who have not yet completed their annual surveys for the Legislative Assembly and the Parliamentary Services Department, return your completed survey to an Assembly staff member by the end of the week—that is, Thursday. The surveys can be completed quite quickly. It is in all our interests for you to complete the survey.

VISITORS — FREDERICK IRWIN ANGLICAN SCHOOL HARRISDALE SENIOR HIGH SCHOOL

Statement by Speaker

THE SPEAKER (Mrs M.H. Roberts) [2.00 pm]: On behalf of the member for Dawesville, I welcome to the public gallery Frederick Irwin Anglican School in Halls Head. I am not sure they have joined us just yet, but on behalf of the members for Jandakot and Southern River, I welcome the students from Harrisdale Senior High School to Parliament today.

QUESTIONS WITHOUT NOTICE

NICHELIVING

403. Mr R.S. LOVE to the Treasurer:

I refer to a meeting between the Minister for Commerce and Nicheliving representatives that took place yesterday following significant pressure from the media, impacted customers and the opposition.

(1) Having now met with Nicheliving, can the government confirm how many outstanding builds are yet to be completed by the company?

(2) Noting that some customers have been waiting for their homes to be built for up to 1 000 days, why has it taken so long for the government to act on this issue?

Ms R. SAFFIOTI replied:

(1)–(2) I thank the member for the question. First of all, we understand that many Western Australians, whether with Nicheliving or other builders, have experienced hardship in relation to the completion of their homes. We saw with COVID, in a sense, a once-in-a-generation disruption to the built construction market and we have seen a plan for recovery. Many Western Australians, whether with Nicheliving or others, have experienced delays. That is why we have introduced a number of measures. One of them was that we changed our land tax regime to ensure that those who have been waiting more than two years for their homes to be completed will be exempt from land tax. That has benefited a number of people. We made sure we put that regime in place. The second is that we introduced the builders loan facility. We have seen a number of small home builders apply for funds to support the completion of homes. The builders loan facility is the only one of its type in the nation. It was targeted at small builders, with the number of homes capped at five, to get support through the builders loan facility. It was very much targeted at small builders, and particular criteria was established.

The Minister for Commerce met with Nicheliving yesterday. We are working through some of the discussion points through that meeting in relation to actual numbers. The Leader of the Opposition will have to refer that to that minister, and, if he gave me some notice, I would have probably been able to give him that information too. We are working through the extraordinary circumstance of Nicheliving and its impact on home owners.

We very much sympathise with home owners in Western Australia who have been waiting for their homes to be built. I know that, across the suburbs and the state, people have been waiting many years. We very much sympathise with them. That is why we introduced the builders loan facility. As I said, Nicheliving is not a small builder; it is a bigger builder. As a result, we are working through unique circumstances, but our aim is to always support those who have been disadvantaged through circumstances beyond their control. We understand the anxiety that brings with it. We are very much keen to continue to work through it. This is not an easy solution or path, because going in and trying to support those builds has many complexities.

In relation to the builders loan facility, we continue to progress those. As I said, the builders loan facility was very much targeted at smaller builders. This is a bigger builder and in relation to the number of stranded assets, those numbers are bigger and that is why we are working through the information it provided us.

NICHELIVING

404. Mr R.S. LOVE to the Treasurer:

I have a supplementary question. To give confidence to the homebuyers, will the Treasurer table the minutes or any notes from the meeting that took place yesterday and provide the information that the minister sought from Nicheliving?

Ms R. SAFFIOTI replied:

I can give confidence to homebuyers that no government in Australia takes this issue more seriously than ours. We were criticised. To be honest, we went out on a limb to create a builders loan facility that has never been done in this state or across the nation. We have gone out of our way to put in new mechanisms. We were criticised for it. I think we were criticised by the opposition for the builders loan facility.

Mr R.S. Love: No, you were not.

Ms R. SAFFIOTI: I think it did. I will go through and find it.

We are a government that takes these issues seriously. We have been very nimble in responding to what is happening through a number of different measures. We take it very seriously. That is why we acted to change land tax, for example, as soon as we could, to make sure that those who have been waiting will not pay land tax. That is why we created the builders loan facility. As I said, someone point to me an equivalent of this around the nation. There has been no other. We take it seriously and, as I said, we understand the anxiety that people are feeling.

In relation to Nicheliving, it is a big builder and as a result we are working through its particular circumstance. The Minister for Commerce is working very hard on this issue, as is the rest of government. We take it very seriously. I know that people out there have confidence that we will continue to take this seriously and make sure, when we can, to support those in need.

COST-OF-LIVING RELIEF

405. Ms C.M. COLLINS to the Treasurer:

I refer to the Cook Labor government's commitment to providing cost-of-living relief to all Western Australians.

(1) Can the Treasurer outline to the house how this government is providing cost-of-living relief to all cohorts of Western Australians, including through a recent initiative for seniors?

(2) Can the Treasurer advise the house whether she is aware of anyone who opposes the government's cost-of-living measures?

Ms R. SAFFIOTI replied:

(1)–(2) I thank the member for the question. As we know, as a result of a number of factors, in particular the inflationary environment post-COVID and of course some interest rate increases, Western Australians are facing challenges during this time. That is why we have made sure that cost-of-living support is a priority of this government. In particular, as part of the budget presented in May, we are delivering record cost-of-living support. Of course, we have the fourth household electricity credit of $400 for more than 1.1 million households. That has been backed in by the commonwealth with $300. Over the next year we will see $700 of support for households. We also have the WA student assistance payment.

The energy rebate was opposed by opposition members. They do not believe in the energy rebate. They do not believe in the WA student assistance payment either, and said that we should not be introducing a rebate that helps all families and we should have restricted that support. Public transport is another one for which the opposition is arguing against the level of subsidies that we are providing to Western Australians. Its members have said that the subsidy is too much. It needs to explain to the people exactly what level the increase for public transport users should be. I am glad we have students here from the member for Dawesville's electorate, because families in Dawesville are making the biggest savings over a number of our initiatives, in particular the two-zone fare cap, which is saving people from Dawesville and Mandurah thousands of dollars. Of course, there is free transport for school students, and in regional WA we have doubled the transport allowance for students. That was the first increase for two decades. We have added more funding to the regional airfare cap and increased the Regional Pensioner Travel Card. We continue to monitor to see what else we can do.

As the Minister for Tourism in charge of Rottnest Island, we asked how we could make Rottnest more affordable for school camps and seniors. For example, we have introduced the free school camp initiative for Rottnest Island for term 3. We have seen schools in lower socio-economic areas having access to basically free school camps at Rottnest. We have seen an oversubscription for that initiative. Of course,

we know that seniors also want to be able to experience our great island. That is why we have the new $30 winter fare initiative for seniors to be able to travel to Rottnest on a capped fare to enjoy the island when they can.

Members would not be surprised by our cost-of-living record compared with the previous government's record of increase after increase in the cost of living. Household fees and charges rose by almost $2 100 during the eight years of the previous government—a record amount. Electricity, water and public transport saw massive increases across the field. Of course, that is without even mentioning what it did to TAFE fees; there were massive increases that basically made it unaffordable for many people in Western Australia. What we are doing is keeping track of the cost of living and subsidising a number of forms, like public transport and energy, and, of course, making TAFE free for Western Australians.

KNIFE CRIME — STOP-AND-SEARCH LAWS

406. Ms L. METTAM to the Attorney General:

I refer to comments that the Attorney General made in 2009 regarding the Barnett government's stop-and-search laws, labelling them as "fascist" and that he was totally opposed to the concept of stop and search.

(1) Why after 15 years is the Attorney General finally considering the introduction of this policy to curb record levels of violent crime in WA?

(2) Does the Attorney General agree that if he had supported these laws over a decade ago that violent crime, specifically knife crime, could have been averted?

Mr J.R. QUIGLEY replied:

(1)–(2) The stop-and-search laws proposed by the Barnett government years ago involved stopping and physically searching the pockets, clothing or anything of anyone walking through Northbridge or other areas. The proposed laws are not stop-and-search laws; these are wanding laws. These are the same sort of laws that exist at Perth Airport, under which people get wanded. What was proposed before was a body search of people without having any reasonable grounds to suspect that they were carrying anything unlawful. What is happening here is a proposed provision for wanding, which is not a search but may give rise to reasonable suspicion that a person has something of the nature of a weapon on their person. That would then give the police the right under the Criminal Investigation Act to conduct a search.

KNIFE CRIME — STOP-AND-SEARCH LAWS

407. Ms L. METTAM to the Attorney General:

I have a supplementary question. Despite the weasel words of the Attorney General —

Several members interjected.

Ms L. METTAM: —when will we see the laws introduced?

The SPEAKER: Order, please, members.

Point of Order

Dr D.J. HONEY: I was sitting next to the Leader of the Liberal Party and I could not hear the question. I am sure that Hansard and Parliament could not either.

The SPEAKER: In response to that point of order, had the Leader of the Liberal Party done as she requested and just asked a question, I doubt that she would have got those interjections. The reason she got no intervention from me was that she started off with commentary that included the words "weasel words" et cetera, which provoked the response. I have little sympathy for the Leader of the Liberal Party in that circumstance. Member, if you would like to ask a simple direct question as your supplementary question, you can do so now.

Questions without Notice Resumed

Ms L. METTAM: When will the proposed laws be introduced?

Mr J.R. QUIGLEY replied:

That is a matter for the Minister for Police. I do not introduce those sorts of laws. The Leader of the Liberal Party will have to ask the Minister for Police.

OCEAN REEF MARINA

408. Ms E.L. HAMILTON to the Minister for Lands:

I refer to the Cook Labor government's significant investment to deliver the Ocean Reef Marina.

(1) Can the minister outline to the house how this development, which is creating thousands of local jobs, will deliver significant levels of new housing?

(2) Can the minister advise the house whether he is aware of any public commentary on this important community infrastructure development?

Mr J.N. CAREY replied:

(1)–(2) I want to thank the member for her question and getting the right minister, unlike the opposition, and also for her fierce advocacy for the Ocean Reef Marina.

This is genuinely an exciting project for Western Australia, Perth, and, in particular, our northern suburbs. There is an excitement; we can feel it. I know the mayor, the former Liberal minister, is excited and is right behind this project, just as we are as a state government. In fact, it is brilliant to see the state and local governments working hand-in-hand to deliver this incredible project.

Yesterday, I was with the local member, the Minister for Emergency Services and the Premier to announce the next milestone, which is the construction of the Marine Rescue Whitfords hub and the Ocean Reef Sea Sports Club. These will be built by Byte Construct and it will take around 14 months. These will be state-of-the-art facilities that will enhance the overall marina.

I have to say that this marina actually means a lot to Perth and the state economy. During its construction, it will create 8 600 jobs and $3 billion for the economy. The actual amenities it will provide will include a beautiful marina, boat pens and our first true coastal pool, which I know people will flock to. Of course, critically, it will also create a new residential hub, with 12 000 square metres of retail, cafes, restaurants and 1 000 residential lots to help boost housing supply, including a major social housing lot.

I note, unfortunately, that the Leader of the Liberal Party was out yesterday criticising it and doing what she does best: not really offering any policies but just criticising and criticising. That is the only thing that the leader of the Liberals can do. However, I note that someone else was very excited about it. Someone else got on their social media and promoted it and was excited about it. I have to say, is anything good enough for Ian Goodenough? Well, in this case, he is very excited about the project. In fact —

Ms R. Saffioti: If Ian is excited, we're excited.

Mr J.N. CAREY: We are excited! We do not know whether he is blue or yellow and green. That will flow out. I know he is a big fan of Barnaby Joyce.

He signalled about it on his social media. In fact, someone might have thought that he was partly responsible for the delivery of it. That is true classic Liberal form—we have seen it with the Liberal candidate for Churchlands—claiming credit for things it did not do. It is actually a mastered art by the Liberals. Ian Goodenough said —

> Progress of civil construction works at Ocean Reef Marina has been remarkable.

It then sounds like he is trying to be a real estate agent —

> Release of the first residential lots for sale are expected in 2025.

He said to visit the DevelopmentWA website for more information. I do not know whether he is trying to be on the commission, but do members know what is a nice change? It is a Liberal—until he becomes a National—actually recognising an incredible project for Western Australia. Would it not be nice if the leader of the Liberals or the housing and planning spokesperson actually got behind a job-creating project that will create housing for Western Australia?

HEALTH SYSTEM

409. Ms L. METTAM to the Minister for Health:

I refer to the minister's failure to deliver quality health care that Western Australian patients and health workers deserve and the never-ending excuses rolled out by her government, including my favourite from last week about it being rainy.

What excuse is the minister going to use today for the alarming rise in poor clinical outcomes, including reports of tragic preventable deaths and parents' concerns being ignored?

Ms A. SANDERSON replied:

That was a question salad from the Leader of the Liberal Party. I want to address, first of all, her absolutely flippant remarks around the very comprehensive answer that I gave last week. We were all here and we all heard it. It was a very comprehensive answer that actually demonstrated a government that understands health: it understands the challenges of health, it understands the demands and it understands where the solutions lie. That is what that answer did. To distil it down to a flippant, off-the-cuff, simplistic response really reflects very poorly on the Leader of the Liberal Party, who is putting her party and herself forward at the next election as the alternative government and alternative health minister, I presume. She is able to digest information in only tiny, little, simple crumbs. That belies her performance. It is a big and complex health system. The Leader of the Liberal Party's question was so broad that I do not really know what she was asking, to be honest, but I will say that this government has made a record investment in health care and an investment in the most important part of our health system—staff. We have invested in a 4 400 increase in nursing staff over the last three years; 1 700 more doctors over the last three years; and

1 700 more allied health staff, including administrative staff who support clinical staff to do the clinical work. We have reformed the ambulance contract. We are reforming how we deliver emergency medicine. We are providing better access closer to communities. We have doubled cancer services in regional centres in this term of government. We have returned in-house the Liberals' failed privatisations of Serco and Peel Health Campus. Our record on health is strong. What I am concerned about is the politicisation of SAC 1 events that occur in every single health system and occurred under the previous Liberal government. What we have in Western Australia is a strong reporting culture. The feedback I get from clinicians is that they hate the politicisation of those events because it prevents them from coming forward and being honest and creating a culture of trust and openness in which we can learn from the events that happen in health care. Those events will happen when we are supporting a population of a state of our size. They happen across every single health system in this country and around the world.

HEALTH SYSTEM

410. Ms L. METTAM to the Minister for Health:

I have a supplementary question. Given that the government is failing on every metric—ramping, SAC 1 events, elective surgery—why is the minister not focusing on outcomes?

Ms A. SANDERSON replied:

The recovery of the Western Australian health system from COVID has been the strongest recovery in the nation. Our ramping numbers are coming down consistently. We are doing record amounts of elective surgery. We are recruiting staff at a pace that has never been seen before. We put 700 beds into the system in the last three years. The investment speaks for itself. Yes, there are times when the system is incredibly busy. That is the case for health systems. The important thing is how we respond to that. Is there capacity in the system to manage that busyness? That is exactly what we are doing as a government. The member is not even listening to the answer to her question. The fundamental issue with the Leader of the Liberal Party is that she never listens to the actual answer and is therefore unable to understand.

Several members interjected.

The SPEAKER: Order, please!

Ms A. SANDERSON: There is a saying that my mother used: simple things please simple minds.

STUDENT ASSISTANCE PAYMENT

411. Dr J. KRISHNAN to the Minister for Education:

I refer to the Cook Labor government's WA student assistance payment, which is delivering millions of dollars of support for Western Australian families.

(1) Can the minister update the house on the delivery of this payment to Western Australian families?

(2) Can the minister advise the house whether he is aware of anyone who does not support this education-focused cost-of-living relief?

Dr A.D. BUTI replied:

(1)–(2) I thank the member for Riverton for his question and for the outstanding work he is doing in informing his constituents about the Western Australian student assistance payment. Remember, this is a payment of $250 per secondary student in Western Australia and $150 for any primary school student, whether they are in the public or the private system. We on this side of the house believe that every student and every family in Western Australia should receive assistance in regard to education expenses. We believe that is incredibly important. Unfortunately, the other side of the house does not agree with us. At every opportunity since we made this great announcement, they have tried to criticise it or to say that it is not enough, it has come at the wrong time or it is too difficult et cetera. I would like to inform the opposition, and particularly the member for Roe who has been leading the charge against this payment, that as I mentioned last week in an answer to a question that the member for Roe asked me, members of the community have welcomed this. Nearly every day when I am in my electorate or other electorates, people come up to me and say, "Thank you very much; that is such a worthwhile payment." I do not quite understand why, as the shadow Minister for Education, the member for Roe is leading the charge against government assistance to students and their families. I just do not get it. What that payment is doing is that it is allowing parents to subsidise the payment of uniforms, shoes, football boots or textbooks that their children need for their studies. It is incredibly important assistance to families and students.

I would like to inform the member for Riverton, the house, the member for Roe and those on the other side that as of 16 June, 348 526 claims have been paid. An amount of $30.27 million has been paid for 210 846 primary and kindergarten students, and $36.67 million has been paid for 146 680 secondary students. That means that almost $67 million has already been paid for over 71 per cent of eligible students. We are receiving up to 2 000 claims per day. Does the member for Roe want to go out there and hold a press conference and say that this scheme, in which 71 per cent of eligible students have already had claims

paid and we have processed 348 500 claims, is wrong? I dare him; I challenge him. As I said last week, I am ready to get into a car with the member for Roe and go down to his electorate—to Katanning, Narrogin and even down to Esperance. I would love to do a road trip with him. We can go to those schools and encourage people to claim, because they have until Friday week, the last day of this term, to apply.

Ms R. Saffioti: He could choose the music.

Dr A.D. BUTI: He can choose the music and I will decide on the bakeries that we go to! I do not need to encourage members on this side of the house because I know that every member has been out there encouraging people to apply. I encourage all members on the other side to do the same. They are nothing but negative, but this is a great measure to reduce the pressures from the cost of living. They should get out there. The Leader of the Opposition is about to get up to ask the next question, but he should remember that his constituents would love this as well. I am sure that many of them have already applied for this great assistance.

Mr P.J. Rundle: Give us the breakdown of the schools so that we know what we are dealing with.

Dr A.D. BUTI: I am prepared to go with the member for Roe to his schools. Why does he want that breakdown when all he does is oppose this payment? Has the member for Roe gone out and asked his constituents about it or encouraged them to apply for it?

Mr P.J. Rundle: I am waiting for the figures.

Dr A.D. BUTI: Has the member for Roe gone out and asked the parents at his schools whether they have applied for the payment? Member for Roe, have you?

The SPEAKER: Minister for Education, it is your job to answer questions, not ask them. It also about time you came to a conclusion.

Dr A.D. BUTI: Anyway, folks, Friday week is the deadline Please encourage the remaining people who have not applied to make an application. It is $250 per secondary student and $150 for every student in primary school and kindergarten. It is a great measure. Everyone should support it regardless of their political persuasion.

STEPHENSON AVENUE EXTENSION — ASBESTOS

412. Mr R.S. LOVE to the Minister for Transport:

I refer to the Stephenson Avenue extension project and the recent discovery of asbestos, which the Construction, Forestry, Mining and Energy Union claimed to have reported to Main Roads Western Australia in February.

(1) Can the minister provide an updated timeline for this project?

(2) What will be the financial impact of this delay and additional works for Western Australian taxpayers?

(3) Why did it take so long for Main Roads to act to shut the project down, four months after the apparent report of asbestos?

Ms R. SAFFIOTI replied:

(1)–(3) I thank the member for the question. The Stephenson Avenue project was very much the number one priority of the City of Stirling for many, many years. I remember going there in opposition and the city saying it had been trying to get Colin Barnett and his team to commit to this project because it would completely transform the Stirling city centre and open up hectares of new land for housing development. That is why we committed to the project. It is a big project. As part of the overall project, we also committed to expanding the bus interchange. That bus interchange, I think, will go from 16 stops to 33 stops, so we are more than doubling the size of the interchange. We very much believe that the Stirling city centre will become an increasingly important place for both commercial activity and homes, given its proximity to the Perth city centre and the coast. Of course, there will be the brand new Stephenson Avenue linkage and the bus interchange.

As members know, the place of the project was a landfill site. A lot of work was initially done on tests throughout the area on what existed underneath. As a result, extensive piling was undertaken at the project area and areas around it where we have heavy machinery. It is a complex area. There was a tip with uncontrolled landfill for decades. I think it stopped being used for landfill over 40 years ago. Initial assessments were done and initial observations about asbestos being there were made. Since that time, we understand that there has been some asbestos—all the final testing is still being done—and we have instituted a number of measures, including onsite monitors. We also have teams down there to make sure the work practices on this area are safe and we will continue to work through that. Meetings are being held between Main Roads and the relevant contractor to make sure that occupational health and safety, workers' safety and community safety are priorities. On Friday, Main Roads informed the union, the community and the council about the expected asbestos on site, and as a result it is working through that. There are measures in place. As we know, asbestos is throughout many places in the community, and that is why we have rules and regulations. When suspected asbestos is identified, we go through all the rigorous processes.

STEPHENSON AVENUE EXTENSION — ASBESTOS

413. Mr R.S. LOVE to the Minister for Transport:

I have a supplementary question. If safety is the priority, has the minister asked Main Roads to explain how asbestos at a project site went unaddressed for four months?

Ms R. SAFFIOTI replied:

As I said, there were continual assessments, and it has been identified over the past week that there was likely asbestos. As I said, safety is our number one priority. We are working through that. These things happen on site, in particular when working on unused and old landfill sites. That is why we continue to monitor very, very closely and work through all the appropriate regulations. We have appointed dedicated supervisors down there to ensure we manage the whole site effectively.

TRANSPORT — DRIVER AND VEHICLE SERVICE CENTRES

414. Ms M.J. HAMMAT to the Minister Assisting the Minister for Transport:

I refer to the Cook Labor government's efforts to address strong demand for driving assessments and services.

(1) Can the minister outline to the house what measures this government has taken to help reduce wait times, increase services and manage demand at Department of Transport centres?

(2) Can the minister advise the house how these initiatives are delivering positive results for families and our communities?

Mr D.R. MICHAEL replied:

(1)–(2) I thank the member for Mirrabooka for the question and for her advocacy for greater service delivery in her electorate. She would be aware that on the border of her electorate and mine, in Nollamara, is the Mirrabooka driver and vehicle services centre. I think it is very close to the member for Morley's electorate as well. I know it is very busy at times, but the staff there do a great job in the work they do helping our community. Of course, the member would be aware that we recently announced that Mirrabooka has been open, along with other centres, for the last couple of Saturdays, and will be for the next six Saturdays, to help deal with the backlog we have seen in our system.

Yesterday, with the member for Joondalup, we attended the Joondalup Driver Assessment Centre, which is something that the member for Joondalup advocated for in the northern suburbs to the Minister for Transport to deal with the backlog of driving assessments and vehicle and motorcycle learners' plate tests, which were needed. That has been incredibly successful. We met a lot of the staff there, who do a great job. Since the Joondalup Driver Assessment Centre opened in November, with completely new staff not taken from anywhere else in the system, it has conducted over 10 000 driving assessments. It is working really well. Staff told stories yesterday about parents having celebrations when people come back having passed the tests—hopefully on the first go for lots, or the third go for me and a few others!

As I was saying, the Cook government announced that the City West, Cannington and Mirrabooka driver and vehicle service centres have opened on the last two Saturdays and will continue to do so for the next six weeks, opening from 7.15 in the morning to 2.15 in the afternoon to process driver and vehicle transactions. I can tell members that just on the first weekend those three centres served an additional 650 customers. That is in addition to the customers who were already served at the Kelmscott and Joondalup centres, which are always open on Saturdays. The eight-week blitz is aimed at clearing some of the backlog that some of the centres have been experiencing as a result of unprecedented increases in demand for some services offered by the Department of Transport. We know this because we have seen an increased population in Western Australia, and coming with that is an increased need for overseas and interstate driver's licence transactions and a whole host of other transactions.

The Department of Transport is also investigating developing and implementing some other ideas that include the recruitment of additional staff to assist in managing the flow of customers at these existing centres. We are further investigating and mapping where we might need additional service centres in the future, as our city and population continue to grow. We will obviously improve communications about digital transactions and alternative solutions to in-person attendance. Just on that, I encourage all members, if they have not done so already, to think about creating a DoTDirect account, as well as encouraging their constituents to do the same. It is something I did recently. It means that all vehicle licences—I think it does skipper's tickets and all sorts of other things—can be managed online to help with demand in our centres. We live in an age in which lots of things get done online. It is a really good system. It is very secure and can help us alleviate the backlog. We continue to look at other options like expanding services at Australia Post or, in the country, some of those other service providers in our regions.

Finally, I would like to acknowledge and thank the staff at our driver and vehicle service centres for their hard work, as well as our customers for their patience, especially over what has been a period of very intense demand.

PUBLIC TRANSPORT — FARE-FREE TRAVEL — FINES

415. Mr P.J. RUNDLE to the Minister for Transport:

More than 20 students have been fined every day for not tagging on to public transport, resulting in a total of $135 000 in fines. In addition to this, 1 350 teenagers have been fined for travelling on the Transperth network without tagging on with SmartRider cards.

(1) Given that the government announced free public transport for schoolchildren, why does it continue to take money from our kids?

(2) Is this an indication that the campaign was not effectively communicated to them?

(3) Will the minister commit to an educative approach rather than a punitive one and refund the students she has fined?

Ms R. SAFFIOTI replied:

(1)–(3) Okay; a couple of things. The number of infringements since the start of the program represents 0.18 per cent of the more than 7.3 million student SmartRider boardings in the same period. It is free public transport for those who follow the rules. Of course, sometimes some kids legitimately have forgotten their SmartRiders and warnings are provided. I am advised that those who are wearing their school uniform are given warnings. There is a small percentage of children aged under 18 years who sometimes present management issues in relation to antisocial behaviour and how they manage themselves on the bus and train system, and, of course, that affects other people catching those trains and buses. I will tell members what: I get more complaints about people misbehaving than I do about other issues on the network. We are very proud of our free public transport for students.

