

MINISTER FOR HEALTH - KNOWLEDGE OF FREEDOM OF INFORMATION APPLICATION

Standing Orders Suspension - Motion

MR P.D. OMODEI (Warren-Blackwood - Leader of the Opposition) [11.31 am] - without notice: I move -

That so much of standing orders be suspended so as to debate the following motion -

That this house calls on the Minister for Health to immediately explain why he misled the Parliament with his claims that he had no knowledge of freedom of information applications from the office of the Leader of the Opposition regarding emails between Brian Burke and Neale Fong until it was raised in debate on 21 June 2007, when evidence has emerged that the minister was aware of these freedom of information applications.

The Minister for Health has repeatedly denied that he had any knowledge of the FOI application from the office of the Leader of the Opposition about emails between Brian Burke and Neale Fong until he was informed by the opposition during debate on 21 June 2007. The office of the Leader of the Opposition has initiated a further FOI request to the minister about the handling of the original Burke-Fong FOI and his knowledge of that request. The new FOI has identified correspondence showing that it was likely that the Minister for Health knew about the FOI application prior to being told in Parliament, and that the minister may have removed reference to the FOI from his ministerial statement. In line with seeking a suspension of standing orders so that the minister can explain himself on this issue, I will go through information giving a timeline of events as they occurred.

On 11 June a draft response to a question on notice about emails between Brian Burke and Neale Fong was sent to the minister's office by the Health Department. It included a specific section entitled "Minister to note", which outlined the fact that the department had received an FOI application from the opposition on this matter. It is claimed that this was the first knowledge the minister's office had about the FOI application. According to parliamentary statements, only the minister's chief of staff was aware of this information, and he did not inform the minister about the FOI application even though the draft response included a section entitled "Minister to note".

Anyone who has served as a government minister will know that when an FOI application is received, it is a very serious matter. I will now outline a chronology of events. At 4.23 pm on 20 June the minister's chief of staff emailed the Director General of the Department of the Premier and Cabinet, Mr Mal Wauchope, with a draft ministerial statement.

Mr J.A. McGinty: Sorry; what was that date?

Mr P.D. OMODEI: 20 June 2007. At 4.24 pm the minister's chief of staff emailed Neale Fong with a draft ministerial statement attached. According to my notes, the email stated -

"I am sending this to MFH (Minister for Health) for his consideration"

At 4.26 pm the chief of staff sent an email to the minister, through Dawnia Chiu, with a draft ministerial statement attached. According to my notes, the email stated -

"can you have a look at this and tell me if it is OK".

This is a very important point. According to my notes, the draft ministerial statement that was sent to all three people - Mal Wauchope, Neale Fong and the minister - included this line -

"When providing me with the information in estimates on 23 May 2007, Dr Fong was relying on information provided to him, as a result of a Freedom of Information application by the Leader of the Opposition, received on 2 April 2007".

At 6.09 pm, Neale Fong replied to the minister's chief of staff and made no request to remove the section relating to the freedom of information application. At 7.58 am on 21 June - the date on which the debate took place - the minister's chief of staff emailed Neale Fong. According to my notes, the email stated -

"revised draft ministerial statement that is being faxed to Jim this morning"

The revised statement made no reference to the freedom of information application from the Leader of the Opposition. In Parliament, at 9.14 am, the Minister for Health delivered a ministerial statement in which there was no reference to the freedom of information application from the Leader of the Opposition.

At approximately 10.00 am, during debate on a suspension of standing orders, the member for Dawesville stated -

The opposition initiated an FOI request -

Mr Paul Omodei; Speaker; Dr Kim Hames; Mr Jim McGinty; Mr Max Trenorden; Mr John Kobelke; Mr Colin Barnett

The Minister for Health interrupted by saying -

I didn't know that.

On 28 June - one week later - in the Legislative Council, the minister representing the Minister for Health stated -

The Minister for Health confirms that he was unaware of the FOI application by the Leader of the Opposition until being told by the opposition on 21 June 2007.

