

DEPARTMENT OF COMMUNITIES — CASEWORKERS — QUESTION WITHOUT NOTICE

Matter of Privilege

HON NICK GOIRAN (South Metropolitan) [5.20 pm]: I rise under standing order 93. I wish to raise a matter of privilege that arises from question time today, and ask you, President, under standing order 93(5), to defer the consideration of this matter and provide a ruling to the Council at the earliest possible opportunity.

In question time today, I asked the Leader of the House representing the Minister for Child Protection the following question —

I refer to the minister's answer to parts (5) and (6) of question without notice 613 asked on 10 August 2022 regarding case load numbers.

- (1) Given that question asked for the current case loads of caseworkers, why was information limited to case loads as at 1 July 2022?

There were another three parts to the question, but it is part (1) that is particularly relevant and that I ask you to consider. The response provided by the Leader of the House was —

- (1) Workload management reporting is a point-in-time report produced on the first Friday of every month. The honourable member's question was asked on 10 August 2022, so the most recent finalised results for July 2022 were provided.

President, it is my respectful submission to you that that is patently untrue, and that the answer itself demonstrates that it is untrue. If it is the case that workload management reporting is a point-in-time report produced on the first Friday of every month, the problem is that the first Friday of August was 5 August. My question was asked on 10 August, so it is simply untrue for the honourable Leader of the House to say, "so the most recent finalised results for July 2022 were provided".

President, the information has now been provided in response to questions (2) and (3), but I draw to your attention the comments made on 17 March 2016 by Hon Sue Ellery, who was Leader of the Opposition at the time; she said in part —

In providing any answer, every minister and parliamentary secretary is responsible for the answer they give. Irrespective of the fact that the answer may be prepared by staff and signed off by the responsible minister—in this case the Premier—every answer given is in fact the answer of the person giving it to the house whether in a representative capacity or not. The answer given to the question was the answer of the Leader of the House. There is a trend for parliamentary secretaries in this house who answer questions in a representative capacity to give answers prefaced by expressions like "The department for X advises" or "The minister for X advises". Those prefaces do not absolve the person from ensuring that they are confident the answer is correct. If in doubt, do not give the answer. Those prefaces do not alter the fact that the answers are theirs in this house.

I also draw to your attention to the statement given by President Hon Kate Doust on 23 August 2017. She said —

Having presided over 16 question times since this chamber gave me the honour of electing me as President, I want to draw members' attention to some important matters relating to the asking and answering of parliamentary questions. Questions are an important illustration of the principle of responsible government: that ministers are responsible to Parliament individually and are accountable for the administration of their own portfolios and for the acts of government collectively. Questions are directed to ministers or parliamentary secretaries in this place and not ministers in the Legislative Assembly. A minister or parliamentary secretary who represents a minister in the Assembly is personally responsible for the accuracy of the information given in this chamber. This is a function of responsible government, the relevant minister or parliamentary secretary in this chamber being responsible to this chamber for the answers that they give. This house may hold only its members responsible; it cannot punish members of the Assembly and vice versa. Thus, when it comes to the house calling ministers to account, it is restricted to those who are members of the Legislative Council. This is the reason for the constitutional requirement that at least one minister of the Crown be a member of this chamber.

Council ministers and parliamentary secretaries cannot shed their responsibility for an answer by prefacing answers to questions with expressions such as "the minister has provided me with the following reply". The answer given in this chamber by a member of this chamber is that member's answer. The council minister or parliamentary secretary providing it is taken to have satisfied themselves that the information is accurate. Representative ministers and parliamentary secretaries in this house are not merely a convenient post box for the Assembly minister. In addition, questions are directed to ministers and it is not consistent with the doctrine of ministerial responsibility to give an answer that bypasses the minister and identifies it as being given by a public servant or statutory office holder, or, most recently, suggests that the inquirer direct their question to those public officers. If ministerial responsibility is to mean anything at all, it must

mean that ministers, politically, answer for their own administration and, collectively, for the executive government. Public servants are answerable to their minister and may provide information and advice but they do not answer parliamentary questions for ministers. Allowing such an arrangement would undermine the principle of responsible government.

Before I conclude this matter of privilege, I also draw to your attention the comments made by Hon Sue Ellery on 17 March 2016, which I quoted earlier. Later in the day, she said —

It is critical that, in our Westminster system, we understand the roles of everybody. The legitimate exercise of executive power requires the informed consent of the electorate. How do we get the informed consent of the electorate? It is based upon people being elected to the Parliament who have an obligation—indeed, a duty—to hold the executive government to account for its decisions and actions. That executive government operates through the cabinet and the cabinet is made up of executive officers of the Crown, who are also required to be members of the legislature. Those ministers are responsible to Parliament collectively for the decisions and actions of cabinet, and individually for their particular portfolios. Being accountable in the context of parliamentary democracy is essentially the requirement of executive government to fulfil its obligation to explain its decisions and actions in a timely, accurate and honest manner. This requires the provision of information, and much of that is provided in the Parliament through the tabling of papers and, importantly, through parliamentary questions and the answers provided to those questions. Accurate and timely information to Parliament and its transparent dissemination is essential.

As I conclude this matter of privilege for your consideration, I ask that you defer the matter and provide a ruling to the Council at the earliest possible opportunity. I acknowledge that, under standing order 93(1), you will need to determine whether the matter I have raised is of “sufficient substance to warrant consideration by the Council” and, if you consider it sufficient, refer the matter to the Standing Committee on Procedure and Privileges for inquiry, and report to the Council.

In fairness, President, I draw to your attention that the information that I sought has now been provided to the Parliament. In response to parts (2) and (3) of the question that I asked today, Parliament has now been informed of the information that ought to have been provided when I asked it on 10 August. At the present time, 1 September, there are no obstructions to the Parliament; the information was provided. I want to draw that to your attention as a matter of fairness; however, I will make the point that the opposition should not have to ask a question for a second time in order to get accurate information that should have been provided in a timely manner on the previous occasion. This answer demonstrates that the information was available to the government on 10 August. It was available to the government actually on 5 August, and this answer today confirms that it was available, it was not provided at that time, and it is false for the Leader of the House this afternoon to state —

The honourable member’s question was asked on 10 August 2022, so the most recent finalised results for July 2022 were provided.

Self-evidently, pursuant to this answer, that must be false.

The PRESIDENT: Thank you, honourable member. You have provided a very detailed amount of information in there, so I will take it under advisement, and I will report back to the house at my earliest convenience.