I tell members what: do members know what the previous government never did? It never issued fines to people travelling on the Ellenbrook line, did it? It never issued fines for people travelling on Metro Area Express light rail because it failed to deliver on public transport. On this matter, I do not understand where the opposition is at. It opposes subsidising public transport. Both the Liberal Party and the National Party came into this chamber—so they did in the upper house—railing against our increased subsidy for public transport. Opposition members said that we should not be subsidising public transport this much. That is what the Leader of the Opposition said. During the forward estimates, the member for Cottesloe said we should not be subsiding public transport.

Dr D.J. Honey: No, we didn't. That's completely untrue. I said you're wasting public money because you can't manage the public transport system properly.

The SPEAKER: Order, please, member for Cottesloe.

Dr D.J. Honey: Tell the truth.

Several members interjected.

The SPEAKER: Order, please!

Ms R. SAFFIOTI: This is important. He said that the costs have blown out. One of the reasons the cost of operating the system—the net cost—has increased is that we are providing free public transport. The net operating cost of the system has increased. Do members know what drives the net operating cost? It is expenditure minus revenue. When we give free public transport to students —

Dr D.J. Honey interjected.

The SPEAKER: Order, please!

Ms R. SAFFIOTI: When our government gives free public transport on Sundays, a summer of free public transport, and caps public transport fares to two zones, that increases the subsidy. Members opposite come in here talking about fines, so I ask: what is their policy on the operating costs of public transport?

Mr R.S. Love interjected.

Ms R. SAFFIOTI: The member has said that there were 7.3 million free boardings. What is the Leader of the Opposition going to do? He will disregard the people of the suburbs, like he always does! Why does he not go out and tell people how much he will increase public transport fares by? Why does he not do that? I provided information about operating costs.

Mr R.S. Love: You're mean. That's more than 1 300 kids.

The SPEAKER: Order, please!

Ms R. SAFFIOTI: How much will he increase public transport costs by? Honestly, the Leader of the Opposition —

Several members interjected.

The SPEAKER: Order, please!

Ms R. SAFFIOTI: Talk about mean! I will tell members what mean is. It is a Leader of the Opposition who sacrifices members of Parliament because he is trying to shore up his position in the midwest. He goes and gets rid of members of Parliament for his own ego. That is the definition. He went out there —

Several members interjected.

The SPEAKER: Minister, sit down. Points of order are heard in silence.

Point of Order

Mr P.J. RUNDLE: My question is about these 1 300 —

The SPEAKER: Sorry; have you got a question or a point of order?

Mr P.J. RUNDLE: It must be relevant, under section 78 of the standing orders. The minister is drifting into irrelevancy.

Ms R. SAFFIOTI: No, I am responding to interjections.

Several members interjected.

The SPEAKER: Members! I do not uphold that point of order. We have had far too many interjections. I understand that some people feel very provoked by what is said, but there is no point of order. I ask the minister to respond and wind up her answer.

Questions without Notice Resumed

Ms R. SAFFIOTI: Sure. I will keep responding to what they said. The Leader of the Opposition goes and basically sacks or gets rid of members of Parliament who cannot help him individually. He does not care about the party around the state, but about his own ego. He goes and gets rid of members of Parliament because they do not shore up his position in the midwest. That is what he did and everyone knows what he did.

In relation to public transport, we are proud of free public transport. The National and Liberal Parties said that we should not be subsidising public transport as much. That is their position; they do not want to subsidise public transport. They came in here and said that in both estimates and the budget reply. That means that the opposition will increase public transport costs for everyone in Western Australia. That is the policy position. When people start asking the opposition for its policy positions out there, I cannot wait to hear the response. I cannot wait to get clarity on just how much the opposition will increase public transport costs. Is it 20 per cent? Is it 30 per cent? Is it 50 per cent? That is because the opposition's policy is to increase public transport. The residents living in the Dawesville electorate will not get the two-zone cap anymore; I will tell members that! The opposition will increase the cost of public transport for all Western Australians.

PUBLIC TRANSPORT — FARE-FREE TRAVEL — FINES

416. Mr P.J. RUNDLE to the Minister for Transport:

I have a supplementary question. Does the minister agree with the Premier's reference that the students who are not tagging on or who may not have a SmartRider card or who may have forgotten it are troublemakers?

Ms R. SAFFIOTI replied:

As I said, there is a system that goes through with transit officers providing warnings. If students are wearing their school uniforms, warnings are in place. We understand that a small percentage create issues on our public transport network. The member is saying that someone who deliberately goes out to cause people harm or —

Mr P.J. Rundle interjected.

Ms R. SAFFIOTI: No, the member is saying that we should turn a blind eye and not worry about the rest of the passengers. Well, we worry about the passengers on the network! If there is a small group who want to cause trouble for law-abiding citizens, then they will be issued fines. That is what happens, because we want to protect the entire community.

HYDROGEN HUB — PILBARA

417. Ms L. DALTON to the Minister for Regional Development:

I refer to the delivery of the $140 million Pilbara hydrogen hub.

(1) Can the minister outline to the house how the Cook Labor government's delivery of a clean energy training and research institute within the hub will create new local jobs in regional WA?

(2) Can the minister advise the house how this investment builds on existing clean energy initiatives that are diversifying regional economies and creating jobs across the state?

Mr D.T. PUNCH replied:

(1)–(2) I certainly can, and I thank the member for her question. I thank her for her commitment to innovation and new technology right through her electorate. Thank you very much, member.

Of course, this is a government that is thinking continuously about what the future holds. We have worked incredibly hard to build a solid base for our state, and now we are looking at the opportunities that flow from economic diversification, the challenges of the future, and, globally, at what the jobs of the future will look like. I am very pleased to advise members that as part of that, last week the Cook government called for applications to design the Pilbara-based clean energy training and research institute, known as CETRI. It is part of the $140 million Pilbara Hydrogen Hub project to set that region up for a clean energy future. We on this side of the house know that that is the way of the future. Everywhere you go in the world, everywhere you look, people are looking at the opportunities of new technology and new energy.

The state-of-the-art multi-user training hub and research institute that is planned will incorporate different training providers and research sites across industry, tertiary and vocational training settings. The centre will focus on research, innovation and development activities as well as developing skills and training related to clean energy industries, including the production, transportation, storage and export of renewable hydrogen. The Pilbara hydrogen hub was jointly funded by the Cook and Albanese government. That is yet another testament to the very positive relationship we have. The hub is expected to become operational by mid-2028, supporting around a thousand direct and indirect jobs in the region, drawing on the skills of the future.

The milestone for the clean energy training and research institute follows last week's announcement by the Minister for Training and Workforce Development, who has been doing a brilliant job and has ensured that WA will be home of the nation's first Clean Energy Skills National Centre of Excellence, which is a $70.5 million initiative jointly funded by the state and commonwealth governments. This government is positioning Western Australia for the technology and energy of the future. The Clean Energy Skills National Centre of Excellence and the CETRI collaboration will leverage the existing strengths of the state's TAFE network and skill thousands of Western Australians to take up these new, quality clean energy jobs of the future.

Developing the skills we need for clean energy jobs of the future will help Western Australia to secure major jobs creating hydrogen, ammonia, critical minerals and renewable energy projects in the region because we know that industry looks for talent and skills. That is what it looks for and that is what we are investing in. This institute will deliver the skills for Western Australians to transition and keep our economy strong for the future. Importantly, it will also help create opportunities for Aboriginal people to have a stake in the clean energy future across the supply chain and support the next generation of researchers and educators.

That is in stark contrast with the members opposite who, in the unlikely event that they may hold government at some point in the future, have vowed to shelve plans to shut down WA's coal-fired power stations by 2030 and still think that the idea of replacing the Collie coal-fired power stations with nuclear reactors has some merit. They are looking in the rear-view mirror. They are no better than their federal counterparts, who have also rejected the Albanese government's proposal to set up production tax credits for processing critical minerals and green hydrogen. That is a direct attack on the future of the resources sector. The federal coalition was very quick to label those policies welfare for billionaires, but would Peter Dutton and the shadow Treasurer seriously argue that those royalty and stamp duty concessions that came out of the old Liberal governments of yesteryear did not have an impact on generating some of the resources development that we have seen?

Where is the WA Liberal Party in this announcement? It is looking in the rear-view mirror at technologies of the past while we are focused on the technologies and industries of the future and building a very solid foundation for Western Australia to be a powerhouse as we move into the second half of the twenty-first century.

The SPEAKER: The Leader of the Opposition with the last question.

FIREARMS BILL 2024

418. Mr R.S. LOVE to the Minister for Police:

Last week it was revealed in the Legislative Council that the Western Australia Police Force has been assessing firearms applications in line with the Firearms Bill 2024, legislation that the minister knows is still before Parliament, although we know also that the debate on the bill is set to be guillotined tonight despite promises in this place that that would not take place. Did the minister advise the police to ignore the processes of Parliament and prematurely enforce these proposed new laws?

Mr P. PAPALIA replied:

No.

FIREARMS BILL 2024

419. Mr R.S. LOVE to the Minister for Police:

I have a supplementary question. Why is the government forcing the firearms legislation through the Parliament this week when the minister made frequent promises in this place that this would not take place until August after the winter break?

Several members interjected.

The SPEAKER: Order! Just before I give the minister the call, there were a number of interjections, which there should not be.

Mr P. PAPALIA replied:

Thank you, Speaker. The Leader of the Opposition is aware that the process to deliver a draft bill, which is a rewrite of the Firearms Act and is the first time that has happened in 50 years, took two and a half years and included a huge two-year consultation process, the delivery of a consultation paper, the assessment of the submissions to that paper, the inclusion of amendments as a consequence of those contributions and also a debate in this place for the better part of, I think, 20 hours on the floor —

Mr R.S. Love interjected.

Mr P. PAPALIA: I am getting to the Leader of the Opposition.

The SPEAKER: Order, please!

Mr P. PAPALIA: Wait a minute.

Mr R.S. Love interjected.

The SPEAKER: Order, please!

Mr P. PAPALIA: There was a week and a half of debate in the lower house and then it went to the upper house where it was considered by the Standing Committee on Uniform Legislation and Statutes Review for, I think, a couple of months. The debate in the upper house, if you can call it that, took three weeks. It took three weeks of the Parliament's time. As I understand it, it got to the second clause of a bill that is in the order of 10 centimetres thick. So many clauses were not considered in the course of the debate to this point that it is extraordinary that the Leader of the Opposition has the gall to come in here after the tragedy —

Mr R.S. Love interjected.

Point of Order

Mr D.A. TEMPLEMAN: Point of order.

The SPEAKER: A point of order, which will be heard in silence.

Ms R. Saffioti interjected.

The SPEAKER: Sorry; Deputy Premier, I have given the call to the Leader of the House.

Mr D.A. TEMPLEMAN: The minister is clearly not taking interjections and the Leader of the Opposition is incessantly interjecting.

The SPEAKER: Not only that, Leader of the Opposition, but your interjections have been repetitive. You said the same thing over and again. I will ask you to desist and I will ask the minister to complete his answer.

Questions without Notice Resumed

Mr P. PAPALIA: Thank you, Speaker. It is extraordinary that the Leader of the Opposition has the gall to come into this place and talk about rushing the legislation. That is the first observation I make. Secondly, the opposition has a range of amendments in the upper house aimed at completely reversing the bill, unwinding the bill and making it easier for people to acquire firearms and ensuring that people who want firearms will be unlimited in the number they can possess. The opposition has amendments in the upper house to make the softest gun laws in the country. To do that and not revoke, repeal or withdraw —

Mr R.S. Love interjected.

The SPEAKER: Order, please!

Mr P. PAPALIA: To do that and not withdraw those appalling amendments following the Floreat tragedy is shameful.

Mr R.S. Love interjected.

Mr P. PAPALIA: The Leader of the Opposition should have not only withdrawn everything he has done, but also directed those people representing his party—the ones he is not going to endorse at the next election for the upper house—to support the legislation. That is what the Leader of the Opposition should have done, but he has not. He has actively sought to incite anger against legislation that is aimed at making the community safer.

Mr R.S. Love interjected.

Mr P. PAPALIA: The number one reform of the new legislation is to elevate public safety to the primary consideration, above all other considerations. The Leader of the Opposition opposed that. He opposed the mental health component of the health check. He opposed the limit on the number of firearms someone can own.

Several members interjected.

The SPEAKER: Order, please, members!

Mr P. PAPALIA: The Leader of the Opposition opposed —

The SPEAKER: Minister! Leader of the Opposition, this is not a debate. It is not an opportunity to debate the minister. He is responding to your question and he is coming to a conclusion. I do not want further interjections.

Mr P. PAPALIA: The Leader of the Opposition opposed reforms that will reduce the number of firearms across the suburbs of Western Australia. It is extraordinary that the Leader of the Opposition has the gall to retain that stance in light of what we just witnessed in recent times. I am appalled and I am disappointed in the Liberal Party, which continues to fail to support the legislation. If the Liberal Party does not oppose it, it does not support it. Both the opposition parties of Western Australia are letting the people of Western Australia down on a very simple proposition, which is to make the community safer.

The SPEAKER: That concludes question time.

MINISTER FOR RACING AND GAMING — LIQUOR STORES ASSOCIATION EVENT TRANSPORT — TOW TRUCK INDUSTRY

Question on Notice 1075 and 1082 — Answer Advice

MR R.S. LOVE (Moore — Leader of the Opposition) [2.59 pm]: I rise under standing order 80(2) in relation to answers being provided to Legislative Assembly questions on notice. I ask the Minister for Racing and Gaming why no answer has been received to question on notice 1075, and I ask the Minister Assisting the Minister for Transport why no answer has been received to question on notice 1082.

MR P. PAPALIA (Warnbro — Minister for Police) [2.59 pm]: I have no idea; I will check on that and get back to the member.

Speaker, I also rise under standing order 82A to table responses to supplementary questions to Assembly Estimates Committee B hearing on Tuesday, 21 May 2024.

The SPEAKER: I will give the minister the call for that in a moment. I first give the call to the Minister Assisting the Minister for Transport.

MR D.R. MICHAEL (Balcatta — Minister Assisting the Minister for Transport) [3.00 pm]: Thank you, Speaker. I will double-check, but I know that I signed off one this afternoon, so it might be in the system.

LEGISLATIVE ASSEMBLY ESTIMATES COMMITTEE B

Western Australia Police Force — Supplementary Information

MR P. PAPALIA (Warnbro — Minister for Police) [3.00 pm]: I stand under standing order 82A to table a response to supplementary information B1 to a question asked in Assembly Estimates Committee B hearing on Tuesday, 21 May 2024.

[See paper 2900.]

MINISTER FOR HEALTH — PERFORMANCE

Matter of Public Interest

THE SPEAKER (**Mrs M.H. Roberts**) informed the Assembly that she was in receipt within the prescribed time of a letter from the Leader of the Liberal Party seeking to debate a matter of public interest.

[In compliance with standing orders, at least five members rose in their places.]

MS L. METTAM (Vasse — Leader of the Liberal Party) [3.01 pm]: I move —

> That this house condemns the Minister for Health for her failure to make Western Australian patients a priority, the minister's litany of excuses for the mismanagement of our health system, and the minister's inability to provide sick Western Australians the health care they deserve, resulting in poor patient outcomes.

As the motion points to, the buck ultimately stops with the minister. I asked a question in this house today on what excuses we might get today, and I am sure I will hear them in response to this motion. But it is fair to say that I heard from a number of people across the community who were quite outraged by the reports last week of the minister's response and the harrowing tale of the cancer patient who had to reportedly spend four or six hours on a trolley outside the toilets in an emergency department. I will go back to that.

The purpose of this motion is to highlight what we see as an issue of utmost importance and urgency—that is, a health system that could be much better supported, the deplorable state of the health system and the need for

better support for our health workers and better patient outcomes. We know that our health workers across the health system do an extraordinary job, but they continue to be challenged by a government that has its priorities all wrong. Hospitals, health care, professionals and, most importantly, Western Australian patients are unnecessarily suffering as a result of systemic failures and mismanagement of failed health minister after failed health minister in a government that, as I have stated, has its priorities wrong. The minister talks about reforms and actions that the government is undertaking, but when we look at the outcomes across the health system, as well as the feedback that we receive from health workers and patients, it is quite clear to see that this government is moving in the wrong direction.

I refer to the patient who is battling stage 4 cancer who was forced to endure the indignity of being on a ward bed in a corridor outside the public toilets for up to four or reportedly six hours. We are seeing situations in which our ambulances and highly skilled paramedics are also sitting for record numbers of hours waiting for patients to be admitted, rather than attending emergencies, because of the bed block that still exists in our hospital system. Again, despite the spin, those ramping issues are certainly not going away. Ambulances were ramped for nearly 5 000 hours last month. We are also hearing about some very tragic cases that underly the importance of parents' voices being heard when it comes to their children's health. A couple of cases of this have been reported over the last couple of weeks.

The time for empty promises and political grandstanding has to be over. The time for a number of excuses also has to be over. Our families and loved ones and our health workers deserve much better. They deserve a healthcare system that puts their wellbeing at the forefront—a system that is equipped to best support our healthcare workers, who do an extraordinary job. Only last week, our Premier stated that our Minister for Health is doing a better job than he did. That is not hard when a system is in such disarray. With a bar so low to begin with, it defies belief that the current health minister could have made the situation worse—and yet here we are.

Regardless of the spin from that side of the chamber, here we are, and the facts are that ambulance ramping has increased by about 400 per cent over the last seven years. About 10 000 children are on the waitlist to see a paediatrician, up from 6 000 children 12 months ago. Over 30 000 people are waiting for elective surgery, which is a 60 per cent increase since 2017. There is a 20 per cent increase in elective surgery cancellations over the last 12 months, with 1 632 people's procedures being cancelled in February 2024 alone. The Australian Medical Association's *AMA public hospital report card 2023* labelled seven of the eight worst performing emergency departments in the country as being here in WA.

This out-of-touch government fails to understand that these are more than just abstract figures. Real people's lives are being impacted. I am often contacted by health workers, nurses, doctors and clinicians—the same people who many members hear from—in response to the damning statistics we are seeing at a time when we are meant to be enjoying the largest boom the state has ever seen.

In response to the case last week of the cancer patient who was left in the corridor, I received correspondence from a woman who emailed me on behalf of her mum and dad. She stated —

> Mum read in the paper about the poor gentlemen with prostate cancer, who was in the corridor of SCGH for hours cause there was no beds in emergency, and Mum just felt compelled to share Dads story.
>
> … This current government should be ashamed of themselves, their priority for spending money, is all wrong.

She then went on to explain the situation of her father, who was diagnosed with stage 4 lung cancer last September. He was referred to Sir Charles Gairdner Hospital. He arrived there at 11.30 at night, and because they had a bed block, he had to wait in the emergency department until late Thursday night, when he was finally admitted to the cancer ward. Their concerns go on. He was left to sleep in wet sheets on the Friday night as one of the drips in his arm came out and the sheets were not changed. They talk about the overstretched service there. We also have people such as Shelley French, who waited three years via the hospital system for an appointment with a gynaecologist, highlighting the hidden waitlist issue; Anita Grace, who flew from Newman with a blocked bowel, only to wait for three and a half hours for an ambulance to take her to hospital; and June Raxter, a veteran nurse, who felt that the system was so broken that she penned an opinion piece in WAtoday to tell her story. I am sure that Western Australians also know this firsthand. The stories do not end there. There are many, many others.

The excuses we hear from the government are also very worrying. Every time something goes wrong, the government trots out another excuse. It is not the hallmark of good governance; it is a tactic to shift blame, and we heard it last week. In the last year, 114 people died because of clinical mistakes. That is 114 deaths too many. Every side of the house agrees with that. The total number of severity assessment code 1 incidents rose from 553 to 585. The number of sentinel events, which are the most serious, has risen from 27 to 30. We are seeing a number of failures across the system. We hear the government's excuses, including the inability to recruit overseas health workers, low-priority presentations in emergency departments due to a lack of GPs in the community, staff taking annual leave during school holidays, unprecedented levels of demand and surging mental health presentations without non-hospital settings to move patients to. We have obviously seen the government point the finger at the federal government as well. We have heard it blame, unbelievably, all sorts of weather conditions and the respiratory

condition metapneumovirus. To date, there have been over 20 excuses. Of course, we understand the excuses surrounding COVID, but we are some time past that. Although the minister suggests that we have recovered the best from COVID, I point to where we are now compared with last year, as well as the Australian Medical Association report of 2023, which pointed to seven of the eight worst performing emergency departments.

It is not the job of the health minister to blame others. We expect there to be some level of responsibility. Although we hear about a number of reforms and actions, we are yet to see some really positive outcomes now that we are going into what will be the last half of the last year of this government. The statistics do not lie. Why has the health system deteriorated so much under this government? Why has a family member failed to receive adequate care? These are the questions that we are being asked. While this government continues to throw significant investment at and gives priority to projects such as Metronet, which has blown out by over 300 per cent—a $10 billion blowout on that project—we are seeing a significant lack of priority in our health system. I have mentioned the elective surgery waitlist and I pointed to the fact that 10 000 kids are waiting to see a paediatrician, which is up from 6 000. Despite the interim report of late last year, it took the government until this budget to make the commitment of $39 million. If we compare that with the $10 billion over budget that this government has spent on Metronet, it just highlights where the priorities actually lie.

These are really tragic cases. I have touched only on a couple of tragedies that have been reported recently, but I also touch on the case of Ashleigh Hunter, who was not treated for about an hour after reaching hospital. The overall outcome of that case may not have changed, but she was in significant pain. It was an awful death. The coroner reported on that incident in December 2023.

Ms A. Sanderson: You haven't stopped calling her parents.

Ms L. METTAM: Yes, I have. I was in contact with her parents. Her parents reached out to me and I spoke to them.

Ms A. Sanderson: That's not what they said.

Ms L. METTAM: That is actually not true, minister. You should get your facts right. Her parents reached out to me and I spoke to them. This incident was quite some time ago. It also highlights the need for real and timely answers. This incident took place in 2019. The coroner made some very important findings that were not finalised until December 2023. They were deeply disappointed by the approach and the state of the health system. The important point I am making about the coroner's findings is the length of time it took for the report to be made.

There are a number of failings here. The government quite clearly has one area of priority. What we need to see right across the board is a health system that is better resourced and managed. Despite a new minister, under this government we are not seeing a suitable level of care that meets community expectations. Given that we are enjoying the largest boom this state has ever seen, we are not seeing that reflected in the management of the health system under this government. Quite clearly, WA deserves better than Labor's excuses on this. Whether it is for patients, family members or the broader community, it is fair enough that the opposition asks questions in this place. We expect the government to listen to these very genuine concerns, to illustrate that it acknowledges those concerns and also to address the issue. So far, we have just had platitudes and have not seen any real improvements, despite the rhetoric of this government.

MS M. BEARD (North West Central) [3.17 pm]: I rise to support the motion. In the very short time that I have, I want to touch on some issues in relation to regional health, which will be no surprise to the Minister for Health. Despite our ongoing record surpluses, I am staggered that our health system in the regions has been systematically run down, with a shift in services from regional areas to metropolitan areas. The consequences of this are dire for the people and also the staff in the regions, who do an amazing job in servicing our regional people. As we all know, the regions span an enormous area of land. Sometimes that can be overlooked by people who are not buried in that space.

I will refer to a Royal Flying Doctor Service report. A situation that has been raised in the report is that regional communities are being forced to do more with less and people often have to travel great distances to metro areas to access basic health needs. That is something that everyone expects and is entitled to. The risk to people is increasing, not just in convenience, but it is a significant barrier to timely and effective medical care and it impacts the attraction and retention of population in our regions, particularly in remote locations. The Royal Flying Doctor Service's *Best for the bush: Rural and remote health baseline 2023* report highlights the alarming health disparities between the 30 per cent of the Australian population living in rural and remote areas and those living in the cities. The report aligns with the views of the National Rural Health Alliance, which calls for geographic health equity. It demonstrates the massive health underspend in rural areas, which contributes to the heavy burden of disease and shorter life expectancy, especially in very remote areas.

I draw on some examples of that underspend. As everyone knows, Tom Price Hospital is high on that agenda. Despite the $2.6 billion surplus that was built on the back of royalties from the north west, the government has not been able to bring itself to fund that health service for families living in the area and begin that project. It is very distressing for people in the region when legitimate and relevant grievances are put to the Minister for Health and

they are met with a litany of not only excuses, but also personal attacks that are really offensive. An example is last week, during question time, when no answers were provided to very reasonable questions and then the minister personally attacked the dedicated president of the shire, who is fighting for outcomes.

Ms A. Sanderson: That is absolutely not true. I did not say anything about the president of the shire.

Ms M. BEARD: The minister criticised her for running a campaign.

Ms A. Sanderson: No; I criticised the shire, not the president. You need to correct the record.

Ms M. BEARD: She is the shire.

That included questioning the community campaign and the need for the shire and community to bring the conversation to Perth. Surely, especially given that we will have our voices stripped away in the upper house—and in the lower house—these arguments will have to be brought to Perth, because communities have no choice. That is a long bow. The live export rallies show the resilience of people in the bush. They will continue to do this, because their voices are not being heard.

It was also disappointing to hear last week the outlandish and potentially misleading claim that the Shire of Ashburton has allegedly spent over $7 million on a consultancy, in stark contrast with the council minutes, which reveal a very different story. The indicated cost for phase 1 was $140 672, while phase 2 amounted to $77 899. That is a far cry from $7 million for consultancy. That is what was taken out of that answer. It is a sad reflection that these comments are upsetting to people in the bush, who are striving to get the services that they need. They have inadequate infrastructure and it is a promise that they have long been waiting for. Basically, they feel let down and that there is nowhere else to go, so they have no choice but to continue with the campaign. The people of Tom Price just want honest and transparent responses, as opposed to keeping them dangling and waiting for an answer.