The opposition seeks to suspend standing orders to allow the minister to answer the following questions. Did the minister's chief of staff inform him of the FOI application when the original draft response to the Leader of the Opposition's parliamentary question was sent to the minister's officer on 11 June, including a section entitled "Minister to note", referring to the FOI? How did the minister respond to the email and draft ministerial statement from his chief of staff, which specifically mentioned the FOI from the office of the Leader of the Opposition? Did he read this statement? If he had read the statement, he would have had to have known about the FOI. Who removed the reference to the Leader of the Opposition's FOI application in the time between the original draft ministerial statement being sent to Neale Fong, Mal Wauchope and the Minister for Health on 20 June, and the revised version being delivered by the minister the following day? It clearly was not Neale Fong. It almost certainly was not Mal Wauchope. This leaves only the Minister for Health. Did the Minister for Health deliberately mislead Parliament with his comments and answers to questions on 21 June and 28 June, in which he denied any knowledge of the opposition's FOI application?

This is a very important matter. On 11 June there was a draft reply from the health department -

The SPEAKER: I have allowed some six minutes for the Leader of the Opposition to go through what he will probably repeat if this motion is successful. It is appropriate, given the nature of the motion, for the Leader of the Opposition to have delivered parts of his speech, but he should now go to the reasons for suspending standing orders rather than the matters that the minister may or may not have done.

Mr P.D. OMODEI: Clearly, Mr Speaker, we have ruled out both Mal Wauchope and Neale Fong. The only other people who had access to that documentation were the minister and his staff. It is now up to the minister to stand and explain why he misled the house.

DR K.D. HAMES (Dawesville) [11.39 am]: There are very few comments I can add to what the Leader of the Opposition has already said in getting to the heart of why we need to suspend standing orders, rather than the debate itself. However, I can safely make a couple of comments. The first comes directly from the statement made by the minister in the house on 21 June. It reads as follows -

I am aware of the paramount importance this house places on accurate information, and for this reason I have taken the earliest opportunity to correct this error through a ministerial statement.

The opposition is taking its earliest opportunity to bring to the attention of this house the fact that it has very strong evidence that suggests that the Minister for Health has misled the house. We have heard the details of how that occurred and the things that the minister has stated. However, during a previous debate on this matter, the Minister for Health looked at me and said, "I did not know." The minister's chief of staff sent an email to the minister via Dawnia Chiu, who works very closely with the minister on all issues. She made the decision; it was not the chief of staff, otherwise he would not have sent that email in the first place. It was not Neale Fong, because nothing came back in his response to the suggested ministerial statement that said in any way that he believed that the reference to the freedom of information application should be removed from the ministerial statement. That leaves Dawnia Chiu as the only possible person, other than the minister, who could have removed the FOI reference from the ministerial statement. Why would she do that? That Dawnia Chiu removed that part of the ministerial statement off her own bat and without notifying the minister beggars belief. The government must give the house an opportunity to debate this issue. If the minister is stating that it was Dawnia's responsibility, he should state why and he should explain why the reference was removed in the first place. It seems nonsensical. What is the harm in the minister telling us that he knew about it because of a freedom of information application, and that is why he stood up in the house when he did? The minister had the reference to the FOI application removed because of his sense of the play and of being able to stand up and deny all knowledge of a freedom of information application. The minister wanted to say that he had just learnt about the information, that he misled Parliament accidentally during the estimates hearings and that he wanted to put things right. The minister wanted to get up and say, "Sorry, we got it wrong", and not give any credit whatsoever to the opposition, which has dug up and teased out this information about the minister and Neale Fong. We still do not know what was contained in the emails. The government owes it to this house to give the opposition time to debate this issue and to give the minister a chance to properly defend his actions.

Mr Paul Omodei; Speaker; Dr Kim Hames; Mr Jim McGinty; Mr Max Trenorden; Mr John Kobelke; Mr Colin Barnett

MR J.A. MCGINTY (Fremantle - Minister for Health) [11.44 am]: I have received no notice of this motion, so I will do my best to address this matter raised by the Leader of the Opposition. The Leader of the Opposition has sought to suspend standing orders. I wish to address the reasons that I do not believe that that is necessary. In doing that, I will be able, in the same way that the Leader of the Opposition asked three questions, to provide very succinct answers. That will be done during my argument as to why standing orders do not need to be suspended.

Point of Order

Mr M.W. TRENORDEN: I have been a member of this chamber for 21 years and I have never seen this procedure carried out in this house in a deliberative manner. Either the motion to suspend standing orders is accepted, which will give the Minister for Health an opportunity to provide an explanation, or it is rejected.