Meekatharra Hospital is another example of the community having waited for a long time for its hospital upgrades. These hospitals service a large portion of the communities and wide areas of the regions. Many people who fly in and fly out of these towns are from metropolitan areas, as are tourists, and the towns are dilapidated and declining at a rapid rate. Paraburdoo Hospital is a tragedy. It is terrible. It needs work urgently, as do the hospitals in Laverton and Morawa. Geraldton Health Campus has had extra money put into it, which is good to see, but we need that to happen for all the regional hospitals, because it is crucial. Maternity services at Carnarvon Health Campus are another space where we see the potential of FIFO midwives coming in. It is a short-term solution, I hope, because people need consistent care and they want longevity of the people who look after them throughout their pregnancies.

It has taken two years to have active discussions with the Australian Nursing Federation, I understand, so nursing posts also is another area I want to quickly touch on before I let someone else speak. For a long time, communities across the Murchison and the midwest have been calling for funding for additional staff. They are very isolated and often left to one staff member. I speak to these staff members and some of them feel very vulnerable. There has been a plea from the regions for a long time that has fallen on deaf ears. In conclusion, the *Best for the bush* report provides evidence that we need to set some benchmarks and measures so that the government is held accountable annually, and we can be accountable to rural communities for both funding and levels of service to ensure that we are not left in a situation whereby communities have very limited or deficits in their health care. Clearly, the decline in regional facilities and services has increased. Our metro services and the Royal Flying Doctor Service are also under enormous pressure, along with the many impacted patients and families.

In conclusion, please understand that many in the bush have lost trust and are feeling like second-class citizens when it comes to their health. We need to give them clear and honest answers and to commit to promises, and give them confidence that they will have the health services they need, because some people in the regions are at a loss about why it has taken so long, given the surpluses that we have. They believe that they deserve better.

MR R.S. LOVE (Moore — Leader of the Opposition) [3.25 pm]: I rise to speak to this very important motion. As we know, Western Australia's health system has been run down throughout Labor's period in government, especially with this current minister. That has taken place despite the fact that we have massive budget surpluses year on year. The ability to do something with that money seems to be beyond the current government. We see ongoing press reports of tragic events occurring in our hospitals. Often, I think, it is because hospital staff are stretched to breaking point. When people work double shifts and are uncertain about when they will get home, and doctors are under such pressure, we see the sorts of things that have been highlighted in the press recently. For instance, the last reported one was the young girl who was sent home from Joondalup Health Campus after having been bitten by a tiger snake. She went to Perth Children's Hospital and it was found that indeed she had been bitten by a snake and was not putting it on like she was told at the other place. We know that ambulance ramping and elective surgery waitlists have blown out and remain at near record levels under this minister, and as we have heard, regional areas are hard done by under this current government.

Other members spoke about the Royal Flying Doctor Service. I remember a time when a Labor minister referred to it as an interest group. That is not a very wise thing to do for people who understand the importance of the Royal Flying Doctor Service. Last week, I was pleased to go to the launch of *Above and beyond: RFDS WA strategy*

2024–2028. The minister was there and helped launch the document. When I opened it and looked at page 5, I have to say that I was shocked that she launched it, because page 5 on health outcomes in regional Western Australia is sad reading. The graphic on that page depicts very clearly that someone who lives in Derby is 13 times more likely to die prematurely from disease than the general population. Someone who lives in the Kimberley is four to five times more likely to die from suicide or self-inflected injuries. Someone who lives in the Pilbara has 50 per cent fewer full-time general practitioners compared with the Western Australian average. In the goldfields, one in four adults have high blood pressure. In the great southern, 32 per cent of retrievals are due to cardiovascular disease, because of the prevalence of heart attack and stroke in those areas. In Bunbury, 38 per cent of adults are obese—the highest rate in Western Australia. In Carnarvon and South Hedland, someone is four times more likely to present to an emergency department for mental health-related conditions. Leonora is one of those areas that has been neglected by the government, and people there are 4.2 times more likely to die from a respiratory illness such as pneumonia, COVID-19 et cetera than the average. Those are shocking figures. I was shocked that the minister launched it, because if I were the minister, I would be ashamed to be there and be presiding over an outcome like that for regional Western Australians. It is a damning indictment on this government and its failure to prioritise those things.

We have heard the minister make excuses about why we cannot have hospitals in certain rural areas, even though we often express the need and are told it has to wait, because it has to have taxpayer value. There is not much taxpayer value if we look at outcomes like that in rural and regional Western Australia. Of course, we know that if people do not have good health outcomes because they do not have access to health services, that only adds to the expense of treating people as their health deteriorates. It is more costly for the government to not get on top of those illness situations and focus on wellness. It is failing the people of Western Australia. No failure of this government could be starker than when we saw the nurses rallying here at the beginning of this term of Parliament. I thought that seeing members of the Country Women's Association rallying here against the Labor government's decision on Moora Residential College back in its first term was stark enough, but we then saw our nurses take the time to come here to display their outrage. Some of them have considered running in elections because they are so disenchanted by this government. That was a damning indictment by people who I imagine traditionally would have been Labor supporters and who probably expected the Labor government to look after them, but we know that the Labor government has failed its nurses and other staff. We hear repeated stories of poor health outcomes for people who present to hospitals and emergency services because the services are just so stretched. We hear repeated excuses from this government. We have heard that there are 30 000 people on the elective surgery waitlist. The only people who have a lower priority than those 30 000 people for this government are the people who work within our health system. It is a disgrace that people are being treated in the way that they are. It is a disgrace that our regional communities are being treated in the way that they are.

MS A. SANDERSON (Morley — Minister for Health) [3.31 pm]: I rise in response to this motion. Of course, the government will not support the motion moved by the opposition, and I will outline why over the course of the next 30 minutes. I will tackle some of the specific misinformation that has been peddled by the opposition, but I want to start more broadly by reminding those opposite of the significant investment and reforms that this government has made in the health system since 2017. In fact, in the last three years alone, we have put 700 more beds into the health system in Western Australia. That number of beds is the equivalent of a large tertiary hospital like Fiona Stanley Hospital. Of course, that is not just the physical beds and the infrastructure; it is also the staff required to support the patients in those beds—thousands of nursing staff, thousands more clinical staff and thousands more administrative staff to support all those beds and the increased number of inpatients.

We have invested $827 million in major reforms alone. These are nation-leading reforms in Western Australia. I met with the presidents or chairs—I am not sure how they refer to themselves—of both the WA and national chapters of the Australian College for Emergency Medicine. The national president said that no-one in the country is doing the kind of reform that Western Australia is doing or at the pace that we are doing it. He travels to each state and meets with ministers in each one. It is his job to look after his members in emergency departments. He said that no other state is reforming at the pace and with the success of WA. I spoke with the Western Australian chair and she said that she had spoken to her members before coming to the meeting and asked them what they would like her to say to the health minister, and the majority had said to say thank you to the government for listening, because all those reforms are from clinicians. The reforms that the Leader of the Liberal Party dismisses and is incredibly rude about have actually come from clinicians. The approach that I have taken in this portfolio has been to listen to people on the floor, be open to good ideas, be open to trialling and funding good ideas and to work through the pressure points in our system in a systematic way. Our clinicians are front and centre of that.

The WA virtual emergency department is a clinician-led reform that has essentially been completely dismissed by the opposition. That reform is based on what happens in other states that have elements of that program. We have pooled all the elements of those programs to essentially provide people with an alternative to accessing emergency departments. They can access an emergency clinician in their home, in their residential aged-care facility or on site with a GP to provide them with access to the urgent care and treatment that they need. That is followed up by the residential care line, which provides a nurse practitioner to support them in their home when they are on a home care package or through the residential aged-care facility. First of all, the patient feedback on those reforms is

outstanding. Patients and their families prefer this model of care because they do not have to put their loved one in an ambulance to go to hospital. They can be treated and kept in place where they are comfortable and feel safe. This is evidence based and led by senior clinicians.

There are elements in place now of our other major reform, the State Health Operations Centre, which we anticipate will be fully up and running in August. That will be a massive shift in how we do health care in Western Australia. That will provide a single point of oversight and a single point of truth for the patient journey, from calling 000 to getting into the ambulance, going into the emergency department, going through emergency and into a ward and at discharge out again. It will include the patient transport coordination centre—PaTCH—to provide interhospital patient transport to make sure that we maximise the bed stock, including by transitioning people from tertiary to secondary to make room for people coming from regional areas with the Royal Flying Doctor Service. The centre will include the RFDS, St John Ambulance, the mental health co-response model, the WA Country Health Service command centre and all the health service providers that run hospitals, including the Child and Adolescent Health Service and the three major tertiary HSPs. It will be driven with real-time data and real-time information about bed availability and access. That major reform has been driven by clinicians; it has been driven by those who work in our system.

In the last two years, we have made excellent progress on ramping. From March 2022 to 2023, there was a 40 per cent drop. There was a 32 per cent drop from April 2022 compared with the period prior. We are seeing consistent and steady drops in those ramping numbers that we are not seeing across other states and territories. Of course, the opposition does not want to provide us with any credit for that. We saw ramping go up and up under the former government; we never saw it come down. It is actually coming down under this government.

The Leader of the Liberal Party provided her characteristically simplistic responses to complex issues, distilling multiple pressures on the health system into a headline so that she can get herself in front of the television cameras. In May and June this year, we saw a 23 per cent surge in walk-ins. We are seeing not only our system numbers improving but also a massive increase in demand. The system is working well to deal with the demand that is coming through the door, and that demand is only going to increase with an ageing population. As I said, we are seeing good system performance indicators that are stronger and more consistent than those in other states. That is due to the investment of this government and the hard work of staff in our system.

It is easy to find headline-grabbing cases in which staff have had to be resourceful, particularly during busy periods. We know that bed block can be challenging at times when we have an increase in medically fit for discharge patients who are ready for residential aged care. We have blockages in aged care. Confidence in residential aged care is back following the investments from the federal government and the beds are full. There are no more beds in Western Australia. We need more aged care beds; that is our challenge. National Disability Insurance Scheme patients are stuck in hospital waiting for that scheme's processes. There are also existing NDIS clients who have packages, but those packages are not appropriately managed. They have multiple intensive care needs, regular seizures and need 24/7 support and care. Those packages are not being responsibly managed by providers. Their providers are putting the NDIS clients into hospital, and that is occurring at Sir Charles Gairdner Hospital and Royal Perth Hospital. All of those things create challenges in the emergency department. During very busy periods there are patient flow processes and patients have to be triaged and transferred from the busy emergency department to a ward. The focus is always on ensuring that people wait a minimal time and that they are appropriately and safely monitored. That was the case with the gentleman who attended the emergency department at Sir Charles Gairdner Hospital and spent a short time in a corridor. He was kept as comfortable as possible. He was appropriately clinically monitored. It is regrettable that he had to spend that time there, but he was found a room as quickly as possible, and I commend the staff are doing that and for making him comfortable.

The opposition continues to claim that $800 million worth of reforms, a 30 per cent increase in budget and 4 400 nursing staff on the system in three years is not meaningful progress, which is extraordinary. We are doing everything we can to grow the healthcare workforce in Australia, and Western Australia has an appealing health system. People are coming to work with Western Australia Health. They are graduating nursing, whether enrolled nurse or registered courses, through the three major universities and they are coming to work in hospitals. We have delivered permanency for doctors for the first time in decades. We are supporting new nursing and midwifery graduates with wraparound support in hospitals. We have supported nursing and midwifery graduates, with $12 000 off their higher education contribution scheme fees in the regions. Last year, all 350 places were fully subscribed. We continue to work with more flexible rostering, streamlined recruitment processes and better support for graduates as they come into our system.

Our system is better for having had a Labor government, and the community knows that. That will be one of the tests at the election. The community knows that Labor is better for our public health system. We do not intend to privatise large parts of our health system. We are reformers. We provide better public health care. It is in every fibre of our being to support the delivery of public health care, not to privatise it out to large corporations.

In Western Australia, we are delivering historic nurse-to-patient ratios. That has been on the log of claims of the Australian Nursing Federation for more than 20 years. The Liberal Party and the Nationals WA, the opposition,

have not said whether they support the rollout and implementation of nurse-to-patient ratios. We have seen their implementation and rollout at Perth Children's Hospital emergency department already. We have finalised a task force and its terms of reference with the ANF to now go through our hospital system in a systematic way across the state and roll out those ratios over the coming years. It is an incredibly important workforce reform. This is a serious workload and workforce reform for our nursing staff, and that is a result of this government. We have still not heard anything from the Liberal and National Parties about whether they even support that.

Supporting our junior doctors and medical workforce is also a significant priority. It is no secret that there are cultural challenges in medicine. We want to support our younger cohort of junior medical officers coming up through the ranks. They have different priorities. They are seeking a different lifestyle and a different kind of work–life balance, which their predecessors have had over the years. We have been working with the Australian Medical Association in WA on measures that will improve conditions for the junior doctor workforce. I am pleased to say that some of those things are already being felt by the workforce—measures like the junior doctor manifesto at North Metropolitan Health Service, which focuses on streamlining overtime approvals and a culture of collaboration and psychological safety. We have piloted a new leave approval process, which has seen those approvals go from 48 per cent to 92 per cent. It has been a struggle for junior doctors even to access leave that they are entitled to. That has now been almost completely removed. Workplace bullying, sexual harassment and discrimination are absolutely never acceptable, and health service providers have developed an anonymous bullying, discrimination and sexual harassment reporting to encourage junior doctors to report some of these behaviours. We have created more positions, which will provide more flexible rostering arrangements to help improve vacancy and retention rates.

The Leader of the Liberal Party never really talks that much about reforms to the healthcare workforce and what the Liberal Party will do. The former health minister, Kim Hames, wanted to axe over 1 000 jobs at South Metropolitan Health Service. He wanted to take 1 000 healthcare workers out of south metro health service when the Liberal Party was in government. We have increased our health workforce by more than 30 per cent since coming into government. The community remembers these things.

That is just some of the work this government is committed to doing in the hospital system. Of course, a really, really important part of our health system is community-based services. Keeping people out of hospitals is one of the most important things we can do as a government and a health system, and health outcomes need to be measured in how well our community-based services are functioning and the investment going into them. We have seen record investment and reform in our infant, child and adolescent mental health services delivered by the public health system. We have seen a significant investment. Investment is important, money is important and full-time equivalents are incredibly important, but changing the model of care is fundamental to getting better outcomes—doing things differently. There is no point investing more to do the same to churn out more of the same outcomes. We need to do things differently, and that is what the Ministerial Taskforce into Public Mental Health Services for Infants, Children and Adolescents aged 0–18 years in Western Australia seeks to do, and that is what our investment seeks to do. It seeks to develop models of care that respond to young people and their families. It does not churn them through a nine-to-five clinical sausage machine that works for the clinicians; it works for the families and the children.

I know many members of the government are incredibly passionate about this in particular, and we have seen record investment. Part of that is an increase in Aboriginal healthcare workers so Aboriginal families and young Aboriginal people have someone they can relate to, who they can work with and who understands the cultural complexities of their own lives. There has been a huge increase in Aboriginal health workers. We have peer workers for young people in our mental health systems. They do not always want to see a psychiatrist or psychologist who, frankly, looks like mum and dad, they want to talk to someone who looks a bit more like them and has a more recent lived experience. Peer workers and lived experience now form a central part of all of our mental health services in the public system.

There is more to do. This budget alone saw us invest in the acute crisis resolution teams, which was a key plank of one of the short-term reforms required over the ICA Taskforce, which is a 10-year reform program of short, medium and long-term reforms. Those acute crisis resolution teams are established across the entire metropolitan area and in the great southern. Through future processes we will establish them around regional areas. In the great southern we are seeing families and communities challenged. Smaller regional communities in the great southern in particular are impacted by multiple suicides within single families, and an acute crisis response is required there. That is not sending an appointment time in the mail and expecting someone to come to that appointment if they live 100 kays away and do not have a car or do not have a licence, it is going out to those communities —

Ms S.F. McGurk: Or do not have a letterbox.

Ms A. SANDERSON: Or they do not have a letterbox.

It is going out to those communities, and that is what these teams will do. Their model of care is around a multidisciplinary and culturally appropriate response. It is going out to communities to support them in crisis, to hold them, to get them out of inpatient units and to give them ongoing therapy and support. That model is also up and running at the east metropolitan child and adolescent mental health service through its mobile teams. It also

allows for out-of-hours services. It has always been a great anathema to me that community-based mental health services work nine to five. I say regularly to all community-based services that work nine to five: mental health crises do not happen in business hours; mental health crises happen at all sorts of times. Part of our emergency department diversion program is to support people in crisis throughout most hours of the day so they can avoid an emergency department response.

While we are talking about infant, child and adolescent mental health, I want to talk about the ICAMHS hub in Bunbury, which has been established. It is an incredibly optimistic and fantastic service in Bunbury. The hub supports that region and will outreach into other regions in the south west. It also has an Aboriginal healthcare workforce. It is running a whole range of therapies. It supports eating disorders, personality disorders, anxiety, depression and self-harm. There are no barriers to the service. There is no sense of people having to fit particular criteria to get access to that service. It is a hub model that wraps around the client rather than making the client fit into a particular framework. We have also expanded $31 million of our community eating disorder programs to support some of the most entrenched and difficult clinical presentations in eating disorders. It takes a long time to recover from an eating disorder and it requires the whole family, and a multidisciplinary response. There are eating disorder services in the northern, eastern and southern corridors to provide holistic evidence-based care.

I could go on. So much reform and investment is occurring in both the health and mental health systems. The opposition continues to claim cheap and nasty headlines to try to lurch to the election, claiming that health is in disarray and crisis. Health is busy. There are always challenges in health and there is always work to do, but no government around the country is doing more heavy lifting in health care and seeing the results that we are in Western Australia.

I am going to address some of the particular claims made by members opposite throughout the course of this debate. The Leader of the Liberal Party has regularly claimed by quoting entirely misrepresentative data that Western Australia has seven of the worst performing emergency departments in the country. That is completely wrong. It is cherrypicked data about triage level 3. It is interesting to me how people who use science and evidence in their clinical practice every day can cherrypick data like that for particular political purposes. It is completely wrong to suggest that somehow patients in crisis or the sickest patients are not getting seen. We are seeing more priority 1s and priority 2s and we are seeing them faster than we have seen them over many years. In May, August, October and November last year, and in February this year, the health system broke elective surgery records. We did more surgeries per business day than ever before in those months. We are breaking records. We have reduced the median waiting time for elective surgeries by 31 per cent since it peaked in the pandemic when we had to stand down elective surgery to support the community. We have reduced those waiting times by 31 per cent. We are also investing in smart referrals, which gives better system-wide visibility of coordination of outpatients to support people being referred into our outpatient system. I have talked about the outstanding trend we are seeing in our ramping data and we continue to see our initiatives and ideas supported.

But where are the Liberal Party's ideas? Where are the opposition's ideas? It is very easy to be critical and it is very easy to point to challenges in the health system, in every single health system, but where are their ideas? At some point, the opposition is going to have to outline some ideas.

I want to challenge one of the most misleading things that is being claimed because the information that the Leader of the Liberal Party is peddling is so wrong. She is saying 114 of the SAC1s—severity assessment code 1s—are because people died due to clinical mistakes. That is not correct, Leader of the Liberal Party. That is not correct. That is not what a SAC1 is. She is referring to a sentinel event. There were not 114 sentinel events. That is wrong and that is misleading. I call on the Leader of the Liberal Party to stop using that misleading figure. If we look at the number of occasions of service through our health system, it has increased hugely over the last four years. Proportionately, the SAC1s are not going up anywhere near the rate of occasions of service. The member is misusing that data and misrepresenting the data to scare the community and I call on her to stop.

Ms L. Mettam interjected.

The DEPUTY SPEAKER: Member.

Ms A. SANDERSON: It is not true because that is not the definition of a SAC1. The member is referring to a sentinel event where people die because of clinical mistakes. That is not a SAC1. Stop conflating the two—stop it. We use SAC1 numbers. They are a really important part of our healthcare process because when people are unwell, clinicians have to treat them and we have to understand exactly what happens when, from time to time, things do not go as intended. It is not the case that every SAC1 is always because of clinician failure. I get very concerned, as do clinicians, about the politicisation of this data because it creates a culture of hysteria. It creates a culture of fear, actually, for clinicians to be able to participate in these processes. The Leader of the Liberal Party is peddling that culture of fear and hysteria. She is absolutely peddling that culture of fear and hysteria. We need our clinicians to feel empowered to report when they feel that something has not gone as well as it could have without fear of the public court of opinion, with the pitchforks led by the member for Vasse.

Several members interjected.

Ms A. SANDERSON: That is exactly what it is. To say that she supports our workforce is not the message that comes to me from the workforce.

I will spend the last few minutes talking about what life would be like in health under a Liberal–National government. Let us just do that. Let us remember when they were in government just a few years ago and look at where they are now. Let us start with the Nationals WA, the big brother in the opposition alliance. None of the sitting National MPs in the upper house were preselected into winnable spots. We know that half the National MPs will not sit in a joint party room for meetings. They cannot get half a dozen people to agree to sit in the same room. How are they going to form a government? We have not seen a single joint media release or media appearance from the Leader of the Opposition and the Leader of the Liberal Party—not a single joint appearance! How will the opposition be considered a credible government? It is not a credible opposition and it will not be seen as a credible government. Hon Martin Aldridge, MLC, was not even invited to a press conference. The opposition cannot agree on who goes to a press conference on an area within Hon Martin Aldridge's own portfolio responsibilities. At some point, the Nationals WA will have to put on the record its position on the women's and babies' hospital. We have seen the National and Liberal Parties announcing election commitments in the new seat in the midwest. If they win government, which of those parties' commitments will end up being supported: the Nationals' commitments or the Liberals' commitments? Did they consult each other on the commitments to the midwest? Neither party is in a position to form government in its own right. Neither of them is in that position. I refer to the courtesy of Hon Martin Aldridge again. In his own words, he said the only policies the Liberals have is to call for a review, an inquiry or a royal commission. That is not the government saying this about the opposition; that is the opposition saying it about the opposition. The opposition says this about itself! Hon Martin Aldridge also said—I am paraphrasing here—that more energy is being put into media stunts than Parliament, with a continued priority of politicising tragic issues for the member for Vasse's own benefit. It has consequences. It undermines the confidence that we have created for clinicians to speak up and report incidents. By continuing to play politics, the opposition compromises the trust in the system of reporting and that clinicians will be taken seriously. The Leader of the Liberal Party takes no responsibility. I just outlined for 28 minutes all of those things.

Ms L. Mettam interjected.

The ACTING SPEAKER: Order, please!

Ms A. SANDERSON: For 28 minutes, I have outlined that.

Ms L. Mettam interjected.

The ACTING SPEAKER: Order, please!

Ms A. SANDERSON: The Leader of the Liberal Party actually needs to front up.

Division

Question put and a division taken, the Acting Speaker (Mrs M.R. Marshall) casting her vote with the noes, with the following result —

Ayes (6)

Ms M. Beard	Mr R.S. Love	Mr P.J. Rundle
Dr D.J. Honey	Ms L. Mettam	Ms M.J. Davies *(Teller)*

Noes (42)

Mr S.N. Aubrey	Ms E.L. Hamilton	Mr S.A. Millman	Mrs J.M.C. Stojkovski
Mr G. Baker	Ms M.J. Hammat	Mr Y. Mubarakai	Dr K. Stratton
Ms H.M. Beazley	Ms J.L. Hanns	Mrs L.M. O'Malley	Mr C.J. Tallentire
Dr A.D. Buti	Mr T.J. Healy	Mr S.J. Price	Mr D.A. Templeman
Mr J.N. Carey	Mr W.J. Johnston	Mr D.T. Punch	Mr P.C. Tinley
Mrs R.M.J. Clarke	Mr H.T. Jones	Mr J.R. Quigley	Ms C.M. Tonkin
Ms C.M. Collins	Mr D.J. Kelly	Ms M.M. Quirk	Mr R.R. Whitby
Ms L. Dalton	Mr P. Lilburne	Ms R. Saffioti	Ms S.E. Winton
Ms D.G. D'Anna	Mrs M.R. Marshall	Ms A. Sanderson	Ms C.M. Rowe *(Teller)*
Mr M.J. Folkard	Ms S.F. McGurk	Mr D.A.E. Scaife	
Ms K.E. Giddens	Mr D.R. Michael	Ms R.S. Stephens	

Question thus negatived.

PRIVACY AND RESPONSIBLE INFORMATION SHARING BILL 2024
INFORMATION COMMISSIONER BILL 2024

Second Reading — Cognate Debate

Resumed from an earlier stage of the sitting.

MR J.R. QUIGLEY (Butler — Attorney General) [4.07 pm] — in reply: There was but one speaker for the opposition in this debate on the second reading of the Privacy and Responsible Information Sharing Bill 2024 and

Information Commissioner Bill 2024. I thank the Leader of the Opposition for his contribution. Today I briefly respond to his contribution to the debate on the second reading. I appreciate the opposition's indication that it does not oppose this important legislation. As I said in my second reading speech, introducing strong and modern privacy protections for individuals is more important today than ever before. In the digital era, personal information is being collected, used and disclosed at unprecedented rates, in an array of different means and actors. As the Leader of the Opposition remarked, there had been various recent high-profile data breaches in Australia and around the world, and these have contributed to increasing public awareness and expectations of how personal information is handled and protected by the organisations that hold it. The notifiable information breach provision in the Privacy and Responsible Information Sharing Bill 2024—hereafter called the PRIS bill—will go some way to ensure that personal information is being safely handled by government agencies. The bill will support and strengthen requirements for information handling, protection and storage through the information privacy principles and responsible sharing principles. It will also provide for a robust information-sharing framework for the Western Australian public sector, with protections and safeguards to ensure government information, including personal information, is shared for permitted purposes.

The Leader of the Opposition is correct that the new Information Commissioner under the Information Commissioner Bill 2024 will play a different role from the current Information Commissioner under the Freedom of Information Act 1992. They will have overall responsibility for both privacy and freedom of information matters. The Leader of the Opposition also referred to the backlog of current FOI matters. Although I am the minister responsible for the administration of the Freedom of Information Act, which includes responsibility for seeking parliamentary approval for the Office of the Information Commissioner's budget, I do not intervene in the day-to-day operations of the Office of the Information Commissioner itself. As the Leader of the Opposition noted, as part of the 2023–24 budget, the government approved an additional $1.7 million over two years for the Office of the Information Commissioner, which included $828 000 to fund temporary positions to reduce the backlog of external reviews under the FOI act. The additional funding is assisting the Office of the Information Commissioner to make inroads into reducing the backlog. The method of appointment of staff to that office is very, very time consuming, prolonged and cumbersome, by reason of the fact that any staff, like another legal officer at the Office of the Information Commissioner, has to be advertised for and recruited to find the right person and thereafter has to be appointed by the Governor sitting in Executive Council. This is almost a unique situation because over the at the Corruption and Crime Commission there is no such requirement. There is a requirement that the commissioner and deputy commissioners be appointed by the Governor in Executive Council, but not other staff.

Therefore, this will be addressed under the new bill. That accounts for some reason why there is a delay in eradicating the backlog, notwithstanding the provision of an extra $1.7 million to deal with the backlog. It takes time because of this cumbersome provision for the appointment of staff. A further $1.4 million in funding was also provided to the Office of the Information Commissioner for an integrated case management and electronic documents and records management system to take the commission out of ages past. The government anticipates that these additional resources will help the office build efficiencies to address the workload pressures. There are a number of other factors that impact upon the timelines of external review, including, but not limited to, administrative law requirements of procedural fairness, accessibility and cooperation of the parties; the number of disputed documents; the clarity and sufficiency of the agency's notice of decision; and the complexity and facts at issue or legal matters involved.

The proposed structure of the new Office of the Information Commissioner will also support streamlined engagement for members of the public seeking support with privacy or access matters. It will also enable commissioners to present strong and consistent messages to the public sector about the interaction between privacy and access. The Leader of the Opposition also queried how much this would cost. The resourcing considerations under the PRIS bill and the Information Commissioner Bill relate primarily to the establishment of the legislative office holders. These include the Information Commissioner, the Privacy Deputy Commissioner, the Information Access Deputy Commissioner and the chief data officer. The primary economic impacts of the legislation will flow from the creation of the Information Commissioner and the Privacy Deputy Commissioner and the new Office of Information Commissioner to support these statutory office holders to exercise their legislative functions and powers. The extra costs of establishing a new Office of the Information Commissioner are currently being determined based on an examination of comparable structures, functions and staffing in other jurisdictions. The chief data officer will be a senior executive officer in the information sharing department. At this stage, that is considered to be the Department of the Premier and Cabinet. An interim chief data officer has been appointed within the Department of the Premier and Cabinet. Funding will be sought via a budget submission to the Expenditure Review Committee at the appropriate time.

The Leader of the Opposition also referred to the powers of the Information Commissioner. The powers in the PRIS bill are specifically tailored to achieve privacy oversight functions, including the determination of privacy complaints. This will include appropriate information gathering powers to ensure that complaints can be effectively and efficiently resolved. The Information Commissioner and the chief data officer will both have regard to the same objects of the PRIS legislation and will work together to address information handling by the public sector.

In closing, I again thank the Leader of the Opposition for his contributions to the debate on the two bills. I am happy to examine the bills further at the table.

Question put and passed.

Bill (Privacy and Responsible Information Sharing Bill 2024) read a second time.

[Leave denied to proceed forthwith to third reading.]

PRIVACY AND RESPONSIBLE INFORMATION SHARING BILL 2024

Consideration in Detail

Clause 1: Short title —

Mr R.S. LOVE: We are dealing with the short title of the Privacy and Responsible Information Sharing Bill 2024. Can the Attorney General explain why we are debating two separate bills cognately and, given they are so closely related, it is not simply one bill?

Mr J.R. QUIGLEY: It was so that all the offices could be created within one bill and we would not have to refer back to the old Freedom of Information Act to find the other officers. We have just the one bill under which all the officers come and the operative parts of the bill are in a separate bill.

Mr R.S. LOVE: I refer to the matters canvassed in this bill. A lot of people are quite sensitive about the sharing of information. In recent times we have seen the breaches that the Attorney General and I have referred to. Governments are also now using service apps in their normal business, so people are building up a digital footprint with things like the myGov or ServiceWA apps and all sorts of other things. I refer to the consultation on some aspects of the bill. Could the Attorney General give me some idea of the stakeholders who were consulted about those sensitive matters while the government was building this legislation?

Mr J.R. QUIGLEY: I do not want to nitpick, but myGov is a federal app. I do not want to nitpick and go into that.

During the public consultation, feedback was received from the community at large; the general public and consumers of government services and metropolitan services; a broad range of non-governmental organisations, including those representing community health services; academic researchers; medical and health professionals; regulators and advocates for privacy; business and industry; Aboriginal groups; and legal professionals. Following this, multiple rounds of consultations with the public sector have been undertaken to develop a policy position, including, in the second half of 2019, consultation with all public sector entities on a draft policy position. In late 2021–22, following the pause due to the COVID-19 pandemic, there was targeted consultation with the public sector. The department has held 34 events with 913 attendees. It has received 60 written submissions and 28 online comments about the discussion paper. There is a consultation summary report outlining what the government heard during this period. A further consultation period followed that. Five rounds of consultations came from those meetings, going back to the drafters as the bill was being developed. In other words, Leader of the Opposition, there was extensive consultation with both consumers and government departments.

Mr R.S. LOVE: The Attorney General mentioned that a report on the consultation had been compiled. Has that report been tabled in the Parliament; and, if not, could it be tabled?

Mr J.R. QUIGLEY: I am told that that report is available online.

Clause put and passed.

Clause 2 put and passed.

Clause 3: Objects —

Mr R.S. LOVE: This clause outlines the objects of the act. It refers to the information privacy principle entities and other matters; we will get to the definitions of some of those later on. I refer to object (d) —

> to promote responsible information security practices by IPP entities;

What will the government do to publicly communicate just what those security practices may be? People want to be assured that practices are in place. I do not suppose that the Attorney General can give us a lot of information about how they will be set up, but what can he communicate to the public about how their private information will be protected and used responsibly, making sure that responsible security is in place?

Mr J.R. QUIGLEY: The IPP will have to be published on the agencies' websites. When an agency requires someone to provide information, there will be a statement that this information is collected and retained within the principles of the legislation IPP. I cannot give the Leader of the Opposition that exact statement now, but, for example, when someone applies for a driver's licence, there will be a little statement saying that the personal information will be collected and treated in accordance with the IPP, which is available on the agency's website, and there will be a little box for the person to tick to consent to that. I am instructed that it is IPP 1.9. People will be able to refer back to the statement published on the website, and that will also tell them how to go about making a complaint to the Information Commissioner if they believe that there has been a breach of privacy.

Mr R.S. LOVE: I refer to object (e) —

> to promote the responsible handling of information held by public entities as a public resource that supports government policy, programs and services;

We mentioned the costs of introducing this legislation before, and the Attorney General spoke about the cost of setting up the role of Information Commissioner—we will talk about that later—but is there an idea of the quantity of expectation on the training of all the different information holders and providers? Do we have any idea of just how difficult it will be for the various entities that will be caught up by this legislation to actually bring it in? What is the intention in terms of training and resources?

Mr J.R. QUIGLEY: I am advised that in preparation for the introduction of this legislation, the agencies have already been undertaking implementation and information sessions, and that has been going on for 12 months.

Mr R.S. LOVE: Just to be clear, when we talk about information held and the use of that information, will this legislation cross over into arrangements to share information with other states or the commonwealth? What will be the situation between the two authorities? For instance, if the Department of Transport shares information with a national database, what law will prevail in the handling of that information?

Mr J.R. QUIGLEY: The handling of the information will now be in accordance with the Privacy and Responsible Information Sharing Bill 2024, which we are now seeing through the Parliament. At the moment, prior to the passage of this bill, it has to be done by agreement between this and the other jurisdiction on what purpose the information will be put to, how it will be held and whether it will be destroyed. That is all done in a rather cumbersome fashion by discrete agreement. Now, those other jurisdictions will not have to worry, because if they share information with us, this legislation will cover the purposes for which they can have the information, the duration for which they may keep it and the purposes for which they may apply it. Once it comes into our jurisdiction, it will be in the purview of the PRIS bill, or act, as it will then be.

Mr R.S. LOVE: That implies that Western Australian government entities have had some difficulties in dealing with other jurisdictions because we do not have privacy regulations, whereas the sharing of information is perhaps already more streamlined between other states or between the commonwealth and other states. Is that what the Attorney General is suggesting?

Mr J.R. QUIGLEY: That is so, and that is why we acknowledge the opposition's support for this bill. We had that inhibition on information sharing, which is why it is important for this Parliament and this state to have privacy provisions.

Clause put and passed.

Clause 4: Terms used —

Mr R.S. LOVE: Clause 4 contains the definitions of many of the terms used within the bill. The Attorney General touched on this a little bit in his second reading speech. The clause refers to the chief data officer being appointed in accordance with clause 198. Is there already a chief data officer appointed under some other legislation? Will this be the same chief data officer, or will there be a separate process with a separate office being set up for this particular role?

Mr J.R. QUIGLEY: It will be a new statutory office. At the moment, there is an interim chief data officer sitting within the Department of the Premier and Cabinet. That is interim until the bill gets up and the selection process is underway.

Mr R.S. LOVE: Is that particular officer expected to be transitioned to this role in the same way as the Information Commissioner will become the Information Access Deputy Commissioner, or is that not the intention?

Mr J.R. QUIGLEY: No, because they are an interim officer. There will be a selection process to get the appropriate chief data officer.

Mr R.S. LOVE: On page 6, there is the definition of "confidential or commercially sensitive information". I might have mentioned this in my contribution to the second reading debate, but one of the frustrations in opposition is the continual quoting that information is confidential or commercially sensitive.

Mr J.R. Quigley: I sat there once.

Mr R.S. LOVE: Yes. We also note that there are often differences of view between offices—for instance, what the Auditor General might consider to be commercially sensitive information and what a department may feel to be so. How will what is confidential or commercially sensitive information be arbitrated or decided? Is it further defined elsewhere, because this is a very broad definition?

Mr J.R. QUIGLEY: This is dealt with extensively in part 3.

Mr R.S. LOVE: On page 8, there is reference to the information sharing minister who has administration of part 3. Further, on page 13, there is reference to the privacy minister who has administration of part 2. Is it the intention that they will be the same minister or will it be necessary that they be separate ministers, or will it be of no import whether it is the same office holder?

Mr J.R. QUIGLEY: The minister could hold both offices. That will be up to the Premier in the allocation of portfolios. There is no reason that they could not be the same minister, but they could be separate ministers. That will happen in another Parliament, which I will not be a part of. It will be up to the Premier.

Mr R.S. LOVE: On page 15, it states —

> ***sensitive Aboriginal family history information*** means information, including family history information, that —
>
> (a) relates to Aboriginal people and their ancestors; and
>
> (b) was collected in the period from 1898 until 1972 for the purposes of implementing laws, and government policies and practices, applying specifically to Aboriginal people;

I think I know the answer to the question, but can the Attorney General explain why that particular timeframe has been chosen and what that will mean for information relating to Aboriginal people from 1972 to now?

Mr J.R. QUIGLEY: Certainly. The definition of "sensitive Aboriginal family history information" is quite explicit in defining what information will fall within this category and has been developed in consultation with Aboriginal History Research Services, which is the government agency primarily responsible for managing records relating to the policies and practices of the stolen generations and other laws that discriminated against Aboriginal people from 1898 to 1972. It is defined for the purposes of the Aboriginal information assessment provision contained in part 3, which the Leader of the Opposition has taken us to.

Mr R.S. LOVE: If we turn the page, the clause states —

> ***sensitive Aboriginal traditional information*** means information that, according to Aboriginal tradition, should not be disclosed to individuals who are not the knowledge holders of that information;

Can the Attorney General expand a little bit on how this provision could be interpreted? Who will determine those matters and decide whether those issues should not be disclosed to others?

Mr J.R. QUIGLEY: The definition of "sensitive Aboriginal traditional information" was developed in consultation with the Department of Planning, Lands and Heritage. The category of information is meant to pertain to records that detail secret rites, stories, practices and places. It is recognised that public sector agencies may hold information that relates to sensitive Aboriginal traditional information. This occurs frequently in the State Library of Western Australia. In these cases, an information sharing agreement under part 3 of the bill would not be anticipated to be used to either identify the community to which the information is sensitive or share that information if required. It is defined for the purpose of the Aboriginal information assessment provisions contained in part 3 of the bill and are designed to protect, as I say, that information of cultural lore and significance.

Mr R.S. LOVE: Just on that, can the Attorney General give me an idea of whether the information held through the knowledge base under the Aboriginal Heritage Act will be considered to be sensitive Aboriginal traditional information, because surely some information sharing has to occur to know whether there is a place or an area? Would the fact that it is sensitive Aboriginal traditional information rule out any disclosure or will there be a process to determine at what level there might be disclosure? There might be a particular story within 20 square kilometres, but it might not go into the detail of it. Perhaps the Attorney General could explain how we will be able to get useful information about these matters? At the moment, it is quite difficult for people to know what is significant because there have not been surveys in a lot of places, but in some places there have been. Sometimes people do not know the answer. They go to registers or other places to try to get the answer. Perhaps the Attorney General could explain how that will be triaged and whether some level of information will be given out, even if there is a sensitive element to it.

Mr J.R. QUIGLEY: For the purposes of information, there are information sharing agreements under this bill, but that information could still otherwise be disclosed outside the information sharing agreement. It will not preclude the registrar from disclosing information at all, but it is important that this traditional information be treated sensitively. That is why it will ordinarily be dealt with by an information sharing agreement under the bill.

Mr R.S. LOVE: The Attorney General said that the bill will not prevent the department or an organisation from disclosing the information, but I thought the whole purpose was to define the circumstances and appropriateness of that disclosure. This definition says that it should not be disclosed. How could an organisation disclose that information?

Mr J.R. QUIGLEY: As I said, it could have an information sharing agreement, but that will not preclude the registrar from restricting the information. The registrar will still be able to do that under part 3 of the bill.

Mr R.S. LOVE: I was not asking about restricting; I was asking about disclosing. The Attorney General said that they could disclose the information, but surely this legislation will be in place to regulate what can and cannot be disclosed.

Mr J.R. QUIGLEY: This bill will restrict the dissemination of that traditional information but it will not inhibit the registrar from accessing that information for the purposes of the Aboriginal Heritage Act.

Mr R.S. LOVE: I will move on to the next definition, "sensitive personal information", which means —

> personal information —
>
> (a) that relates to an individual's —
>
> (i) racial or ethnic origin;

I will run through some of the areas that are being defined as being sensitive personal information. Why have these particular matters in subparagraphs (i) through to (x) been selected? Can the Attorney General give me an understanding of where this came from and what process led to the selection of the 10 distinct categories in the definition of "sensitive personal information"?

Mr J.R. QUIGLEY: Sensitive personal information is a subset of personal information and will be subject to additional privacy protections. Sensitive personal information will be provided additional protection for a number of reasons. First, such information is highly personal and may provide the basis for unjustified discrimination. We need only look at the list to see that that could be so if it were disseminated. Second, this sort of information is unlikely to be necessary for the functions and activities of many entities. They would not need to know about the political opinions or religious beliefs of someone, to quickly cite two from that subset. However, the definition in the bill also includes genomic information and clarifies that sensitive information can be inferred from information that is not sensitive information. Our definition also includes information that relates to a person's gender identity when that identity does not correspond to their sex at birth.

Mr R.S. LOVE: It is interesting that the answer that has been given is that all these matters could cause some people some embarrassment or discrimination or cause them to be marginalised or affected by their release. I am looking at the range of information that is there. Some of it is fairly broad—for instance, the philosophical beliefs of a person. Could the Attorney General perhaps define what the philosophical beliefs of a person might be and how somebody could understand whether that is sensitive personal information? I mean, philosophical beliefs could range from a person's very broad world view to someone subscribing to a certain school of philosophical thought. What is the definition of "philosophical beliefs" in subparagraph (vii)?

Mr J.R. QUIGLEY: Departments are not going to have to fashion policy based on people's beliefs. In coming up with a list of sensitive personal information, we sought to make it consistent with other jurisdictions so that we are broadly consistent across the nation. When the commonwealth Privacy Act was reviewed, the review report came out with its definition of "personal information". We have made ours broadly consistent. What is it to anyone what I believe about the origin of planet Earth? It is just a philosophical argument that one could have.

Mr R.S. Love: I would be interested to know.

Mr J.R. QUIGLEY: The Leader of the Opposition might be interested to know but it is not going to shape —

Mr R.S. Love: Do you think the Earth is 5 000 years old?

Mr J.R. QUIGLEY: I am not that old! I am leaving Parliament, but I am not quite 5 000 years old!

Mr R.S. Love: No, I didn't mean you were there.

Mr J.R. QUIGLEY: I might look it, Madam Acting Speaker. It is not going to shape public policy to know my particular belief on the origins of what Carl Sagan called the pale blue dot.

Mr R.S. LOVE: Very good. I am sure the Attorney General was around close to that time!

Mr J.R. Quigley: Fair go!

Mr R.S. LOVE: The membership of a political association is another interesting element that is defined as sensitive personal information. I know that some local governments seek to make councillors declare whether they are members of a political party. Knowing that local governments would be caught up in this legislation, I wonder what the impact of the requirement to declare one's political association might be in what is a non–party political organisation and whether it might be problematic in the future.

Mr J.R. QUIGLEY: Under information privacy principle 1.2 and 1.3, an entity must not collect sensitive personal information unless the information is necessary for one or more of its functions or activities and, amongst other things, the individual consents or the collection of the information is required or authorised under law, or in certain circumstances when the collection of information is necessary to prevent or lessen a serious threat to the life, health, safety or welfare of an individual or threat to the life, health and safety of the individual due to family violence. So, a local government probably cannot collect the information the member is suggesting.

Clause put and passed.

Clause 5: References to information privacy principles —

Mr R.S. LOVE: Clause 5 reads —

> A reference in this Act to an IPP followed by a designation is a reference to the provision with that designation in Schedule 1.

We will talk about the schedule when we get there, I guess. Are there any differences between the bulk of these principles in the act and those in other jurisdictions? How closely did they align with most other jurisdictions?

Mr J.R. QUIGLEY: They are broadly consistent with other jurisdictions, but there are one or two that we have adopted out of the commonwealth review of its Privacy Act. Generally, they are broadly consistent. The Leader of the Opposition knows my policy—in evidence, the legal profession and the whole lot. I try to make it broadly consistent across the nation.

Clause put and passed.

Clause 6: Public entities —

Mr R.S. LOVE: Earlier we discussed local governments being captured under this definition. I am interested in clause 6(1)(e), which reads —

> a body, or the holder of an office, that is established for a public purpose under a written law;

What if it is some other means? For instance, I see there is some provision for corporations further on. Are there other ways that a body or the holder of an office established for a public purpose could be established other than under a written law? For instance, do some exist under convention, common law or some other intergovernmental agreements? Could the Attorney General give us an idea of whether that is a fully exclusive list?

Mr J.R. QUIGLEY: Yes; clause 6(1)(f) reads —

> a body, or the holder of an office, that is established by the Governor or a Minister;

That is not established under written law. The Ministerial Expert Committee on Electoral Reform would be such a body, because I established it. It is a body or a committee established by a minister. Examples of public entities for the purposes of paragraph (e) include authorities referred to in schedule 1 of the Public Sector Management Act 1994—so the port authorities, public universities and the Water Corporation are examples.

Mr R.S. LOVE: The last part of the definition of "public entity" is at page 18 at paragraph (h)(ii) and reads —

> a corporation or association over which control can be exercised by the State, a Minister, a body referred to in paragraph (a), (b), (e) or (f) …

I am aware of some local governments that seek to establish corporations rather than associations and have the corporation carry out some business or enterprise that they have an interest in, perhaps with another local government. I do not know whether this happens often, but I am aware that it has happened at least once. Would they be captured? For some reason, "a corporation or association over which control can be exercised by the state, a minister or a body referred to in paragraphs (a), (b), (e) or (f)" misses a regional local government or regional subsidiary. Why is that excluded? I would have thought that that would still have been a body for a public purpose. Perhaps the Attorney General could explain why local government is missing from that list.

Mr J.R. QUIGLEY: It is not covered unless it is under a written law. We have mirrored the definition of "public body" in the current Freedom of Information Act. Under the Freedom of Information Act, someone could apply for access to information of the local government authority if there were more than two local government authorities commissioning another entity to do it. Each individual local government authority that established this would not be bound.

Mr R.S. LOVE: The corporation, minister or body referred to in paragraphs (a), (b), (c), (e) or (f) would also be bound, but why is local government not caught up in this clause? That is the question. What consideration led to local government not being there? The Attorney General said that the definition mirrors the Freedom of Information Act. That is quite an old act. Perhaps this practice had not been contemplated at that stage. I think it is more of a recent innovation of local governments to have strayed down that path. Perhaps the Attorney General might want to have a look at that.

Mr J.R. QUIGLEY: I am not aware of local governments incorporating other corporate bodies. That is why we have mirrored the definition. If they set up some enterprise that is not a corporate body, both of them will be subject to this legislation—so anything to do with that other body can be captured in the legislation by reason of the fact that it is part of the happenings, work and correspondence of the corporate body.

Mr R.S. LOVE: I do not see how that is any different from the situation for all those other bodies that assume —

Mr J.R. Quigley interjected.

Mr R.S. LOVE: So does the local government. That local government is acting in a similar way to those other public entities, but it will not be captured. I wonder whether that is an oversight because it was not a practice back in the day when the Freedom of Information Act was developed. It might be something that the Attorney General could have a look at before the bill gets to the other place.

Mr J.R. QUIGLEY: With respect, the local government authorities are captured. They are captured under clause 6(1)(d). The local government is captured. If it is doing something that is not in an incorporated body, that will be captured.

Mr R.S. Love: How?

Mr J.R. QUIGLEY: It is captured as part of the workings of the local government authority.

Mr R.S. LOVE: I am sorry. The Attorney General is an eminent lawyer, but it seems to me that its exclusion from this clause would imply that it is not captured. I am talking not about the local government, but the entity that it has created. I am simply asking a question, and the Attorney General has given me an answer. We will move on from there, because I think we have delved into it long enough.

Clause put and passed.

Clause 7 put and passed.

Clause 8: State services contracts and contracted service providers —

Mr R.S. LOVE: When a contract is being developed in the future, there will probably be some reference to this legislation and an understanding of how it will apply to the contracted service provider. Have there been any obligations until now on those providers under any other legislation, including the Freedom of Information Act, so that they would be familiar with this process or will this be a novel thing for those already established providers?

Mr J.R. QUIGLEY: It depends on the type of agreement. Some, I will not say the majority, of the agreements will be covered by the restrictions on the dissemination of personal information in the commonwealth Privacy Act. Others will have to be educated on this act. When entering into contracts with agencies, providers will have to signify that they are aware of and bound by the provisions of the act. The experience of other jurisdictions such as Victoria is that the relevant provisions are built into template government services contracts so that they are in fact at the front of the mind during the tendering process. As I just said, when entering contracts, the contracting party will be aware of their obligations and will have to contract to abide by them.

Mr R.S. LOVE: I presume that the contracted service provider will have a two-way flow of information. Will the provider be able to request information from other entities? Will it have the same status in being able to do that as any other public entity or will it be treated differently? Will it be expected to provide information but not itself be able to request information?

Mr J.R. QUIGLEY: It will be covered by the privacy provisions of the legislation, but it can enter into information sharing agreements.

Clause put and passed.

Clauses 9 and 10 put and passed.

Clause 11: De-identification and re-identification of information —

Mr R.S. LOVE: The clause defines "de-identify" as —

> … means to modify, or apply a process to, the information, with the result that the identity of an individual is not apparent, and cannot reasonably be ascertained, from the information.

I suppose the converse is when that de-identified information is re-identified in clause 3 so that the information again becomes personal information. When any information is de-identified, it will cease to be captured as being sensitive personal information. Is it the case that it will be possible to take all the sensitive personal information covered in clause 4 and use that information provided it is de-identified?

Mr J.R. QUIGLEY: De-identified information would fall outside the scope of this bill. If properly de-identified, an individual is not identifiable from the information, and it is therefore not personal information. However, in recognising technological advances, the increasingly complex digital environment and the growing risk that de-identified information can be re-identified by matching it with another database with links to other information, this bill will extend certain protections in the information privacy principles concerning the security and disclosure of personal information outside Australia to be de-identified information. I refer the member to the IPPs in schedule 1 subclause 4.2 and 9.2 and clause 11. The term is also used in the responsible information sharing provisions.

Clause put and passed.

Clause 12: Data sets, data analytics work, data linkage and data integration —

Mr R.S. LOVE: How will sensitive data analytic work be regulated to ensure privacy protection? I assume that within all this, there will have to be a lot of detailed regulation, codes of practice and all sorts of things, which we will talk about later. How do we understand each unique circumstance? There will be all sorts of different types of information and different ways of dealing with it. How do we set up a regulatory framework to deal with such a complex area?

Mr J.R. QUIGLEY: These terms are used in the bill. Where do they come from? These terms are used both in the privacy and responsible information sharing provisions of the bill, and it was considered appropriate to define them, because we are dealing with the definitions section. These terms are particularly important for understanding how shared information may be used and assuring any personal information is handled appropriately. For example, clause 28(2)(b) expressly states that a privacy code of practice may provide for the imposition of requirements relating to the use of personal information for data analytics work, data integration or data linkage.

Another example would be under responsible sharing provisions in clause 174, which expressly provides —

> … an information sharing agreement may provide for the use of information disclosed under the agreement for a relevant activity involving data analytics work, data integration or data linkage.

Clause 201 provides that the chief data officer may make guidelines in relation to the use of information shared for activities involving data analytics work, data integration or data linkage, including in relation to the design and governance of those activities.