Mr J.C. KOBELKE: The member for Avon is being vexatious.

Several members interjected.

The SPEAKER: Order, members!

Mr J.C. KOBELKE: Again, opposition members show no respect for the proceedings of the house. It is a well-established practice that although members must address the procedural matter during a debate to suspend standing orders, between two and five minutes are usually given to a member to outline why the substantive issue is relevant. The Leader of the Opposition was given that opportunity. The Minister for Health is trying to explain why the government will not accept a suspension of standing orders. He has been on his feet for fewer than 30 seconds. There is clearly no point of order.

Mr C.J. BARNETT: The member for Avon made a very good point. This will not be a long debate. The Minister for Health said that although he does not agree that we should suspend standing orders, he is happy to debate the issue. If the minister is happy to debate the issue, let us suspend standing orders so that we can have a brief debate to resolve the matter.

Mr M.W. TRENORDEN: The point I was trying to make is that the motion that the opposition wants to debate is a very serious issue. Ministers are not often directly challenged in this manner.

Several members interjected.

Mr M.W. TRENORDEN: There is spurious activity and there is serious activity. This issue involves serious activity. The government is in a position to tell the people that this matter was decided during informal debate, which is totally inappropriate.

The SPEAKER: The member for Avon's suggestion about what should and should not be debated in a motion to suspend standing orders is correct. However, what the Leader of the Opposition said during the debate on his motion to suspend standing orders did not touch on why standing orders should be suspended. He merely summarised what he would say in the substantive debate. He was followed by the member for Dawesville, who briefly touched on the reasons that standing orders should be suspended. It is appropriate and fair that the Minister for Health be given some latitude, as is always the case during these types of motions. The minister was given a brief chance to debate the motion to suspend standing orders. The leeway that is always given to members will be given to the Minister for Health.

Debate Resumed

Mr J.A. MCGINTY: The wording of the motion to be moved by the Leader of the Opposition is quite different from the language used by the Leader of the Opposition when he addressed the matter before the house. The language that he used to address the matter was far more accurate than the language contained in the motion that the opposition wants to debate. The motion that the Leader of the Opposition has foreshadowed as the reason to suspend standing orders contains an allegation that I misled Parliament and that I was aware of the freedom of information application. It is very interesting that when he addressed this matter, the language was suddenly radically different. He said that it was "likely" that I knew.

Mr T. Buswell: Did you see the draft report?

Mr J.A. MCGINTY: I ask the member for Vasse to listen to me, because I am quoting what the Leader of the Opposition said. He said that it was "likely" that I knew and that I "may have" removed information from the ministerial statement. That language is far more temperate and balanced. He can mount a case, I think, based on what he put forward.

Mr P.D. Omodei interjected.

Mr Paul Omodei; Speaker; Dr Kim Hames; Mr Jim McGinty; Mr Max Trenorden; Mr John Kobelke; Mr Colin Barnett

Mr J.A. McGINTY: Of course it is. As I did by way of interjection -

Mr P.D. Omodei interjected.

Mr J.A. McGINTY: I provided them to the Leader of the Opposition.

Mr P.D. Omodei: You knew about it; you misled the Parliament.

Withdrawal of Remark

The SPEAKER: Order, members! Clearly, the Leader of the Opposition knows that what he said is unparliamentary. I ask him to withdraw that comment.

Mr P.D. OMODEI: I withdraw.

Debate Resumed

Mr J.A. McGINTY: The Leader of the Opposition said that three questions need to be answered. The first was whether my chief of staff informed me on 11 June of the document that arrived from the Department of Health. The answer is no.

Mr T. Buswell: What about after 11 June and before 20 June?

Mr J.A. McGINTY: No. The simple answer is no.

Several members interjected.

The SPEAKER: Order, members! This is a very serious issue. The house listened in complete silence when the Leader of the Opposition and the member for Dawesville argued their reasons that standing orders be suspended. I ask members to give the same sort of respect to the Minister for Health.

Mr J.A. McGINTY: That information came in and, as I have stated previously to this house, there is nothing new about it. My chief of staff handled the correspondence between him and the Department of Health without reference to me.

Mr P.D. Omodei: Even though there was a note on the bottom saying "Minister to note"?

Mr J.A. McGINTY: It was a draft document. The Leader of the Opposition has a copy.