Mr R.S. Love: A very comprehensive answer, thank you. I will move on.

Clause put and passed.

Clause 13 put and passed.

Clause 14: IPP entities —

Mr R.S. LOVE: Subclauses (1) and (2) refer to an IPP entity. I am interested in a couple of things. Looking at a minister or a parliamentary secretary, I assume they are exercising their rights under some law or as a function of their position within a department, not so much within their ministerial office itself. Can the Attorney General tell me whether that is the case, or whether the ministerial office itself is captured?

Mr J.R. QUIGLEY: Subclause (2) provides that a minister or parliamentary secretary is considered to be an IPP entity —

> … only in their capacity as a member of the Executive Government of the State in relation to a matter that is within their responsibilities …

A minister or parliamentary secretary will not be considered an IPP in their capacity as a member of Parliament; it is only in respect of the function of office.

The ACTING SPEAKER: A bit of further clarification for the member?

Mr R.S. LOVE: Further clarification, yes. Within their own ministerial office—I am talking physically about Dumas House, level 6, whatever suite the minister is in—is all the information that goes on within the four or seven walls, or whatever it is in that office complex, subject to this legislation?

Mr J.R. QUIGLEY: Yes. It may not be confined to what happens within the four walls, but it is within the rubric and function of their office—the function of me as Attorney General, not necessarily in Dumas House but wherever I am exercising a function of my sworn office.

Mr R.S. LOVE: I refer to contracted service providers. They are an entity, as long as they are still contracted to provide the service. What if they are no longer contracted to provide the service but still hold the information they had once gathered in their contractual arrangements?

Mr J.R. QUIGLEY: Corporations have obligations under the commonwealth Privacy Act. In relation to information that a non-corporation got pursuant to the contract, do not forget what we said before: when entering the contract, there will be a government template to alert them to the requirements to abide by and be compliant with the obligations under this act. It does not matter whether the contract has finished. The obligations for the information gathered during that contract will remain.

Mr R.S. LOVE: By way of clarification, I assume that therefore means it is only a contractual arrangement, not a legislative arrangement at that point.

Mr J.R. QUIGLEY: That is right, which it says in the clause—"contracted service provider". The template will say they have to tick the box.

Mr R.S. Love: I hope so!

Mr J.R. QUIGLEY: It will. The template will say they tick the box to recognise their obligations under the act.

Mr R.S. LOVE: Very good. On the matter of the minister or the parliamentary secretary and information they have gathered or have within their control, when they depart the scene and another minister is installed, is it simply the current minister who has control over information that has been gathered until then, or does that responsibility reside with the person who was an IPP, even though they are no longer an IPP entity?

Mr J.R. QUIGLEY: I do not know how it works in all ministerial offices, but I assume it is like my office where the Department of the Premier and Cabinet retains the records of the office. There is a central database for all documents. Even though I will leave office, all my public records will be retained by the Department of the Premier and Cabinet. They are not John Quigley's documents, which travel with me.

Mr R.S. LOVE: Is the Attorney General confirming the documents would still be available under this legislation and that the decision would be made to release them, presumably by the Premier as the head of the Department of the Premier and Cabinet, rather than the minister of the day? I am trying to understand who would release the information when the Attorney General goes and the next Attorney General makes the decisions.

Mr D.A. Templeman: It is Templeman, QC.

Mr J.R. QUIGLEY: There is someone with a fever behind me! The member is talking about access under freedom of information and the access part of the act. For those documents, an access application cannot be served on a person who is not in office. Those records would be held by DPC. I hope that clarifies it sufficiently for the member. Once I leave office, if someone wants to access records of my office, it will be through the incumbent who will pass it on to FOI, DPC. The other aspect of this is the dissemination of information. That is in accordance with the IPP of the ministerial office. It will not be me sitting out at Watermans Bay dishing out documents, if the member gets the drift. It will be in accordance with the information privacy principles of the office of the Attorney General.

Clause put and passed.

Clause 15 put and passed.

Clause 16: Automated decision-making processes and related concepts —

Mr R.S. LOVE: I wonder whether other jurisdictions have similar approaches to what we might call artificial intelligence in automated systems or automated decision-making in the future. How were these provisions derived? Can the minister point to other jurisdictions with similar types of arrangements and whether there will be some ability through regulation to keep up to date with some of the changes in this area as we go forward?

Mr J.R. QUIGLEY: No and yes! No, there are not other jurisdictions in Australia with a similar provision. The inclusion of information privacy principle 10 concerning automated decision-making is a notable difference to the privacy principles in other Australian privacy legislation. IPP 10 is based on the approach taken by overseas governments, especially European Union members, to address the benefits afforded by automated decision-making whilst managing the risk to privacy, harm and negative bias and discrimination. Incorporating a purpose-specific IPP for automatic decision-making supports the expected alignment with future national and international jurisdictional privacy regimes. In fact, the commonwealth *Privacy Act review: Report* proposed the introduction of a right for individuals to request meaningful information about how substantially automated decisions with legal or similarly significant effect are made, and a requirement for entities to include information in privacy policies about the use of personal information and to make substantially automated decisions with legal or similarly significant effect. As the member would appreciate, the advance of artificial intelligence and automated decision-making is going at warp speed. Police are using artificial intelligence in other jurisdictions to detect and identify terrorists or suspects in crowds. We are futureproofing the legislation.

Mr R.S. LOVE: I go back to our earlier discussion around the definitions of sensitive private information. How do we construct a system that does not identify people using sensitive personal information such as racial or ethnic origins et cetera in this machine-learnt decision-making process? The minister spoke about scanning for the terrorist. I wonder what the metric is there. Are we looking for people with political or philosophical views that we know might not accord with our own? There might be other identifiers as to why the machine considers a person to be a particular risk. We know that there are plenty of demonstrations on the internet when, if we type in different definitions, a particular type of person will be shown. I have seen one for a farmer. It is usually someone with a check shirt, a straw in their teeth and an American tractor in the background. The algorithms have a way of doing things. How does the minister reconcile what the machine is doing with the protection of sensitive personal information that could be known to the machine?

Mr J.R. QUIGLEY: This provision is not appropriate for legislation focused on privacy and information sharing to comprehensively regulate other agencies' use of automated decision-making in government. That would be more appropriately dealt with in more specific legislation. However, the purpose of automated decision-making provisions in this bill will not be to authorise the use of automated decision-making, but rather to provide principles for IPP entities should they use personal information in automated decision-making. With the police, it is not to say we authorise the use of decision-making; it is to provide principles that the police should follow when using automated decision-making. It is not to gather sexual preference, religion or whatever. An IPP entity would need to have authority to use automated decision-making authority processes involving the use of personal information from some other legal source. IPP entities must comply with IPP 10 when an automated decision-making process using personal information makes a significant decision about an individual. It will require IPP entities to consider due process, transparency, and procedural fairness and equity in their use of automated decision-making. It is not the Information Commissioner using automated decision-making to decide access or those things; it is to regulate or have some purchase over IPP entities and how they use automated decision-making. The WA public sector is beginning to look more deeply into the use of automated decision-making. There are a number of uses for automated decision-making that enable public sector agencies to undertake their work in a more time and cost-efficient manner. It is important to note that automated decision-making does not necessarily mean the decision was based solely on an automated process. It also includes when automated processes materially support a human decision-maker to make a final decision. Automated decision-making could be used for purposes such as initial land valuation, environmental assessments or the allocation of public transport resources. The examples of automated decision-making that may provide personal information could include automated decisions for the eligibility of concessions, applications for licences, or for streamlined processing of a patient through the health system. It is dealing with the automated decision-making of IPP entities.

Clause put and passed.

Clauses 17 and 18 put and passed.

Clause 19: Information privacy principles —

Mr R.S. LOVE: This clause states that the information privacy principles are set out in schedule 1. I wonder whether we will look at those principles now or at the conclusion of the clauses, when we get to the schedule. I am in the minister's hands as to how he wants to do that.

Mr J.R. QUIGLEY: I would rather deal with it in sequence. The principles are on page 193. I think it would be more efficient to deal with it when we get there.

Mr R.S. LOVE: As a broadbrush approach, and then we will move on, how will the principles align with existing government policy? Are they all quite radically different or have they been adopted in an ad hoc manner in the main?

Mr J.R. QUIGLEY: The information privacy principles are overarching rules that information privacy principle entities must apply and comply with when collecting, using or disclosing personal information. The IPPs in the bill have the most similarities with those in Victoria, the jurisdiction that has most recently refreshed its principles, and are broadly consistent with the commonwealth government's Australian privacy principles—APPs. Having principles based on regulations is outcomes focused. Rather than prescribing the process or actions that an entity must take, the principles define the objectives and outcomes that the entities are required to achieve. This will leave entities free to find the most efficient way of achieving the outcome required, depending upon the nature of the organisation and its operations. The IPPs in the bill are harmonious with the commonwealth privacy legislation to the best extent possible and are framed in a state context. The IPPs in the bill have the most similarities with those in Victoria, which, as I said, is the jurisdiction that has privacy legislation and has most recently refreshed it.

Currently, no comprehensive privacy laws apply to the public sector in WA. WA's current approach is a patchwork of agency-specific legislation and policy frameworks. Privacy is regulated by legislation that is not specifically concerned with the protection of information, but that contains a secrecy and confidentiality provision—for example, the Health Act. The WA government's position is that in the absence of comprehensive legislation, agencies should handle personal information consistently with the Australian privacy principles, particularly APP 6, which relates to the use and disclosure of personal information. Individuals may have a right of redress for variations of privacy through equitable action and breach of confidence. As I said before, we are trying to broadly align ourselves with other jurisdictions. When the Leader of the Opposition asked about the education process for agencies and IPP entities, there has been a requirement in many areas to comply with the Australian privacy principles, but that does not cover the whole field, which is why this bill is coming.

Clause put and passed.

Clauses 20 and 21 put and passed.

Clause 22: Exception: publicly available information —

Mr R.S. LOVE: There are a series of exceptions. I will not talk about them all, but I want to pick up on a couple. There is an exception around publicly available information. Clause 22(2) says that subsection (1) —

> … does not apply in relation to the following information privacy principles —
>
> (a) IPP 6.5 and IPP 6.6;
>
> (b) IPP 6.7 and IPP 6.8, to the extent that those principles relate to correction of personal information.

Can the Attorney General explain subsection (2) and why that exception is available?

Mr J.R. QUIGLEY: The IPPs are to apply only to the handling of personal information that is not publicly available. This exception is similar to section 12 of the Victorian Privacy and Data Protection Act 2014. This is also consistent with the FOI act whereby the access provisions of that act do not apply to documents that are publicly available. However, like the FOI act, the exception will not apply in relation to IPP 6 insofar as it concerns the correction of personal information; that is, an individual may still apply for the correction of their personal information even if it is publicly available.

Clause put and passed.

Clause 23: Exception: law enforcement functions —

Mr R.S. LOVE: I think I raised in the second reading debate the incident when the police used information that was gathered for a purpose other than for which it was originally gathered—not illegally; it was legal at the time, as I understand. I am talking about the Mick Martin incident and the SafeWA app. What are the ramifications of this exception? Would the use of that type of information by law enforcement be disqualified under this legislation?

Mr J.R. QUIGLEY: There is a partial exemption that is consistent with other jurisdictions in relation to law-enforcement agencies. Partial exemptions for law enforcement agencies are function based, as opposed to outlining specific activities, for two reasons—first, in recognition of the significant number of government agencies

that have a law enforcement function, and, second, to accommodate an increasing diversity of law-enforcement functions that extend beyond traditional police powers. This will provide flexibility for this partial exemption to apply to agencies that are given a law-enforcement responsibility in the future, and to accommodate the changing enforcement landscape for the WA Police Force. The exception will apply only to a law-enforcement agency's law-enforcement function and when it believes it is reasonably necessary to use those functions. Law-enforcement agencies may have functions outside of this and those will remain subject to IPPs.

In the case of the SafeWA data, to which the Leader of the Opposition specifically referred, the disclosure of SafeWA data was prior to the enactment of the Protection of Information (Entry Registration Information Relating to COVID-19 and Other Infectious Diseases) Act 2021. We had to bring in legislation to stop it. It was required under the Criminal Investigation Act 2006 such that IPP 2 would not have been contravened were it in existence. It would not have been an interference with the privacy of an individual. At the time the SafeWA app was inaugurated, obviously there was not this bill or the previous act, but WA was not alone in that regard. I understand that in states and territories with privacy laws, contact tracing apps were also susceptible to compulsory disclosure. It was not just our jurisdiction; it was others. It was an exceptional circumstance whereby people had to hand over privacy information every time they entered a premises, so we had to cover that with specific legislation. Prior to that legislation, there was no protection.

Clause put and passed.

Clause 24: Exception: emergency response functions —

Mr R.S. LOVE: Emergency response functions are an exception. Again, this is related to what the Attorney General has just been talking about in terms of the emergency response to a pandemic or some other matter. Could he explain the definitional parameters around the emergency response functions? Is that defined in the Emergency Management Act? I know it is defined in the bill, but how will we know which agency will be covered by this and to what extent the information will be covered?

Mr J.R. QUIGLEY: There is a definition contained within the Emergency Management Act, but this is a more limited or narrower definition than that contained in the Emergency Management Act, so we have to go back to that act. In the statutory interpretation under that act, emergency has its normal regular meaning—that there is an unexpected run of events that creates an emergency that we have to respond to. I go back to clause 4, which we have already dealt with. Under that clause, emergency response functions mean functions that relate to responding to an emergency, including by combating its effects, providing emergency assistance to persons affected and reducing resulting damage. We had an emergency response to the Kimberley floods.

Clause put and passed.

Clauses 25 and 26 put and passed.

Clause 27: Exception: IPP entities to which IPP 6 does not apply —

Mr R.S. LOVE: This clause provides a bit more information about information privacy principle entities and refers to certain contractors. It states —

> IPP 6 does not apply to —
>
> (a) an IPP entity that is an agency as defined in the *Freedom of Information Act 1992* Glossary clause 1 (whether or not the IPP entity is an exempt agency as defined in that clause); or
>
> (b) a Parliamentary Secretary.

Then note 1(a) and (b) for this clause explains what is in the Freedom of Information Act. Can the Attorney General explain why certain contractors and subcontractors in relation to contracts for security, custodial and prison services are agencies as defined in that act? Why have they been included in this particular exception?

Mr J.R. QUIGLEY: They are already covered under the Freedom of Information Act and therefore do not have to be separately covered by this clause of the bill.

Clause put and passed.

Clause 28: Privacy code of practice —

Mr R.S. LOVE: Clause 28 is the beginning of division 3, "Privacy codes of practice", so I might ask a couple of questions about the privacy codes of practice. First of all, are there any draft privacy codes of practice? Are there any similar documents that exist that the Attorney General can point to that would illustrate what the privacy codes of practice might look like in government?

Mr J.R. QUIGLEY: There are none yet, because they will have to be made by the Information Commissioner and approved by the Governor in Executive Council. The commonwealth Australian privacy principle code, which is the equivalent of our approved privacy codes of practice, is the Privacy (Australian Government Agencies — Governance) APP Code 2017, which is binding on all commonwealth agencies. It sets out specific requirements

that agencies must comply with as part of their compliance with APP 1.2 and enhances the privacy capability and accountability of other agencies. Another example of an approved code of practice is the New South Wales Privacy Code of Practice for Local Government, which modifies information protection principles contained in division 1 of part 2 of the New South Wales Privacy and Personal Information Protection Act 1998 and the provisions of part 6 of that act as they relate to local governments. There are also other approved privacy codes of practice in New South Wales pertaining to, for example, the department of education and training, the Judicial Commission of New South Wales and the New South Wales Public Service Commission. Although there is not a privacy code of practice yet, we can look at examples in other jurisdictions, and we await a new Privacy Deputy Commissioner to present to Executive Council his or her privacy code of practice.

Mr R.S. LOVE: Under subsequent clauses, the privacy codes of practice are considered to be disallowable subsidiary legislation. Will there be any penalties for the contravention of a code of practice?

Mr J.R. QUIGLEY: We will deal with that at clause 33, but, briefly, for interference with a code of practice for which a privacy complaint might be made to the commissioner, the commissioner can give compensation of up to $75 000. But we will deal with that at clause 33.

Mr R.S. LOVE: Where are the offence provisions? We will get to that. I was just going to have a general chat about that, but we might just move to clause 33.

Clause put and passed.

Clauses 29 to 32 put and passed.

Clause 33: Effect of approved privacy code of practice —

Mr R.S. LOVE: I am looking for the answer that the Attorney General has just given—that there is a penalty here somewhere.

Mr J.R. Quigley: Only by way of compensation.

Mr R.S. LOVE: Perhaps the Attorney General could explain how that will operate.

Mr J.R. QUIGLEY: It will not be an offence, but when an IPP entity fails to comply with an approved privacy code of practice, it will constitute an interference with privacy for which a privacy complaint may be made or an own motion commenced by the Information Commissioner. This is subject to a number of exceptions that mirror the exceptions from the IPPs. There is also a requirement for the principal officer to report data breaches to the commissioner so that the commissioner can commence of her own motion. The inquiry may give compensation or investigate the complaint of a citizen who complains that the privacy code has been breached.

Mr R.S. LOVE: Where does the bill specifically state what the Attorney General has just outlined? I cannot see that outlined anywhere. Any act is to be done in that way, but where does the bill state that they must not act inappropriately? Where does the compensation appear?

Mr J.R. QUIGLEY: It is in clause 104.

Clause put and passed.

Clauses 34 to 38 put and passed.

Clause 39: Purpose of Division —

Mr R.S. LOVE: I refer to division 4, "Requests for access to and correction of personal information". The Attorney General's second reading speech refers to a "no wrong door" approach in order to ensure these applications incorrectly made under the Freedom of Information Act are dealt with under the bill and vice versa. Can the Attorney explain exactly what he means by that quote from his second reading speech and how that interacts with division 4? I do not want to go into great detail about the whole thing, but could the Attorney give a general explanation around request for access to and correction of personal information?

Mr J.R. QUIGLEY: Certainly. The short answer is that the current Freedom of Information Act already provides individuals with the qualified right of access to documents held by government agencies. The IPP 6 does not intend to disrupt the system of access under that act. Individuals will continue to use the Freedom of Information Act as a mechanism to access or correct personal information. IPP 6 will apply only when the Freedom of Information Act does not, meaning it will only apply to contracted service providers. The process of making requests to a contracted service provider is intended to mirror the extent to which possible processes under the Freedom of Information Act apply, and it will not make any difference. Do not forget that there is deputy commissioner access and deputy commissioner privacy, and it will not matter to which of those two commissioners one applies for access to correct personal information. There is no wrong door.

If an application is made to an IPP entity under the Freedom of Information Act for access to a document containing personal information when it should have been made under IPP 6, it will be taken to have been a request for access to personal information that relates to an individual under IPP 6.1. That will meet the requirements of clause 40. The IPP entity then must deal with the application accordingly under the PRIS bill. Similarly, an application for

an IPP entity under the Freedom of Information Act for amendment of personal information contained in a document that should have been made under IPP 6 will be taken to be a request for the collection of personal information related to an individual under IPP 6.5. That meets the requirements of clause 41. The IPP entity must deal with the application accordingly under the PRIS bill. An IPP entity must also assist the individual to make the correct and complete application. Proposed section 98A of the Freedom of Information Act proposed to be inserted through clause 237 of the PRIS bill, will similarly provide for circumstances under which the PRIS bill applications are taken to be applications under the Freedom of Information Act. The general public will not be aware of the nuances of the difference in the two applications; therefore, it is deemed to be an application under either/or—no wrong door.

Clause put and passed.

Clauses 40 to 44 put and passed.

Clause 45: Public interest determination —

Mr R.S. LOVE: Clause 45 is under division 5, "Public interest determinations and temporary public interest determinations". One can have a public interest determination and also a temporary one. Again, we might just deal with this division, if the Attorney General does not mind, for brevity and to enable everyone to join in the discussion if they wish.

I will ask a few specific questions. Clause 45(1) states —

> The Information Commissioner may, on application by an IPP entity under section 46 and in accordance with the procedure set out in section 47, make a determination (a ***public interest determination***) that the Commissioner is satisfied —

The clause goes on to list the points that the commissioner has to be satisfied with. Clause 45(1)(b)(i) states —

> the public interest in the IPP entity doing the act or engaging in the practice substantially outweighs the public interest in the IPP entity complying with the information privacy principle, or approved privacy code of practice, or both …

Will the Attorney General run through how that determination might be made and provide an example, if he has one, of what that would look like?

Mr J.R. QUIGLEY: I refer to clause 45(1)(b)(i), which reads —

> the public interest in the IPP entity doing the act or engaging in the practice substantially outweighs the public interest in the IPP entity complying with the information …

"Substantially outweighs" does not have a precise definition; however, when used in similar circumstances of weighing exercise, "substantially" has been given its ordinary meaning—large, weighty, big, relative—to the competing interest. The ordinary dictionary meaning is meant here. It is when there is a large pressing matter of public interest. An example that illustrates a commonwealth public interest determination made under the commonwealth Privacy Act is the Privacy (Australian Honours System) Public Interest Determination 2018 that applied to the Department of Home Affairs. The determination applies to the disclosure by the department of certain personal information to the Office of the Official Secretary to the Governor-General and the Department of the Prime Minister and Cabinet for the purpose of verifying Australian citizenship or permanent residency status of individuals who are subjects of nomination for membership or honorary membership of the Order of Australia that might otherwise breach the Australian privacy principle 6.1. The Australian Information Commissioner was satisfied of the public interest in the department doing an act or engaging in a practice that outweighed, to a substantial degree, the public interest in adhering to that Australian privacy principle. That is an example, which the member asked for.

Mr R.S. LOVE: With your indulgence, Acting Speaker, we were running through the division as a general discussion and then we will move to the next division, if that is okay.

The ACTING SPEAKER (Ms M.M. Quirk): Certainly.

Mr R.S. LOVE: Within this provision is a provision for a temporary public interest determination. Given that a public interest determination has to be reported under clause 48 and that, further, under subclause (3), the Information Commissioner must review that determination within 60 days, why is there the necessity to have a separate temporary public interest determination?

Mr J.R. QUIGLEY: There might be urgent circumstances that require the making of a temporary public interest determination until the matter can be considered at length and submissions taken; that is, the need for a decision is pressing or immediate. A temporary public interest determination will not operate for longer than six months. Both public interest determinations and temporary public interest determinations will be mechanisms to disapply specified information privacy principles if the public interest in doing an act or practice substantially outweighs the public interest in complying with the IPPs. The key difference is that public interest determinations will be required to go through a public consultation process before being made, while temporary public interest determinations may be made without any public consultation due to being required urgently. Public interest determinations will remain

in force until a specified expiry date, while temporary public interest determinations will last no more than six months. They can be made without calling for submissions to deal with the matter urgently. In other words, they will preserve the status quo in the interim.

Mr R.S. LOVE: If a temporary public interest determination is granted for a period and that time expires, will the agency, if it feels that it needs to continue, have to go through the full determination process and not simply reapply and roll over the temporary determination?

Mr J.R. QUIGLEY: They can be extended only once to make sure that there is sufficient time for public consultation and for everyone to have their say.

The ACTING SPEAKER: I noticed your query, Attorney General, about whether there is going to be a dinner adjournment. There is not. Please indicate if you want a comfort break and one of your colleagues can fill in for a while if that is necessary.

Mr J.R. QUIGLEY: That is okay. I will keep on batting for a while, but I will need one at some point. I am looking around at all my colleagues who are putting their hand up! It is okay; I will go on.

Mr R.S. Love: I think you're waiting for the other bill, aren't you?

The ACTING SPEAKER: I do not know.

Mr R.S. Love: You will be here for a couple more hours.

The ACTING SPEAKER: Leader of the Opposition, do you have anything more on this division?

Mr R.S. LOVE: I am reasonably happy with it; we have covered enough of that division. We can put this clause and then we will move to division 6, which starts at clause 57.

Clause put and passed.

Clauses 46 to 56 put and passed.

Clause 57: Notifiable information breaches —

Mr R.S. LOVE: I have just a couple of questions on this matter. The notifiable information breaches start under clause 57, where it talks about what is a notifiable breach. That is all outlined in the three subclauses. I am just trying to get an understanding of what will happen. Will a notifiable breach be found to have happened by an IPP entity or will a breach be identified by another individual? What will be the process around identifying a notifiable information breach?

Mr J.R. QUIGLEY: There will be two ways. If the commissioner finds out about it, she could direct there to be an assessment, or the person subject to the privacy breach could themselves raise it by way of a complaint.

Clause put and passed.

Clause 58 put and passed.

Clause 59: Whether serious harm is likely to result from access, disclosure or loss —

Mr R.S. LOVE: This clause concerns the determination of whether a notifiable breach has occurred and some of the considerations. The clause outlines what must be considered, being —

(a) the nature of the information;

(b) the sensitivity of the information;

(c) whether the information is or was protected by security measures;

(d) the persons … who have obtained …

(e) the likelihood that the persons … —

(i) have … the intention of causing harm; or

(ii) could or did circumvent security measures …

(f) the nature of the harm …

(g) any matters set out in privacy guidelines;

(h) any other relevant matters.

That is quite a checklist of things to go through. Will the codes of practice that the Attorney General is talking about developing give greater guidance on how these matters will be assessed? I would have thought that they were all quite subjective, looking, for instance, at paragraph (d) —

the persons, or the kinds of persons, who have obtained, or could obtain, the information;

I guess that would make a difference if they were known criminals. Could the Attorney General explain whether there will be some structure around how these matters will be determined?

Mr J.R. QUIGLEY: Privacy guidelines are expected to be issued in relation to this matter. Consistent with other jurisdictions with similar schemes, it is anticipated that the harm could manifest as physical, psychological, emotional, financial or reputational harm. The short answer to the Leader of the Opposition's question is, yes, the commissioner will issue guidelines.

Clause put and passed.

Clauses 60 to 64 put and passed.

Clause 65: Exception: law enforcement agencies —

Mr R.S. LOVE: Here we have an exception to a notifiable information breach for law enforcement agencies. The clause reads —

> An IPP entity is not required to comply with section 63 in relation to an assessed notifiable information breach to the extent that —
>
> (a) the IPP entity is a law enforcement agency; and
>
> (b) the IPP entity believes on reasonable grounds that non-compliance with section 63 is necessary for the purposes of its, or any other law enforcement agency's, law enforcement functions.

The law enforcement agency makes that determination itself as an IPP. Is there any oversight of that determination; and, if so, how is that effected?

Mr J.R. QUIGLEY: They have to give notice to the Information Commissioner of their intended reliance. That will come in clause 69, "Notice to Commissioner if exception relied on", in two clauses' time. If there is an exception under clause 67, they have to notify the commissioner, so there is oversight, which is the point of the member's question.

Clause put and passed.

Clauses 66 to 72 put and passed.

Clause 73: Public entity must prepare information breach policy —

Mr R.S. LOVE: Clause 73 reads —

> (1) A public entity must prepare a policy setting out the procedures to be followed by the public entity in complying with the requirements of Subdivisions 2 and 3.
>
> (2) The public entity must make the policy publicly available.

Just how available will that be? Can the Attorney General explain how that will be provided to the public? Will it be on the website of the organisation? What is the requirement, expectation and dissemination of that policy?

Mr J.R. QUIGLEY: Regulations will be made in due course under clause 149 of the bill and will provide for how something is to be made publicly available for the purposes of part 2 of the bill, including clause 73. This obligation will be set out in the regulations.

Clause put and passed.

Clauses 74 to 78 put and passed.

Clause 79: Privacy impact assessment relating to high privacy impact function or activity —

Mr R.S. LOVE: In his second reading speech, the Attorney General referred to division 8, which is where clause 79 starts. The second reading speech states —

> … division 8 contains provisions relating to privacy impact assessments, which will require IPP entities to undertake a privacy impact assessment if the performance of a function or activity involves the handling of personal information and is likely to have a significant impact on the privacy of individuals.

Is that assessment done if the information is of the type mentioned in the definition of "sensitive personal information" such that in every circumstance there must be a privacy impact function or activity?

Mr J.R. QUIGLEY: Once again, the Information Commissioner is expected to issue guidelines setting out matters to be taken into account in determining whether the performance of a function or activity is likely to have a significant impact upon the privacy of individuals. Discussion in the commonwealth *Privacy Act review: Report* suggests that functions or activities that may have a significant impact on the privacy of individuals—this is not an exclusive list but an indicative one—include the collection, use or disclosure of sensitive information on a large scale; the collection, use or disclosure of children's personal information on a large scale; ongoing or real-time tracking of an individual's geolocation; the use of biometric templates or biometric information for identity verification or where collected in publicly accessible spaces—I referred earlier to artificial intelligence collecting data from crowds by identifying faces—and the collection, use or disclosure of personal information for the purposes of automated decision-making with legal or significant effects. These would have a significant impact upon privacy. This is consistent with comments made in the commonwealth *Privacy Act review: Report* and is also consistent with the

European Union General Data Protection Regulation, under which data protection impact assessments are required prior to undertaking activities such as systematic and extensive automated evaluation of individuals, for example, profiling, on which decisions are based that produce a legal or similarly significant effect; the large-scale processing of special categories of data; the systematic monitoring of publicly assessable areas on a large scale; and the personal data processing that is otherwise likely to result in a high risk to the rights and freedoms of natural persons. The Information Commissioner may also issue guidelines that set out matters to be taken into account for the purposes of determining whether an activity is likely to have a significant impact upon the privacy of individuals under clause 81. When I get to all of this, I think robodebt and automated decision-making.

Mr R.S. LOVE: Correct me if I am wrong, but was that not a commonwealth organisation? How is that connected?

Mr J.R. Quigley: It was. I am thinking of automated decision-making as an example, that was all.

Clause put and passed.

Clauses 80 and 81 put and passed.

Clause 82: Individual may complain about interference with privacy —

Mr R.S. LOVE: I wanted to ask the question quite broadly here because this clause covers a person wanting to make a complaint about privacy. Could the Attorney General explain in general terms how this will improve the situation for Western Australians compared with their current legal rights? I know there are rights under some of the access to information provisions, but in terms of privacy, what will this provide that is not available at the moment?

Mr J.R. QUIGLEY: There is currently no comprehensive privacy law in the public sector in Western Australia, so this will vastly change the situation by giving people a right to complain about a breach of privacy, which may result in, as we will come to later in the bill, compensation. Privacy is regulated by legislation that is not specifically concerned with the protection of personal information but contains a secrecy or confidentiality provision. I discussed this before—for example, the health legislation. I have discussed before that in the interim departments are being asked and required to comply with Australian privacy principles, which I mentioned. We will educate them and bring them to up to speed on the privacy principles.

Mr R.S. LOVE: At the moment there is an ability for people to gain some information, I would have thought, around these matters through the Ombudsman. Is that not the case? Is there not an ability to make a complaint about a breach of privacy through that avenue already?

Mr J.R. QUIGLEY: It is all disparate. Each agency has its own set of rules around privacy, like police and health, and all these different ones, so there is no uniform right to privacy. There is no uniform protection of privacy, but different agencies may have developed their own policies or procedures on rights to privacy. If an individual is aggrieved by the sharing of personal information by a public entity currently, they would have to commence an action in the courts to seek redress for the disclosure, for a likely breach of an equitable duty of confidence. It is very, very difficult to go to court to establish an equitable duty of confidence by the department. Currently, the legislation is penal on the disclosure of information but does not support the affected person. If an officer within the department might breach someone's privacy, there would be a sanction against that person for disseminating the information, but no protection for the citizen whose personal privacy was breached. In other words, it is penal against the person who did it, but it does not help the victim, if I can put it that way.

This bill provides a clear framework by which an individual who alleges their privacy has been interfered with—for example, by their personal information being disclosed in contravention to the IPPs—will be able to make a complaint to the Information Commissioner and the commissioner may, in determining individual privacy has been interfered with, award compensation up to $75 000. That will be instead of having to hire a lawyer, which is quite expensive, to issue proceedings in the Supreme Court, which is very expensive, to pursue an action for a breach of an equitable duty, which is massively expensive. That is an inferred duty. After the passage of this bill, they will be able to make the complaint to the Information Commissioner and seek redress.

Clause put and passed.

Clause 83 put and passed.

Clause 84: Complaint by or on behalf of child —

Mr R.S. LOVE: We can see that a complaint can be made —

(a) by the child; or

(b) on behalf of the child by —

(i) a parent or guardian of the child; or

(ii) another individual chosen by the child, …

Are there any restrictions on the age of the child making a complaint? How would that be determined? Is it if the child is aged five, three or 14 years? At what age can a child make a complaint?

Mr J.R. QUIGLEY: The member has to go back to the definition of a "child" in clause 4 —

> ***child*** means a person who is under 18 years of age;

Any person under the age of 18 years can make a complaint. I cannot imagine a baby being able to make a complaint. That would be up to the parent or guardian. Commonsense has to prevail here for the commissioner to determine. A 12-year-old child might be able to make a complaint. For a five-year-old child, the commissioner would have to look at each case on its circumstances. How could a five-year-old child complain? They could probably not read well enough to understand enough to make a complaint.

Clause put and passed.

Clause 85 put and passed.

Clause 86: Matter referred by Ombudsman may be treated as privacy complaint —

Mr R.S. LOVE: Getting back to what I spoke about before with the Ombudsman, at the moment the Ombudsman obviously deals with a lot of complaints of process and that might reveal that there has been a data breach. Would a person whose case was being considered by the Ombudsman be notified of that report? What would the process be for the person or people who are the subject of the breach being identified? Would the case be handled by the Ombudsman or would the Information Commissioner be in charge of the particular matter, or would it be a split between the two, depending on where it goes?

Mr J.R. QUIGLEY: Section 25(1) of the Parliamentary Commissioner Act 1971 provides —

> Where, as a result of an investigation conducted under this Act (not being an investigation conducted pursuant to section 15), the Commissioner is of the opinion that the action to which the investigation relates —
>
> (a) appears to have been taken contrary to law;
>
> (b) was unreasonable, unjust, oppressive …
>
> …
>
> (g) was wrong,

The Ombudsman can notify the commissioner of this information. The Information Commissioner therefore has before them the information and, as provided under clause 88 —

> As soon as practicable after a privacy complaint is made, the Information Commissioner must give written notice of the complaint to the respondent.

The Ombudsman has conducted an investigation, found out that the department or the agency's actions were wrong. She refers that to the Information Commissioner. That is to be regarded as a complaint and after that referral is made by the Ombudsman to the Information Commissioner, the Information Commissioner as soon as reasonably practicable will notify the respondent.

Clause put and passed.

Clauses 87 to 92 put and passed.

Clause 93: Commissioner may refer complaint to other authority —

Mr R.S. LOVE: Clause 93 states —

> (1) If the Information Commissioner considers that the act or practice about which a privacy complaint is made could be the subject of a complaint under the *Privacy Act 1988* (Commonwealth) Part V, the Commissioner may refer the complaint to the Australian Information Commissioner.

Is that a common practice in other jurisdictions? Does that happen now if agencies in Western Australia find that there has been a breach, because we know that the IPP entities all have some level of information policy and procedures? Does that happen now or is it a new thing for Western Australia?

Mr J.R. QUIGLEY: Clause 93(1) to 93(8) refer to actions that may be taken by the Information Commissioner, not by the Ombudsman. At the moment we do not have an Information Commissioner who covers privacy. This provision provides that they have made a complaint to the Information Commissioner, because there has to be a commissioner. We are not talking about what happens at the moment; it is all predicated on there being an Information Commissioner who covers privacy, which will happen after the proclamation of this bill. After the proclamation there will be an Information Commissioner who covers privacy and if a complaint comes in and the commissioner determines that it should be sent to the federal authority, she can refer it. There will be no automatic referral. It is a question of the Information Commissioner directing someone to the right place for the determination of their complaint, if it deals with a commonwealth agency or such like.

Mr R.S. LOVE: I understand the commonwealth as mentioned in clause 93(1); that is clear because two different acts cover different bodies depending on whether they are federal or state entities, I imagine. If we look at clause 93(2), we see that if a privacy complaint is made and the Information Commissioner has a look and says it is a complaint that the Parliamentary Commissioner could action, what would the reason be for that? If the complaint was purely about

an information breach, under what circumstances would it be more appropriate for the Parliamentary Commissioner, for instance, or the director of the Health and Disability Services Complaints Office to action those matters rather than the Information Commissioner if it is only about information?

Mr J.R. QUIGLEY: Some aspects of the complaint might be privacy and some aspects of the complaint might involve something else than a breach of privacy. It may include the conduct of an officer that does not involve a breach of privacy, but nonetheless is conduct by the agency or officer of the agency that falls within the jurisdiction of the Ombudsman, for example, or falls within the jurisdiction of the Health and Disability Services Complaints Office, because it does not necessarily involve, or exclusively involve, an allegation of a breach of privacy. In those circumstances, there will be no automatic referral. The commissioner must make the referral. The complaint may have been made to the wrong place. It may have been made to the Information Commissioner but, by the nature of the complaint, should have been made to the Health and Disability Services Complaints Office. They do not have to say, "Well, you go and find the right place." The Information Commissioner can make the referral.

Mr R.S. LOVE: Proposed section 93 states —

> (8) If the Information Commissioner refers a privacy complaint under this section, the Commissioner must give written notice of the referral to the complainant and the respondent.

Is there a timeframe in which that must occur?

Mr J.R. QUIGLEY: It would be as soon as reasonably practicable.

Clause put and passed.

Clause 94: Parties may resolve complaint —

Mr R.S. LOVE: The clause states, in part —

> (1) A complainant and respondent may resolve a privacy complaint by agreement at any time …

Would that agreement be a binding, written agreement? What form would that agreement take, and would it be possible that an agreement might involve the payment of money or some other conciliation procedures, which we will get to, I think, not too far down the track. Can that agreement, of itself, involve a degree of compensation from a public body?

Mr J.R. QUIGLEY: Yes, why not? The clause provides that they may resolve the breach between themselves. If it were a serious breach that impacted upon the citizen, for example, inflicting psychological harm or financial damage, to resolve it the complainant might say, "I want some compensation". The agency or the IPP entity might negotiate that. No doubt they would have an eye on the maximum available under the act, which would be $75 000 for the most gross breach involving very serious harm. Looking at that scale, they could negotiate a monetary compensation.

Clause put and passed.

Clause 95 put and passed.

Clause 96: Procedure for conciliation —

Mr R.S. LOVE: If I could have a shortcut through this process, Attorney General. The Attorney General is a lawyer; I am not. Would this be a standard conciliation process that we would find in other acts or in legal practice generally? Could the Attorney General explain whether this would be any different from any other normal legal process?

Mr J.R. QUIGLEY: Conciliation, as encouraged by all the courts, involves a process of dispute resolution. It is an alternative to a formal hearing in which a neutral third party attempts to resolve, without seeking to impose his or her own terms of settlement, to facilitate an agreed resolution. The mediator does not say, "This is what should happen". They try to guide the parties along a common path to, hopefully, resolve the matter without there having to be formal investigations and lengthy or expensive procedures. In all litigation, courts at all levels encourage mediation to see whether things can be resolved by a neutral third party.

Mr R.S. LOVE: Clause 96(5) states, in part —

… the Information Commissioner may determine the procedure to be followed in a conciliation.

There does not have to be a template for this; there could be a bespoke process. Would that be because the person may have different representation—for instance, for a person with disability who is part of this process? For what reason would the commissioner need to determine a particular procedure?

Mr J.R. QUIGLEY: It is not confined to procedure. In the procedure of mediation, there would be a neutral mediator. They could have the parties in the same room or shuttle between them. That is the procedure. But the commissioner may give a direction about disclosure or anything that the parties need. If one of the parties says, "I suffered economic loss", the commissioner may say, "You will have to produce the documents that verify your economic loss", and give a direction. It is no good going along to mediation with a neutral third party to claim economic loss if the respondent does not have notice of what that economic loss entails. The commissioner may say, "You have got to give some disclosure."

This is quite normal in courts. It can happen after discovery or after interrogatories have been served and answered. It is to facilitate productive mediation.

Clause put and passed.

Clauses 97 to 99 put and passed.

Clause 100: Statements made in conciliation protected —

Mr R.S. LOVE: Clause 100 states, in part —

> Unless the complainant and respondent otherwise agree, evidence of anything said or admitted during the conciliation process for a privacy complaint —
>
> (a) is not admissible in proceedings before a court or tribunal;

Is that similar to the practice under the commonwealth privacy legislation that the Attorney General has referred to several times throughout this discussion?

Mr J.R. QUIGLEY: It is very standard for all mediation that what is said in mediation cannot be used in a hearing, such as in the Family Court, in which all parties are regularly required to participate in mediation. What is said in front of the mediator cannot be used in court. This encourages the parties in mediation to be candid and make full statements, knowing that whatever they say is not going to be held against them later. Statements made in conciliation are protected in the commonwealth Privacy Act 1988 commonwealth and in section 70 of the Privacy and Data Protection Act 2014 in Victoria. The principle is that someone goes to mediation without prejudice and tries to resolve the matter and does not take up the time of the commissioner.

Clause put and passed.

Clause 101 put and passed.

Clause 102: General matters about dealing with complaints —

Mr R.S. LOVE: Clause 102(3) states —

> Subject to this Act, the Information Commissioner may determine the procedure for investigating and dealing with complaints and may give any necessary directions as to the conduct of the proceedings.

The commissioner will determine the procedure for investigating a complaint, how to deal with the complaint and the conduct of the proceedings around the complaint. They will investigate, determine the procedure for the investigation, deal with the investigation and then determine how that matter will be considered. Is that what that subsection says? Can the Attorney General explain the import of that and perhaps give me an example of what those necessary directions might be?

Mr J.R. QUIGLEY: As I said before, the necessary directions may be to come along and bring documents to establish the damage. The hearings before the Information Commissioner are meant to be as informal as possible, but the rules of natural justice and procedural fairness will apply to the Information Commissioner in the context of determining one of these privacy complaints. There is no provision providing to the contrary—that is, that procedural justice and natural fairness do not need to be applied. In the absence of such an exclusion, those principles will apply.

The rules of procedural fairness are also reflected in the following provisions: the requirement to provide the respondent with a written notice of the complaint, the requirement to provide the parties with a reasonable opportunity to make submissions and the right of review of the determination of the Information Commissioner. Natural justice will apply and this clause has been drawn to make it broadly consistent with section 43 of the commonwealth legislation, which gives the commonwealth Privacy Commissioner similar powers.

Clause put and passed.

Clause 103: Referral of question of law to Supreme Court —

Mr R.S. LOVE: Clause 103 states, in part —

> (1) The Information Commissioner may refer to the Supreme Court any question of law that arises in the course of dealing with a privacy complaint.

It goes on to state —

> (2) A question may be referred under this section on the Information Commissioner's own initiative or at the request of the complainant or respondent.

My question is about the practicalities of how that will work if the complainant was to say to the Information Commissioner that they do not accept that the Supreme Court needs to determine whether that is the correct interpretation of the law. Are we dealing with legal representatives of the complainant? What is the process here? Are there costs and who would pay? Could the Attorney General explain how the process would unfold and whether there would be costs to the complainant in requesting that?

Mr J.R. QUIGLEY: I was just confirming whether my recollection of legal practice is reasonably current. There can be a request to the commissioner during the hearing and before a determination is made to refer a question of law to the Supreme Court for determination. Once the decision has been made by the commissioner and the commissioner has given their interpretation of the law, there can always be judicial review. After a decision, a complainant could seek judicial review in which case they would be exposed to costs. If the parties themselves do not request a referral to the Supreme Court and the commissioner makes a referral to the Supreme Court on a question of law, the parties will not be liable for the costs of the commissioner. That is in subclause (5) —

> A complainant or respondent who did not request the referral of a question of law to the Supreme Court —
>
> (a) is not required to appear, be represented or make submissions …

And —

> (b) is not liable for any costs in relation to the referral.

Mr R.S. LOVE: Presumably, if they do make that request to the commissioner, the commissioner takes that matter to the Supreme Court for determination, the complainant or respondent would also be represented and they would presumably put their own case. I am trying to understand how that could play out because it is the commissioner seeking the determination of the court. Could the Attorney General explain how that would work?

Mr J.R. QUIGLEY: If the complainant makes a request to the commissioner to refer it to the Supreme Court, it is not covered by subclause (5), then section 37 of the Supreme Court Act states that costs of and incidental to all proceedings in the Supreme Court shall be at the sole discretion of the judge. If the complainant has pressed the commissioner to refer the matter and the commissioner did not really want to but was being pressed to refer it, it will be a matter for the judge to determine the equitable outcome on the question of costs, at their discretion. If it is raised as a serious point, it is hard to imagine the commissioner might not refer an undetermined question of law to the Supreme Court.

Clause put and passed.

Clause 104: Determination of complaint —

Mr R.S. LOVE: The Information Commissioner may determine a privacy complaint and, for that determination, it lists all sorts of things that could happen. We have referred to this a couple of times. Subclause (2)(c) states —

> an order that the respondent must pay the complainant a specified amount of compensation, not exceeding $75 000, for loss or damage suffered by the complainant by reason of the interference with privacy;

How did the department arrive at $75 000? Is it common in other jurisdictions as well?

Mr J.R. QUIGLEY: We arrived at $75 000 because that is the figure stipulated as the current maximum amount under the Criminal Injuries Compensation Act. It gives parity. If someone suffers grievous bodily harm—that is, a life-threatening injury—they will get a maximum of $75 000. We put the maximum on the same footing. Hopefully, if the criminal injuries compensation maximum is reviewed at some point, they will be thoughtful enough to include the review of this act because they are linked.

Mr R.S. LOVE: Subclause (3) states that the loss or damage referred to may include —

> (a) an injury to the feelings of the complainant; and
>
> (b) humiliation suffered by the complainant.

Are there any other circumstances or measures of loss or damage that would be measured as part of the consideration of $75 000? There would have to be significant humiliation or injury to the feelings of the complainant to equate to grievous bodily harm in that other legislation. Can other matters be considered? Could loss of employment potential be considered because certain information had been divulged? What other things could be considered?

Mr J.R. QUIGLEY: Clause 104(2)(b) refers to —

> an order that the respondent must perform any reasonable act, or carry out any reasonable course of conduct, to redress any loss or damage suffered by the complainant …

It is envisaged that any loss or damage, as outlined in subclause (2)(c) is —

> … loss or damage suffered by the complainant by reason of the interference with privacy;

We have gone through that already; it includes economic loss and other losses. It could be, as I have said, for economic loss. We did not want to have it so narrow as to include only economic loss. There might be a breach of privacy in relation to one of those other areas that we talked about before, including sexuality, gender or religious faith. They are not readily identifiable by the courts as damage, but subclause (3) says that it "may" include—it is permissive—injuries to feelings, or humiliation.

Mr R.S. Love: May but not must.

Mr J.R. QUIGLEY: It may, and there might not be a head of damage. For example, and I hope she does not mind me mentioning her name in this context, in Victoria Danielle Laidley was humiliated by the breach of privacy that

released her photograph soon after arrest on some charge, showing her in ladies' clothes and in distress. That would not be a head of damage for economic loss or something like that that would be ordinarily compensable under any tort law, but the person could say, "That was done to humiliate me", and the commissioner could award damages.

Mr R.S. LOVE: Clause 104(5) provides that the Information Commissioner may make publicly available a determination under proposed subsection (1). Is it the normal practice to make it publicly available? Is that the default position? What is the likelihood of a determination being made publicly available? What would the considerations be in making that determination?

Mr J.R. QUIGLEY: Essentially, it is permissive. They may make a determination and may make it public. One of the considerations might be the education of other agencies: if you do this, this is what ends up happening; this will be a breach of the privacy provisions of the legislation. If these determinations were purely secret, there would be no guidance for agencies; but in certain circumstances, the commissioner may determine that making something public will maybe have a deterrent effect on some agencies, and may be educative for others.

Mr R.S. LOVE: In making that information publicly available, would it be open to the Information Commissioner to make it partly publicly available? It could be that Western Power and complainant A reached an agreement because information of this nature was released and caused economic distress, humiliation or whatever reason. Is that something that could be done if the commissioner was trying to educate other authorities on what constitutes a breach or a successful complaint? Could the Attorney General make some comment on that?

Mr J.R. QUIGLEY: Firstly, just to pick up the Leader of the Opposition—not to criticise him—it could not be for a conciliation; this is only the publication of a determination by the commissioner. In publicising that determination, the commissioner could always anonymise a complainant—for example, to protect their privacy going forward. The commissioner could redact certain information. This happens in court judgements already. In publishing reasons for decision in some child sexual abuse matters, courts redact certain information that could lead to the identification or unnecessary humiliation of the victim.

Mr R.S. LOVE: So it is fully or partly out there in the open to educate, inform and —

Mr J.R. Quigley: And deter.

Mr R.S. LOVE: — deter, yes. Thank you.

Clause put and passed.

Clause 105 put and passed.

Clause 106: Commissioner may investigate act or practice that may be interference with privacy —

Mr R.S. LOVE: We are talking here about the investigation enforcement proceedings for the Information Commissioner. In the Attorney General's second reading speech, he stated —

> … the Information Commissioner may conduct own-motion investigations into acts or practices of IPP entities that may be an interference with privacy; can issue notices to produce or attend; and may monitor or conduct assessments of compliance. Officers authorised by the Information Commissioner will also have powers of entry and inspection that can be exercised for notifiable information breach purposes in appropriate circumstances. The Information Commissioner will also be empowered to issue compliance notices for serious, flagrant or repeated interferences with the privacy of an individual. Compliance notices require IPP entities to take action not to repeat or continue an act or practice, and failure to comply will be an offence.

We might go through some of those in a moment, but, in general terms, are the powers of the Information Commissioner similar or different from those of the Parliamentary Commissioner for Administrative Investigations or the Corruption and Crime Commissioner? Could the Attorney General give me an idea of the relative enforcement and investigative power open to the Information Commissioner compared with those available to those other officers?

Mr J.R. QUIGLEY: Firstly, the CCC does not have the power to issue directions to desist from certain conduct. It has the power to refer conduct to the Director of Public Prosecutions for consideration for prosecution, but it does not have the power to issue directions to an agency. Similarly, the Parliamentary Commissioner for Administrative Investigations does not have the power to issue directions, but has the capacity to report to the Parliament and table a report that could be highly critical of the agency, which will cause the agency to modify its practice by reason of public shaming or exposure as a result of a report being tabled in this place. The Information Commissioner can issue a direction to desist but, unlike the Ombudsman, does not have the powers of a royal commissioner—namely, the power to subpoena people to appear and the power to order the production of documents. The Parliamentary Commissioner for Administrative Investigations also has the power, under the Charitable Trusts Act, to use the powers of a royal commission to investigate a charitable trust. Similarly, the Corruption and Crime Commissioner has the powers of a royal commission to subpoena and require production, but not the Information Commissioner. The Information Commissioner can, however, order the production of documents to attend, but non-production would not be in contempt of the powers of a royal commissioner.

Mr R.S. LOVE: In general terms, why is there differentiation between those two commissioners and this commissioner? If we are talking about machine learning and the complexity of the work that this office may be involved with, how can that be conducted through the simple powers the Attorney General is talking about, given the new storage methods for information and the development of ways of handing that information and making decisions by a machine?

Mr J.R. QUIGLEY: They perform different functions from the other officers of the Corruption and Crime Commission and the parliamentary commissioner for investigations. As the member can see, they are primarily concerned with decisions taken by departments that insult a person's right to privacy. As such, the provisions are somewhat lighter than the heavy provisions of the CCC or the Parliamentary Commissioner for Administrative Investigations. The Information Commissioner herself has never had the powers of a royal commission but has the power to require the production of documents. It will be the same at the new commission. The Information Commissioner will have the power to require the production of documents but will perform a different function from that of the Corruption and Crime Commission.

Mr R.S. LOVE: We are considering clause 106, "Commissioner may investigate act or practice that may be interference with privacy". I think there is something wrong with that heading.

Mr J.R. Quigley: Where are we now?

Mr R.S. LOVE: We are on clause 106(3), which states —

> In conducting the investigation the Information Commissioner may obtain information from any persons and sources, and may make any investigations and inquiries, that the Commissioner considers appropriate.

That will be entirely up to the commissioner; there will be no guidelines or practices around that. Will it be entirely at the commissioner's discretion to exercise those powers?

Mr J.R. QUIGLEY: It is the same as the commonwealth's privacy commissioner. They must be reasonable in the conduct of the investigation and abide by the rules of natural justice.

Mr R.S. LOVE: Is the conduct of that investigation under these rules of natural justice contestable? What will compel the Information Commissioner to abide by those rules?

Mr J.R. QUIGLEY: It will go to the Supreme Court, by way of judicial review, if the Information Commissioner does not apply natural justice. If the determination is adverse to the complainant at the end of the whole investigation, they can always go to the State Administrative Tribunal on a finding of fact or to a court of judicial review about a breach of the principles of natural justice.

Clause put and passed.

Clause 107: Determination following investigation —

Mr R.S. LOVE: Clause 107(3) states —

> Loss or damage referred to in subsection (2)(b) may include —
>
> (a) an injury to the feelings of the individual; and
>
> (b) humiliation …

These are exactly the same determinations that we saw earlier in the legislation. The commissioner's own determinations are the same as those that we already discussed in the preceding clause. Why are we repeating these matters in this provision when they were already dealt with under the normal determinations?

Mr J.R. QUIGLEY: The orders listed in this clause are largely consistent. However, the Information Commissioner cannot make an order for the payment of compensation following an own motion investigation. It is considered that ordering the payment of compensation without knowing who it will be paid to is problematic, as opposed to a complaint when an individual knows they made the complaint alleging interference with their own privacy. It is anticipated that the Information Commissioner might let an individual know and recommend that they make a complaint if the individual believes they have suffered loss or damage. I am advised that this is the typical approach taken by the Office of the Australian Information Commissioner. That is why it is referred to in this clause.

Clause put and passed.

Clause 108 put and passed.

Clause 109: Reports —

Mr R.S. LOVE: Clause 109 relates to the reports that are prepared following an investigation. Clause 109(4) states —

> If the Information Commissioner prepares a report under subsection (1), the Commissioner may do any of the following —
>
> (a) give the report to the principal officer of the IPP entity to which it relates;
>
> (b) give the report to the Privacy Minister;

(c) give the report to the responsible Minister for any public entity to which the report relates;

(d) make the report publicly available.

That is a little like what we were talking about before—whether a determination under the previous considerations will be made public. The commissioner has a variety of options under this clause. Would one rule out the other or can the commissioner do all those things or can they do any of them?

Mr J.R. QUIGLEY: They may do any of the following. It is not an exclusive list. They may give it to the principal office of the IPP or to the privacy commissioner; report to the responsible minister for that agency; and/or make it publicly available. It is any one or all of the above.

Mr R.S. LOVE: Would the report ordinarily—pardon me if I have missed it somewhere—also be tabled in Parliament?

Mr J.R. QUIGLEY: No, but an annual report of the Information Commissioner will be tabled in Parliament. The report about an individual complaint will not be, but it can be published. We have discussed that. The commissioner has the capacity to publish it in whole on its website or in part under redaction.

Clause put and passed.

Clause 110: Commissioner may monitor or conduct assessment of compliance —

Mr R.S. LOVE: Clause 110(1) states —

The … Commissioner may monitor, or conduct an assessment of … compliance …

I imagine the commissioner would have some sort of audit role. What is their role under this clause? Again, the Information Commissioner's report can be given to various ministers. Can it go to other public information officers—for instance, the Auditor General or others who may find that report of interest? Clause 111 flows on from clause 110. With your indulgence, Madam Speaker, we are not only considering clause 110, but also clause 111, which flows from it.

Mr J.R. QUIGLEY: This is the general monitoring assessment function of the Information Commissioner to ensure the IPP entities are complying with the privacy obligations, including IPPs, and to enable the commissioner to identify any privacy risks and report their findings. It is like an audit. It is based on similar functions under the commonwealth and Queensland privacy legislation. It is also consistent with the general functions of equivalent commissioners in other jurisdictions to monitor compliance with privacy principles in other jurisdictions, for example, the capacity of the New South Wales commissioner to audit compliance with privacy principles.

Mr R.S. LOVE: I am trying to understand how that works. I referred to the Attorney General's second reading speech and the number of audits that the Auditor General has done on compliance with information, ensuring there is no improper access to information or sharing of information. It seems to me that here we are talking about something very similar, which is almost one office doing a double-up of the other. I am trying to understand whether we will have a redundancy of people checking public entities for basically the same thing. We know that that becomes rather unnecessarily burdensome on the entity without producing a result.

Mr J.R. QUIGLEY: This is to monitor the IPP entity's compliance with the privacy laws. I cannot see any overlap with the Auditor General or other agencies. This is looking at compliance with the IPP entity's obligations.

Clause put and passed.

Clauses 111 to 115 put and passed.

Clause 116: Powers of Commissioner in relation to persons attending and documents —

Mr R.S. LOVE: This clause states —

(1) The Information Commissioner may administer an oath or affirmation to a person attending before the Commissioner in accordance with a notice to produce or attend and may examine the person on oath or affirmation.

The Information Commissioner must be present for this to occur. There is no other person. This cannot be delegated or carried out by the deputy commissioner. Can no person, other than the Information Commissioner, do that?

Mr J.R. QUIGLEY: I am just checking. It is a good question. It comes out of clause 28 of the other bill, the Information Commissioner Bill 2024, which relates to the power of the Information Commissioner to delegate to the "Privacy Deputy Commissioner" or "Information Access Deputy Commissioner".

Clause put and passed.

Clause 117: Failure to comply with notice to produce or attend —

Mr R.S. LOVE: This clause states —

(1) A person given a notice to produce or attend must not, without reasonable excuse, refuse or fail to comply with a requirement under the notice.

Penalty for this subsection: a fine of $6 000.

First of all, why is the fine $6 000? If the refusal to comply continues, will there be a continual penalty or is it a one-off fee?

Mr J.R. QUIGLEY: This penalty was arrived at for consistency with the current legislation, which will be subsumed into this legislation. It is consistent with the penalties for an offence under section 83 of the Freedom of Information Act, which are $6 000 for an individual and $10 000 for a body corporate. There is no specific penalty for bodies corporate, as the standard bodies corporate multiplier under the Sentencing Act will instead apply, such that a body corporate shall be liable to a penalty of $30 000. The figures were chosen for consistency with the existing legislation.

Clause put and passed.

Clause 118 put and passed.

Clause 119: Powers of entry, observation and inspection for notifiable information breach compliance purposes —

Mr R.S. LOVE: The clause reads —

> (1) An authorised officer may, for a purpose referred to in section 118 —
>
> (a) give the principal officer of a public entity a written direction requiring the principal officer to give the authorised officer access at a specified time to any place occupied or used by the public entity …

I wonder whether that written direction will be something of a template. How will that direction be structured so there will be an understanding in the public sector that this is the way in which access is normally granted so there begins to be some knowledge of how to react when a written direction is given?

Mr J.R. QUIGLEY: The last part is easy—comply! The first part is a matter for the commission as to how it draws its notice.

Clause put and passed.

Clauses 120 to 127 put and passed.

Clause 128: Purpose of Division —

Mr R.S. LOVE: This clause deals with the contracted service providers. Again, I refer to the Attorney General's excellent second reading speech, which I am sure he slaved over for many hours. The Attorney General stated —

> As I mentioned earlier, the privacy provisions will directly apply to contracted service providers—that is, private entities providing services to or on behalf of the state—if the provision of their state services contract agrees to be bound.

The types of contractors that we are talking about here can be both corporations or individuals. A wide range of contractors could be contracted service providers and could be involved. I ask the Attorney General to give me a brief explanation of how we determine whether it is a contracted service provider or not for the purposes of this division. Then, I might ask a couple of other questions about that.

The SPEAKER: Members, we might pause at this moment. I am very mindful that the Attorney General and his advisers have not had a comfort break for quite some time. I propose to leave the chair for about 15 minutes and for the bells to ring at about 7.45 pm. The house will resume at the ringing of the bells at about 7.45 pm.

Sitting suspended from 7.30 to 7.46 pm

The SPEAKER: Just before we had that brief break, the Leader of the Opposition asked the Attorney General a question about clause 128. I will give the Attorney the call so that he may respond.

Mr J.R. QUIGLEY: A contracted service provider is defined in clause 8, which we have dealt with.

Mr R.S. LOVE: I was hoping that we could have a discussion around "Division 11 — Contracted service providers" rather than go through it line by line. For the requirements on a contracted service provider in terms of all those issues we have been dealing with—the notifications that the commissioner can make and the compensation payable—there is no difference between a contracted service provider and the other IPP entities. Is that right?

Mr J.R. QUIGLEY: That is correct. The member wants a general discussion on division 11, although we are dealing with clause 128. We will extend the privacy-related obligations to contracted service providers of state entities because the government now outsources the delivery of modern government to contracted service providers from time to time. The contracted service provider provisions will help to ensure that privacy protections are not overlooked when the government-sourced services are outsourced. We talked earlier this evening about the template for contracts going out to service providers having a clause requiring them to abide by the provisions of this bill.

Private entities contracted to provide services for public entities will need to comply with the privacy provisions, therefore, when the contract for services contains a provision binding the private entity. If they do not sign up for

that, the government entity ought not and will not sign the contract. The contracted service provider will then be bound by the privacy regime in the same way, and to the same extent, as the outsourcing entity. This is consistent with the approach taken in both Queensland and Victoria.

Clauses 128 to 145 put and passed.

Clause 146: Matters to be included in annual report to Parliament —

Mr R.S. LOVE: I imagine that several different new metrics to understand how effective the organisation has been would need to be employed in the report to Parliament. I am just wondering about some of the ones that we spoke about briefly before. We were not talking about something for which a result might be published; we were talking about the monitoring function or almost the audit function that the new commissioner will have. What would the Attorney General's expectation be about that reporting? When we deal with these reports, will these be figures? Will there be any discussion around particular breaches or anything like that that might be encountered? Would we just see a very dry annual report in Parliament?

Mr J.R. QUIGLEY: No. I think that one will see in the reports of the current freedom of information commissioner both a narrative and examples of inadequate access or objectionable applications. They will be included in the report to demonstrate and give examples of certain things. I can think of one example now to do with neonatal death and an application for access that was denied on personal grounds, on private information grounds. That was fleshed out in the annual report to indicate the unreasonableness of part of the application.

It can be a dry subject in the sense that we are not dealing with crime or guns or anything like that, but it is very, very important for individuals that their privacy is protected. I do not think they will be dry reports, but look at the list of things that the commissioner is mandated to report on. It is the number of applications right down to the number of notifiable information breaches under clause 62. I expect that there would be examples of that because it is through those annual reports that the IPP entities will be both educated and deterred.

Mr R.S. LOVE: Clause 146(2) states —

> A public entity must provide the Information Commissioner with any information the Information Commissioner requires for the purposes of including the matters referred to in subsection (1) in the annual report.

Are there any penalties or sanctions? What would be the case if they were laggardly in providing the information?

Mr J.R. QUIGLEY: I would expect that a determination would be published if a public entity were not compliant with the commissioner's request. Then we could expect that, in due course, that would also be the subject of adverse comment in an annual report. As the minister, that is not for me to direct. That is an expectation that a government would have of an independent commissioner.

Clause put and passed.

Clause 147: Special reports to Parliament —

Mr R.S. LOVE: When we were talking earlier about the Information Commissioner handing a determination to the privacy minister or the minister of the department or the CEO or the principal person of the IPP entity, I asked about whether the report would go to Parliament. Would that not have been covered by this special report to Parliament? Is the special report of Parliament something different from those matters that would be given to the ministers?

Mr J.R. QUIGLEY: When we were talking before about the determinations, we would expect that they are the ones that the commissioner would have to report to. They would have to get back to the IPP entity to tell them what has gone wrong or to the minister necessarily to advise the minister of what the IPP entity is not doing. However, this provision will provide a discretion for the commissioner to publish in Parliament if the commissioner thinks that it is in the public interest to quickly prepare a report. They will not have to wait for an annual report or anything like that if it is in the public interest that a special report be prepared for Parliament, because we can imagine the impact that would have. This is like the impact that the Corruption and Crime Commissioner achieves when he tables a report in Parliament. The tabling of a special report made in the public interest would be a quite a sobering event for an IPP entity that has been in breach of the act.

Clause put and passed.

Clause 148: Privacy guidelines —

Mr R.S. LOVE: We spoke roughly about the guidelines before. I imagine privacy guidelines are something new. Clause 148 states —

> (1) The Information Commissioner may issue guidelines —
>
> (a) in relation to any matter required or permitted by this Part or section 176 to be the subject of privacy guidelines;

Over the page, clause 148(3) states —

> The Information Commissioner may consult with any person or body the Commissioner considers appropriate before issuing, amending or revoking any privacy guidelines.

Could the Attorney General give me an example of who the commissioner may consult before issuing those? Would it be the body itself? Would it be users of the information? I am just trying to understand how this consultation would take place.

Mr J.R. QUIGLEY: It literally could be anyone. It could be someone whose privacy has been insulted, to consult with that person as to the circumstances of that insult, but more likely it will be with the CEOs of departments. On occasion it could be with ministers, but the proposed section does not delimit the class of people with whom the commissioner may—remember, that word is permissive—consult with. As we said before, we will issue guidelines. The other states have similar provisions.

Mr R.S. LOVE: Thank you, Attorney, for that answer. I think we spoke before about policies that would be made by the IPP entity—their own policies. However, here we are talking about something different because these are guidelines the commission will make. What would the impact of the guidelines have on determining that there has been a breach or some act of omission? Would that contribute to the material findings that the commissioner might make if the guidelines were not followed?

Mr J.R. QUIGLEY: No. As I think one former Labor Treasurer and Prime Minister said, "The law is the L–A–W. The law." The law is contained in this bill and the guidelines give IPP entities guidance on how to apply the law, but they will be policy documents that are not legally binding. They will be prepared by the Information Commissioner to assist government and the public to understand the privacy provisions of the legislation. However, certain clauses within the bill require people to have regard to the guidelines. For example, clause 221 states —

> (3) A requirement under this Act to have regard to privacy guidelines or Chief Data Officer guidelines does not —
>
> (a) derogate from a duty to exercise discretion in a particular case; or
>
> (b) prevent a person from having regard to matters not set out in the guidelines; or
>
> (c) require the entity to have regard to guidelines that are inconsistent with a provision of this Act.

The act will have primacy; the guidelines will give guidance. The member will find out about that at about midnight when we get to clause 221.

Mr R.S. Love: Midnight?

Mr J.R. QUIGLEY: I was joking, Leader of the Opposition. But it is in clause 221.

Clause put and passed.

Clauses 149 to 151 put and passed.

Clause 152: Nature of privacy rights created by this Act —

Mr R.S. LOVE: Can the Attorney General give me an idea of why the term "rights" is used and what does the impact of the creation of those rights mean to the importance of the act?

Mr J.R. QUIGLEY: The clause provides that nothing in certain divisions of part 2 of the IPP or the approved privacy code of practice gives rise to a civil course of action or operates to create a legally enforceable right. It is to make clear that the bill will not create a general right of privacy or additional rights enforceable other than by the privacy complaints process. However, it is possible that other causes of action could be brought depending on the circumstances. It is a matter for the courts as to what they take into account in a separate legal dispute for a different cause of action, but it will not be a cause of action pleading a breach of privacy.

Clause put and passed.

Clause 153 put and passed.

Clause 154: Exercise of powers relating to consent and access by authorised representative of individual —

Mr R.S. LOVE: I have one question about clause 154, which states —

> (4) For the purposes of this section and the information privacy principles, an individual is incapable of giving consent, making a request or exercising a right of access if the individual, by reason of age, injury, disease, senility, illness, disability, physical impairment or mental disorder, is incapable (despite the provision of reasonable assistance by another individual) of —

Are the types of circumstances and considerations outlined here found in other acts that mention this same level of incapacity so that there is a clear understanding of whom this class of person may be?

Mr J.R. QUIGLEY: It is similar to the provision of another act, but it is not in our statute book. It is very similar to section 28 of the Victorian Privacy and Data Protection Act 2014, and it deals with a person giving consent or making a request or exercising a right of access that the individual by reason of one of those things is incapable of doing. That is not spelt out in other acts that I can think of, but it is very similar to the Victorian provision.

Clause put and passed.

Clause 155: Review of privacy provisions of Act —

Mr R.S. LOVE: It is fairly common to have a review of an act after a time. I wonder why there is a differentiation between the privacy provisions and the general review of a new piece of legislation that often takes place. Why are only aspects of the legislation to be reviewed in five years' time?

Mr J.R. QUIGLEY: There would be an Information Commissioner and two deputy commissioners—one responsible for privacy and one for access. The privacy minister, because it may not be the same as the access minister and there may be two different ministers, must prepare a report and review as soon as is practicable after the fifth anniversary of the day on which clause 20 comes into effect and at intervals of not more than five years.

Clause 155(3) states —

> The Privacy Minister must cause the report to be laid before each House of Parliament as soon as practicable after it is prepared, but not later than 12 months after the 5th anniversary …

Clause 214 is about the review of the information sharing provisions of the act; we will get to clause 214. Clause 214(2) states —

> The Information Sharing Minister must review the operation and effectiveness of the information sharing provisions, and prepare a report based on the review —
>
> (a) as soon as practicable after the 5th anniversary …

There might be two separate ministers. We want to ensure that the privacy side, the new side, will be reviewed at the five-year mark so we can see how the legislation is working because there will possibly be two separate ministers.

Mr R.S. LOVE: What can be reviewed is very tightly defined in the bill. Does the Attorney General think it is appropriate for there to be a review of the remaining provisions of the act at some point in time or was that stipulated somewhere else and I have missed it?

Mr J.R. QUIGLEY: In practicality, it is likely to be the same minister. I need another chair here as I need to bring another adviser forward.

The ACTING SPEAKER (Mr P. Lilburne): Would you like to provide the answer to the member first, Attorney?

Mr J.R. QUIGLEY: I have just given the answer. It is likely to be the same minister, but because there is the possibility of there being separate ministers, the bill provides that there will be a review of the privacy side of this act after five years. The freedom of information side has been around for 30 years. Clause 214 contains a separate provision for a review of the information sharing provisions of the act once enacted. There will be two parts to the act. There might be separate ministers. I invite the Leader of the Opposition to have a look at clause 214, which relates to, and requires a review of, the information sharing side of the legislation.

Mr R.S. LOVE: It is interesting that the Attorney said that the existing freedom of information component of the law and its operation is well established, has been around a long time and does not need review. I am sure that when we were first briefed on this bill, there was a claim that that legislation was forward thinking, but that it was no longer fit for purpose. It seems to be that it would be valuable to occasionally review it as well if provisions for review are made here.

Mr J.R. QUIGLEY: We are talking about privacy. The Freedom of Information Act remains untouched, apart from the next bill that will provide for the freedom of information commissioner to become the Information Access Deputy Commissioner. Apart from that, we are dealing with privacy and the five-year review. As I said, the other act has been around for 30 years.

Clause put and passed.

Clause 156: Special information sharing entities and external entities —

Mr R.S. LOVE: This area is about responsible information sharing matters. Again, in the Attorney General's excellent second reading speech, he informed us a lot about this part 3. He stated that it —

> … sets out a number of key concepts, including who can participate in the … information sharing framework; the permitted purposes for sharing information; and which types of information cannot be shared …

He also stated that it would generally apply to the Western Australian public sector, including local government authorities and certain external entities that are able to request information under the framework. I want to get an

idea of the external entities. Clause 156(2) outlines a number of entities such as an agency of the commonwealth, another state or a territory. The Attorney spoke before about there being agreements in place for the responsible sharing of information between entities from different jurisdictions. Can I take this as a confirmation that there would not need to be any further agreement and information is shared between the organisations if that is seen to be desirable by the agency involved?

Mr J.R. Quigley: I don't understand it.

Mr R.S. LOVE: Okay. The Attorney General does not understand it; I do not understand it either!

I am a holder of information, I am an information privacy principle entity, and I decide that I am going to give information to the Queensland Police Service or someone else in another state. Earlier, the Attorney General said that if that were to happen at the moment, there would be agreements in place about the handling of that information. Then the Attorney General said that that is no longer necessary. Can I confirm that is the case and that there will not need to be agreements put in place again; that is, it will just roll along with the various information acts of the jurisdictions governing the situation?

Mr J.R. QUIGLEY: There is nothing to stop them from still doing a memorandum of understanding or an agreement, but this bill represents best practice. The agency providing the information, the IPP entity, might be best just to stick with this bill than trying to forge a separate agreement with Queensland police. It has its own privacy legislation; we will have our own here. It will be able to disseminate information in accordance with this legislation without breaching privacy. They will still be required to enter into an agreement that the legislation will be complied with, but they will not have to go into it clause by clause. There has to be an agreement, but the structure under this legislation will be complied with. I think I have covered the field there. That is in accordance with part 3 of the legislation. Best practice is for the information to be shared in accordance with the legislation. That is the gold standard.

Clause put and passed.

Clause 157 put and passed.

Clause 158: Exempt information —

Mr R.S. LOVE: Clause 158 sets out exempt information and goes through personal information about a whole range of different people. It is quite detailed, and I guess when we look at each of them, we can understand why. Clause 158(1)(b) states —

> information the disclosure of which could reasonably be expected to reveal, or enable to be ascertained —
>
> (i) the identity of a person who is a complainant (as defined in the *Evidence Act 1906* section 36C(4)) in relation to a person accused of, or an accusation alleging, a sexual offence (as defined in section 36A(1) of that Act); or
>
> (ii) the school that a complainant referred to in subparagraph (i) attends;

I wonder: why the disclosure of a school would be considered exempt information rather than information that might be considered on a case-by-case basis.

Mr J.R. QUIGLEY: Subparagraph (i) excludes the identity of a person who is a complainant as defined under the Evidence Act in relation to a person accused of, or an accusation alleging, a sexual offence as defined under section 36A(1) of the same act. Identifying the school may lead to the identification of the complainant, so that is an exempt matter as well.

Mr R.S. LOVE: I move now to clause 158(1)(k), which states —

> entry registration information as defined in the *Protection of Information (Entry Registration Information Relating to COVID-19 and Other Infectious Diseases) Act 2021* section 3;

That information is defined in relation to COVID and other infectious diseases. Would similar entry registration information that may be required for a different purpose not be exempt specifically because of the legal change that was made earlier, reinforcing the provisions of that legislation? Is that right?

Mr J.R. QUIGLEY: Yes.

Mr R.S. LOVE: Clause 158(2) states, in part —

> Without limiting subsection (1) but subject to subsection (3), information is also ***exempt information*** if the information originated with or was obtained from any of the following special information sharing entities …

It then lists a number of things that we have spoken about already. Paragraph (h) provides for —

> a special information sharing entity prescribed by the regulations.

Is the Attorney General aware of any other special information sharing entities that may be prescribed by those regulations or, in fact, whether there are any contemplated to be prescribed by those regulations, including any that may not be based in Western Australia?

Mr J.R. QUIGLEY: They can only be Western Australian entities. There is capacity in the future to prescribe a further Western Australian entity, if required.

Clause put and passed.

Clauses 159 and 160 put and passed.

Clause 161: Response to information sharing request —

Mr R.S. LOVE: One very quick question on clause 161(1)(a), which states —

> If an information sharing request is made under section 160 and is not withdrawn, the holding entity must give the requesting entity a written notice responding to the request in accordance with subsection (2) within —
>
> (a) 45 days after the day on which the request is made;

I wonder: why was that particular length of time—45 days—chosen, and is that consistent with other jurisdictions that the Attorney General might be aware of?

Mr J.R. QUIGLEY: That is consistent with the FOI act.

Clause put and passed.

Clause 162: No obligation to disclose requested information —

Mr R.S. LOVE: The fact that there is no obligation to disclose the requested information seems to fly in the face of the general presumption that the information will be provided. The clause lists a number of reasons it may be refused. One of them is interesting. Subclause (2)(a) states —

> (a) the information would be privileged from production in legal proceedings on the ground of legal professional privilege;

Would that not already exist in different pieces of legislation? Is that just there for clarity or is there a specific need to codify in one place the reasons that information may be refused?

Mr J.R. QUIGLEY: Legal professional privilege is a well-established common law right. This provision makes it clear that that claim can be made. The claim of legal professional privilege is often bandied about. The courts themselves have narrowed down that claim of legal professional privilege. It exists for good reason. This provision just makes it clear that it is an exemption.

Mr R.S. LOVE: Subclause (2)(c) states —

> the disclosure or proposed use of the information would contravene —
>
> (i) a law of the State …

That is fair enough—or it would contravene —

> (ii) a law of the Commonwealth, another State or a Territory;

Is that ceding the sovereignty of the Western Australian legal system to what may be considerations in some other state or territory? For instance, if the ACT developed legislation that was much more difficult to comply with, could that lead to a situation in which the flow of information would be restricted in Western Australia?

Mr J.R. QUIGLEY: A Western Australian IPP entity may have received information from another jurisdiction. We talked earlier about swapping information because we now have privacy laws. But there might be a law in another state that forbids the publication of that information. That is why this provision provides that use of the information would contravene the law of another state. I will give an example, though it is probably not a good example; it is a crude example. If an equivalent CCC in Queensland has privacy laws but it shared some of its data with Western Australia's Department of Justice, the dissemination of that information would contravene a Queensland law, and it would be exempt. In other words, our state will not go around breaking the law of another jurisdiction.

Clause put and passed.

Clauses 163 to 167 put and passed.

Clause 168: Information sharing agreement —

Mr R.S. LOVE: As the Attorney General outlined in his second reading speech, the information sharing agreement is a fairly important document in that it ensures there is safe and appropriate sharing. Can he outline the general import of this provision to save us going through it in great detail, although we might talk about the secrecy provisions in clause 171?

Mr J.R. QUIGLEY: This clause provides the key terms "information sharing agreement", "relevant activity", "provider" and "recipient". Subclause 168(1) states —

> (1) An ***information sharing agreement*** is a written agreement entered into in accordance with the requirements of this Division that provides for —
>
> (a) the disclosure for a permitted purpose of government information by a public entity to —
>
> (i) another public entity; or
>
> (ii) an external entity;

It could be another state entity. It continues —

> and
>
> (b) the collection, holding, management and use of that information by that other entity for a permitted purpose; and
>
> (c) the activity (the ***relevant activity***) to be carried out for that permitted purpose using the information.
>
> (2) A public entity that discloses information under an information sharing agreement (otherwise than as provided for under section 172) is a ***provider*** …
>
> (3) A public entity or external entity that collects, holds, manages and uses information disclosed to it under an information sharing agreement (… as provided for under section 172) is a ***recipient*** …
>
> (4) An information sharing agreement —
>
> (a) may be a multilateral agreement involving 2 or more providers, or 2 or more recipients, or both …
>
> …
>
> (5) Each provider and each recipient under an information sharing agreement must be a party to the agreement.

Public entities will always be providers, not recipients.

Clause put and passed.

Clause 169 put and passed.

Clause 170: Matters to be included in information sharing agreement —

Mr R.S. LOVE: This sets out quite a number of key principles that the agreement must hold to. The clause goes on to say that it will include any other matters prescribed by the regulations. I wonder what other possible items that could be involved in the regulations and included in the information sharing agreement the Attorney General might be contemplating at this stage.

Mr J.R. Quigley: There is nothing at the moment.

Mr R.S. LOVE: There is nothing at the moment. This is pretty much the bones of the agreement as it stands. Could this commence without further regulatory frameworks being needed?

Mr J.R. QUIGLEY: That is correct.

Mr R.S. LOVE: Clause 170(c) states —

> provide for the term of the agreement, which must not be more than 5 years …

Can the Attorney General give me an understanding of why the maximum term of five years has been put in the bill?

Mr J.R. QUIGLEY: The maximum term of five years for an information sharing agreement was included because that will ensure that the parties to the agreement can reassess its operation against the responsible sharing principles. If the relevant project seeks to go beyond this term, the sharing may continue beyond five years, but the information sharing agreement underpinning it will need to be reviewed and confirmed. This will ensure that the information sharing remains responsible, transparent and to the benefit of the Western Australian public.

Mr R.S. LOVE: When we talk about information sharing agreements and the way in which they are structured, are we referring to the principles outlined in schedule 2 of the bill? Will we come to those later?

Mr J.R. Quigley: The answer is yes.

Mr R.S. LOVE: If we are doing that, does the Attorney General want to generally run through what those principles are now rather than later?

Mr J.R. Quigley: I will do it when we get there.

Mr R.S. LOVE: Okay.

Mr J.R. QUIGLEY: I could say that responsible information sharing principles have been modelled on the international standard of "5 safes" and will ensure that entities consider the risks and benefits of information sharing throughout the life span of the agreement. The responsible sharing principles are intended to support parties to an information sharing agreement to assess and be satisfied that the proposed handling of information is consistent with the RSPs and appropriate in all the circumstances. Many other jurisdictions utilise the "5 safes" framework in some form through their information sharing frameworks. The RSPs have informed South Australia's trusted access principles, which incorporate the "5 safes" into South Australia–specific information sharing. The commonwealth's data scheme utilises the data sharing principles, which are also modelled on the "5 safes". We can deal with those in detail in schedule 2.

Clause put and passed.

Clause 171: Other matters to be included in information sharing agreement —

Mr R.S. LOVE: Clause 171(1) states —

> If any secrecy provision would be contravened by the handling of information under an information sharing agreement but for the effect of section 187, the agreement must —
>
> (a) identify the secrecy provision; and
>
> (b) state whether the secrecy provision is an offence and, if so, the applicable penalty.

Are we looking for an offence under another act or will this be an offence under this act? For instance, could it be an act that contravenes—I do not know; I cannot think of one at the moment—perhaps the Aboriginal Heritage Act, which has provisions for information to be kept secret? Can the Attorney General explain how this mechanism will work and interact with other legislation?

Mr J.R. QUIGLEY: This clause provides for other matters that must be included in information sharing agreements. Subclause (1) provides —

> If any secrecy provision would be contravened by the handling of information under an information sharing agreement but for the effect of section 187, the agreement must —
>
> (a) identify the secrecy provision; and
>
> (b) state whether the secrecy provision is an offence and, if so, the applicable penalty.

It is not a penalty under this act but a penalty under the other act. If the other act, like the Health Act, provides a penalty, then the secrecy provision must be cited for what the penalty would be. Subclause (2) provides —

> If any information that may be disclosed by a provider under an information sharing agreement is confidential or commercially sensitive information, the agreement must —
>
> (a) describe any contractual or equitable obligations of the provider in relation to how the information is dealt with; and
>
> (b) require a recipient to which the information is disclosed to ensure that the information is dealt with in accordance with those obligations.

That is the secrecy obligations. Subclause (3) specifies that certain matters must be included in an information sharing agreement if the relevant activity in the agreement involves the generation of derived information, as defined in clause 170(d)(iv). As the member will recall, clause 170(d)(iv) states —

> if the relevant activity is to involve the use or interpretation of the information to generate new information (***derived information***) — the derived information to be generated;

Mr R.S. LOVE: That is okay.

Clause put and passed.

Clause 172: Information sharing agreement may provide for limited further disclosure —

Mr R.S. LOVE: This provides that —

> An information sharing agreement —
>
> (a) may provide for a recipient to be permitted to further disclose information it collects under the agreement to another person who is not a party to the agreement —
>
> (i) in specified circumstances in connection with the relevant activity under the agreement; and
>
> (ii) with the approval of the responsible Minister for any secrecy provision that would, but for section 187, be contravened by the further disclosure;
>
> but
>
> (b) must not otherwise permit the further disclosure of information disclosed under the agreement to persons who are not parties to the agreement.

Basically, an organisation will be able to provide certain information to another organisation, with the understanding that it might provide it to a contractor or some other entity that is not a party to the agreement. Will that entity then become an IPP entity or will it not be an IPP entity?

Mr J.R. QUIGLEY: No, the recipient will not become an IPP entity.

Mr R.S. LOVE: Will it be specifically barred from moving the information? It will not become the holder of the information in any way. Is there no way in which it could make further use of that information, other than to transact the business, analysis or whatever it is doing on behalf of the government entity?

Mr J.R. QUIGLEY: It will not be an IPP entity, but it may be subject to other privacy provisions or restrictions in other legislation.

Clause put and passed.

Clauses 173 and 174 put and passed.

Clause 175: Assessment of responsible sharing principles —

Mr R.S. LOVE: This section mandates the assessment of the responsible sharing principles that have to be gone through before an agreement is made. Is it anticipated that when the government does the review every five years—I neglected to ask this before; I did not think of it—would that include a review of these principles or would they be something set in stone?

Mr J.R. QUIGLEY: No; the review will include the principles as well, member. We will get to clause 214, but the review will include matters outlined in schedule 2.

Clause put and passed.

Clause 176: Privacy impact assessment —

Mr R.S. LOVE: When entering into an information agreement, a person will have to do an assessment of the privacy impact that the agreement will make. There will be a written report that sets out recommendations on how that can be addressed. Clause 176 states —

> (6) Despite subsection (5), a privacy impact assessment report is not required to be made publicly available —
>
> (a) if the Chief Data Officer considers that making the report publicly available would be likely to prejudice any law enforcement function of a law enforcement agency; or
>
> (b) in circumstances prescribed by the regulations.

I am puzzled why a privacy impact assessment, which will look at likely impacts but does not seem to talk about information directly, would be seen to be something that could potentially prejudice a law enforcement function. Perhaps the Attorney has some words of wisdom around that.

Mr J.R. QUIGLEY: The member referred to clause 176(6), the regulations that could be made under 176(6) and the circumstances to be considered. The circumstances that may be prescribed by regulations would likely relate to particularly sensitive or confidential information. For example, regulations may prescribe circumstances in which the publication of a privacy impact assessment could compromise a negotiated position or policy position of the state. This would ensure that the parties are not required to publish a privacy impact assessment report that could enable someone to ascertain confidential policy positions or negotiation positions. Another example is that the publication could reveal weakness in the security measures to protect privacy, which third parties then may seek to circumvent.

Clause put and passed.

Clause 177: Aboriginal information assessment —

Mr R.S. LOVE: This gets back to division 4, which deals with some of the circumstances around sensitive Aboriginal information, which we have discussed. It goes through the assessment process of that information. Clause 177(2) states —

> (a) before entering into the information sharing agreement, take all reasonable steps to —
>
> (i) identify and consult with relevant Aboriginal stakeholders in relation to that information; and
>
> (ii) obtain consent from relevant Aboriginal stakeholders for the handling of that information under the agreement;

I would like an understanding of how that might develop because we are talking about sensitive Aboriginal family history, which we discussed earlier, and sensitive Aboriginal traditional information. The discussion and consultation is to be conducted, and then consent is to be obtained. Yes, all the relevant groups must be consulted. Will someone need to get consent from every relevant Aboriginal stakeholder or is there some process to determine what level of consent is sufficient?

Mr J.R. QUIGLEY: This requirement, which the member talks of, aligns with the best practice policies and procedures that are currently in place in the agency that holds these categories of information. As the Privacy and Responsible Information Sharing Bill 2024 will introduce provisions that supersede legislative barriers to information sharing, it is important to ensure that the specific requirements of obtaining consent from relevant Aboriginal stakeholders in relation to these types of information is not overwritten. These requirements are reflected in the fact that, through historical laws and policies that discriminated against Aboriginal people, the government now holds a disproportionate amount of sensitive information relating to Aboriginal people when compared with other demographics. The government has obligations to protect and maintain this information, and it is recognised that there may be community benefit in using this information for specific research purposes. However, because of the way this information was collected, and because of its high sensitivity, it can be shared only with the consent of relevant Aboriginal stakeholders, which will be determined in accordance with the context of the information sharing agreement. Depending upon the activity, the permitted purpose and the information being shared, the relevant Aboriginal stakeholders in relation to activities will differ. In information sharing agreements that seek to use sensitive Aboriginal family history information, the relevant Aboriginal stakeholder who needs to be engaged will generally be the eldest living relative to whom the information relates. This aligns with the standard policies and procedures of the Aboriginal History Research Services, which manages most of the information held by government that relates to this category. In information sharing agreements that seek to use sensitive Aboriginal traditional information, the Aboriginal stakeholders will generally be those individuals whom the community consider to be knowledge holders of that information. This will be determined through close engagement with relevant Aboriginal communities, land councils and prescribed bodies corporate that relate to this sensitive Aboriginal traditional information. In information sharing agreements, the primary, or especially affected Aboriginal people, and the relevant Aboriginal stakeholders will vary depending upon the context of the activity. There are a number of Aboriginal community–controlled organisations and representative organisations that have subject matter expertise in a range of areas. The parties to information sharing agreements can engage with advisory groups to determine the most appropriate Aboriginal stakeholder to engage with for the specific activity.

Mr R.S. LOVE: That is a very comprehensive discussion there. Clause 177(5) states "An Aboriginal information use plan must" and then it goes through a few things, including paragraph (c), which states —

> describe the level of initial support from those stakeholders for the handling of the information for the relevant activity;

I wonder what metric will be used to describe "the level of initial support" and whether that is included for a specific reason.

Mr J.R. QUIGLEY: There is no existing metric. Clause 177(5) states —

> An Aboriginal information use plan must —
>
> …
>
> (c) describe the level of initial support from those stakeholders for the handling of the information for the relevant activity;

They must describe what the identified stakeholder, holder of the knowledge, or senior living person of that group expresses is the reason for including them in the plan.

Mr R.S. LOVE: It is disappointing that we do not get an explanation of why the specific "level of initial support" is mentioned here rather than the "level of support". I am wondering whether it is to do with a view that it is perhaps to protect people from being persuaded or cajoled into some agreement that they do not initially support. I am just generally wondering why "level of initial support" rather than "the level of support" is the term used.

Mr J.R. QUIGLEY: We recognise that when an information sharing agreement primarily affects Aboriginal people, the best outcomes can be delivered only with the participation and engagement of Aboriginal stakeholders. Involving relevant Aboriginal stakeholders in the information-sharing process from the very beginning and having mechanisms to allow the ongoing engagement of such information sharing and the activity, supports genuine Aboriginal stakeholder participation in the decision-making process.

Mr R.S. LOVE: Clause 177(5)(e) states —

> set out processes for ongoing engagement with relevant Aboriginal stakeholders.

When it refers to "ongoing engagement", is that throughout the time that the information is held through the agreement? If the information is already transferred, why would there be a further need to engage? Also, will the Aboriginal information use plan also have provisions about ending the plan to ensure that information is kept in a particular way or information is not shared, even through someone's own knowledge now having been expanded?

Mr J.R. QUIGLEY: We want them involved throughout the procedure. There will be involvement in the analysis of the information and the application of the appropriate safeguards for that information. The analysis for the information might be ongoing during the agreement and it is important that the stakeholders remain engaged.

Clause put and passed.

Clauses 178 and 179 put and passed.

Clause 180: Withdrawal from and termination of information sharing agreement —

Mr R.S. LOVE: Clause 180(1) states —

> A party to an information sharing agreement may at any time withdraw from the agreement.

I wonder whether there will be consequences to that withdrawal. Will there be any liability in withdrawing from that agreement? Say a research project is partially completed or some ongoing work is interfered with and an organisation has incurred costs to develop that program of work and the information holder pulls the pin at some point and causes damage, would some redress flow from that?

Mr J.R. QUIGLEY: Clause 170 provides —

> An information sharing agreement must —

That is mandated —

> (h) include provisions about how the disclosed information will be treated —
>
> (i) when the agreement ceases to be in force; or
>
> (ii) if a party withdraws from the agreement;

The information sharing agreement must also —

> (g) provide for the consequences of a party withdrawing from the agreement;

That is the consequences of how the information is dealt with et cetera. That all must be provided for. That is mandated in the opening words of clause 170.

Clause put and passed.

Clauses 181 and 182 put and passed.

Clause 183: Register of information sharing agreements —

Mr R.S. LOVE: Clause 183(1) states —

> The Chief Data Officer must establish and maintain a register …

It goes on to what will be included, including the general nature of the information, the permitted purpose, the relevant activity, whether it provides for further disclosure to another person and any other information.

Clause 183(3)(a) states —

> if the Chief Data Officer considers that making that information publicly available would be likely to prejudice any law enforcement function of a law enforcement agency;

Again, that is similar to provisions we saw before around these matters. This refers to prejudice arising from merely publishing that there is an agreement to share information of a general nature. Again, perhaps, the Attorney General could describe some circumstance in which that could in any way prejudice any function of a law enforcement agency. I would be interested to know how that might come about.

Mr J.R. QUIGLEY: I thank the Leader of the Opposition for the question. The circumstances that may be prescribed by regulations would likely relate to particularly sensitive matters. For example, regulations may prescribe circumstances in which the publication of matters under this clause in the register could compromise a negotiating position or a policy position of the state. This would ensure that the chief data officer does not establish in the register matters pertaining to an information sharing agreement that could enable someone to ascertain confidential policy positions or negotiation positions.

Clause put and passed.

Clauses 184 to 187 put and passed.

Clause 188: Protection from liability for authorised information sharing —

Mr R.S. LOVE: Basically, if someone is acting in good faith and sharing information that was authorised to be shared, they cannot be held liable if there were some other breach down the track. If someone shares the information, handles the information and passes it on, but there is a breach of the information further down that chain, it cannot come back on them. Is that what we are talking about here?

Mr J.R. QUIGLEY: That is right, Leader of the Opposition.

Clause put and passed.

Clause 189: Offences for unauthorised further disclosure or use of information —

Mr R.S. LOVE: Can the Attorney explain the penalty of imprisonment for 12 months and a fine of $12 000 under subclause (1)?

Can he explain subclause (2), which states that a person who commits a crime will get a penalty of imprisonment of three years? Can the Attorney explain why those are the figures? Are those figures found in other legislation? What was the process that led to those penalties?

Mr J.R. QUIGLEY: Clause 189 of the PRIS bill provides for two offences in relation to further disclosure or use of information obtained under an information sharing agreement. These offences are similar to those in the Victorian Data Sharing Act 2017, being sections 26 and 27. The penalties for each offence align with the penalties for unauthorised disclosure of official information under section 81 of the Criminal Code of Western Australia and therefore creates a consistent approach to existing sanctions for the misuse of government information in Western Australia. It will also provide assurance to members of the public that unauthorised and/or malicious disclosure of their information will be suitably sanctioned by penalty.

Mr R.S. LOVE: In the past when information has been accessed—we know of some circumstances when that has occurred and has been reported by the Corruption and Crime Commission—the penalty was only something of a sanction or a finding of misconduct or a rap over the knuckles for a department for allowing some slack procedures to occur. Would we now see public servants or contractors who access information penalised in a way that could lead to very serious offences for things that before would only have been considered to be serious misconduct under, say, the crime and corruption regime?

Mr J.R. QUIGLEY: This is not a general prohibition and sanction. This is for the unauthorised dissemination of information under the information sharing agreements.

Mr R.S. LOVE: There are circumstances under which those agreements already exist but not under this legislation. I guess that was my question around that.

In making the determination as to whether to prosecute, can the Attorney give me an idea of what the process will be within the commission to make this determination? Is there something that the commissioner must determine so that there will be a prosecution under these offence provisions?

Mr J.R. QUIGLEY: As to the prosecuting authority, that will depend on the Criminal Procedure Act. Section 20 of the Criminal Procedure Act sets out who may commence a prosecution for a simple offence. It will depend in part on the authority responsible for the administration of the parts of the bill. Otherwise, the act contemplates various other persons; for example, the Director of Public Prosecutions, the Western Australia Police Force or the State Solicitor's Office are also able to prosecute offences. Sections 80 and 83 of the Criminal Procedure Act provide that a prosecution of an indictable offence in a superior court may only be commenced by an authorised officer, which includes myself—the Attorney General—the State Solicitor or the Director of Public Prosecutions.

Clause put and passed.

Clause 190 put and passed.

Clause 191: Shared information breaches —

Mr R.S. LOVE: Division 6 is headed "Information breaches involving shared information". There will be a new process. This will be a way to ensure that a process is followed when there is a breach. In the Attorney General's second reading speech, he referred to the fact that the notification must go to the chief data officer. Following on from that, can the Attorney General explain how these matters will be considered in terms of education about what might lead to a breach, and what might be the consequences of a shared data breach when it has been dealt with by the chief data officer?

Mr J.R. QUIGLEY: That tracks us back to clause 170 and the mandated requirements of an information sharing agreement. We dealt with paragraphs (g) and (h) earlier, but paragraph (f) provides that the information sharing agreement must —

> provide for the consequences of non-compliance with sections 192, 193 or 194(4) by a recipient …

The agreement itself must include the consequences for any recipient who breaches the agreement and does not deal with the information they receive in accordance with the legislation.

Clause put and passed.

Clauses 192 to 195 put and passed.

Clause 196: Information holdings request —

Mr R.S. LOVE: I assume that this is the chief data officer trying to get an idea of the breadth or depth of information that is held by government departments. Is this all about planning to ensure that there is appropriate knowledge about where there may be silos of information that could be useful? What is the purpose of these information holdings requests? Are they there to enable understanding whether there is risk or opportunity from using the information? What is this all about?

Mr J.R. QUIGLEY: I said last Thursday that the Leader of the Opposition was seeing the ball as big as a melon, and he is right on all scores in that regard. This provision will enable the chief data officer to build a centralised

picture of information assets held by the government and will contribute to the fostering of a mature culture of information sharing to the public benefit. As the member says, it will enable the chief data officer to get a complete oversight of the holdings.

Clause put and passed.

Clause 197 put and passed.

Clause 198: Chief Data Officer —

Mr R.S. LOVE: We are talking here about the chief data officer and establishing their role. Early on, the Attorney General mentioned that there was a prototype chief data officer already operating in the Department of the Premier and Cabinet. Can the Attorney General explain what the practical difference will be? Apart from having specific functions under this legislation, is the chief data officer already doing some of the things like trying to understand the breath of information opportunities, risks et cetera that we have just spoken about?

Mr J.R. QUIGLEY: The interim chief data officer is located at the Department of the Premier and Cabinet and is helping develop guidelines already, so there will be substantial guidelines developed by the time of proclamation. She is helping to prepare the sector for this legislation—keeping it informed, telling it what is coming with guidelines et cetera—so the sector is prepared.

Mr R.S. LOVE: I am asking in general terms about the chief data officer and their role. If the Attorney General could maybe discuss the functions a little bit and work through the clause, we can then discuss the whole division, if he wishes, or the clauses up to clause 283. Will the fact that the chief data officer will be considered a separate public entity for information sharing purposes mean that the same obligations will be on the chief data officer as on everybody else?

Mr J.R. QUIGLEY: Generally, the role of the chief data officer will be to promote and support the culture of responsible information sharing and use in the public sector, with the public sector capability to responsibly share and use information and, where appropriate, to collaborate with public and external entities.

The chief data officer will also have a general oversight role to help promote transparency and provide sector leadership to achieve the aims of the responsible information sharing framework. We are on clause 198, but if I could go on to clause 199 to do with the functions of the chief data officer, it ensures that the chief data officer can fully participate in responsible information sharing frameworks as though they were their own public entity. It will enable the chief data officer to enter information sharing agreements—the member was asking whether they are a separate IPP entity—separately to the department they are placed in. This will ensure that the chief data officer has sufficient scope and responsibility to undertake their role as a promoter and enabler of responsible information sharing. The answer to the member's posed question is yes.

Mr R.S. LOVE: To whom will the chief data officer report? Will it be one of the deputy commissioners or the commissioner? The bill says it will be a senior executive officer in the information sharing department. If I wanted to ask questions of the chief data officer, which authority or person would I go to?

Mr J.R. QUIGLEY: It will be the director of the Department of the Premier and Cabinet.

Mr R.S. LOVE: When we spoke before, the Attorney General said there was no intention for that chief data officer to simply be the current chief data officer and that there would be a separate process.

Mr J.R. Quigley: I did not say it could not be the current one.

Mr R.S. LOVE: It sounds like it will be the same process, if they are already employed in the department. What is going to be different, apart from all the other infrastructure around them? Will their employment structure be the same?

Mr J.R. QUIGLEY: When the role is substantively filled, the chief data officer will be appointed following the commencement of this division. This will be a date affixed by proclamation and a decision made by government in due course. An interim chief data officer was appointed in October 2023 to help prepare the sector for implementation. The work undertaken by the interim chief data officer will support a smooth transition for the establishment of a permanent chief data officer function. I cannot say whether it is going to be the same person or not.

Mr R.S. LOVE: Will the employment terms of the chief data officer be any different from any other senior executive officer in government? Will they have any special position in which they can annoy the Premier or annoy the Attorney General and get away with it?

Mr J.R. QUIGLEY: We have to get things right. No. Annoying the Premier is my province. The chief data officer is a senior executive within the public service sector but does not have any special rights or functions beyond a senior executive within the service. They can make policy recommendations and all those sorts of things that senior executives do. It is like the Commissioner of State Revenue, who sits within the Department of Finance but does not have any special capacity beyond a senior executive in the public sector.

Mr R.S. LOVE: Can the Attorney General outline the relationship between the chief data officer and the Information Commissioner? How do they interact in the architecture of this bill? I know there are certain functions that the chief data officer has around issuing guidelines et cetera. How will that interact with both the relevant deputy commissioner and the Information Commissioner themselves?

Mr J.R. QUIGLEY: The chief data officer will have a responsibility to foster the capability of information privacy principle entities. The functions of the chief data officer are set out in clause 200. The chief data officer will not be a regulatory body, rather the chief data officer will be established to foster a culture of responsible information sharing for the public benefit. There are a number of existing regulatory mechanisms to ensure that the misuse of government information is appropriately sanctioned. It will not be up to the chief data officer to prosecute those breaches.

Both the chief data officer and Information Commissioner will sit on the Privacy and Responsible Information Sharing Advisory Committee. This committee has been advising government on PRIS. It is a statutory advisory committee, so they will interact on that committee.

Clause put and passed.

Debate adjourned, on motion by **Mr D.A. Templeman (Leader of the House)**.

FIREARMS BILL 2024

Returned

Bill returned from the Council with amendments.

House adjourned at 9.33 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

PATIENT ASSISTED TRAVEL SCHEME — CARNARVON

1081. Mr R.S. Love to the Minister for Health:

I refer to the decision by the WA Country Health Service to change the Patient Assisted Travel Scheme contract from Everywhere Travel (a local Carnarvon business) to Corporate Travel Management, and I ask:

(a) What was the rationale for making this decision; and

(b) Will you reconsider the change of contract from this local Carnarvon business?

Ms A. Sanderson replied:

(a)–(b) Since August 2017, Corporate Travel Management (CTM) has been the sole contractor offering domestic air travel reservation and travel management services to Government agencies under Common-Use Arrangement (CUA). Under the CUA, CTM is the mandatory statewide provider of domestic air travel bookings.

In 2017, the only airline providing a regular domestic air service between Carnarvon and Perth was Skippers Aviation. As these bookings were not able to be arranged by CTM, WA Country Health Service (WACHS) used Everywhere Travel. However, this changed when Regional Express Airlines commenced the Carnarvon to Perth return domestic air route and bookings were then able to be made through CTM.

WACHS continues to use Everywhere Travel for non-air related travel bookings for patients.