Mr P.D. Omodei: The ministerial document reads "Minister to note".

Mr J.A. McGINTY: Does it have my notation on it? No.

Mr P.D. Omodei: You never saw it?

Mr J.A. McGINTY: No, not until after 21 June. Did the Leader of the Opposition see the Corruption and Crime Commission report that his chief of staff leaked?

Mr P.D. Omodei: We are talking about your situation.

Mr J.A. McGINTY: I am just saying that what is good enough for the goose is good enough for the gander. It is a simple matter. The Leader of the Opposition has a graphic example with the Corruption and Crime Commission document that came into his office and that his chief of staff leaked. The Leader of the Opposition claimed he had no knowledge of that. I believed him.

Mr T. Buswell: What a nonsense statement.

Mr P.D. Omodei: It is rubbish. I did say that I saw it.

Mr T. Buswell: He stood up in the Parliament and said so.

Mr P.D. Omodei: This is not about that issue, but if you wanted to debate that issue, let us debate it again. I said quite plainly, both in this house and at the CCC, that I had seen the document.

Mr J.A. McGINTY: I am sorry: I will rephrase that. The Leader of the Opposition had no knowledge that his chief of staff had leaked it to the media. I believed that.

Several members interjected.

The SPEAKER: Order!

Mr J.A. McGINTY: The answer to that question is a categorical no. That is the answer to that question.

Mr P.D. Omodei: Why do you think we launched the FOI?

The SPEAKER: Order, Leader of the Opposition!

Mr Paul Omodei; Speaker; Dr Kim Hames; Mr Jim McGinty; Mr Max Trenorden; Mr John Kobelke; Mr Colin Barnett

Mr J.A. McGINTY: The preparation of the brief ministerial statement was done on 20 and 21 June, I think it was.

Mr T. Buswell: Just before we got the FOI document, wasn't it?

Mr J.A. McGINTY: I have no knowledge of that.

Mr T. Buswell: Rubbish!

Mr J.A. McGINTY: The trouble with opposition members is that they do not believe the truth when it is being told to them. I cannot help that.

Mr P.D. Omodei: Who took the quote out?

Mr J.A. McGINTY: Let me say this: I am going to answer the question very briefly by way of addressing why standing orders should not be suspended on this occasion because there is simply nothing in the issue that has been raised by the opposition. If I may deal with the issue, the member for Dawesville has made the suggestion that my health policy officer, Dawnia Chiu, had some involvement in this matter. To the best of my knowledge she did not.

Mr T. Buswell: It was sent to her.

Mr J.A. McGINTY: I gave that document to the Deputy Leader of the Opposition.

Dr K.D. Hames: We have a copy of it. It says that it is from Danny Cloghan to Dawnia Chiu and reads, "Jim, I know you are just having fun up there. Can you have a look at this and tell me if it is okay?" That is to Dawnia.

Mr J.A. McGINTY: As I have said, to the best of my knowledge the member for Dawesville has made the allegation that she is possibly the person who altered that document. To the best of my knowledge that document was written, edited, modified and presented to me by my chief of staff. That is how it happened.

Several members interjected.

The SPEAKER: Order!

Dr K.D. Hames: He sent it to -

The SPEAKER: Order! I do not know what part of "do not interject" the member for Dawesville does not understand, but he must not interject constantly, as he is doing.

Mr J.A. McGINTY: The question has now been narrowed down to a suggestion by the Leader of the Opposition that in the 12 hours prior to the statement being made to the Parliament on the 21st, I had knowledge of the FOI request. I had no knowledge of the FOI request.

Mr T. Buswell: Did you review the draft ministerial statement on the afternoon of the 20th when it was emailed to you here?

Mr J.A. McGINTY: Opposition members gave me no notice that this matter was coming on.

Mr T. Buswell: Did you?

Mr J.A. McGINTY: All I can tell members opposite is my best recollection of what occurred on 20 and 21 June. I have a recollection of seeing a ministerial statement. Do not ask me which draft or preparation of that ministerial statement it was, because, frankly, opposition members did not have the decency to tell me this matter was coming on. I could have gone back in order to address those issues.

Mr P.D. Omodei: You saw it then.

Mr J.A. McGINTY: I saw a draft document -

Mr T. Buswell: On the 20th.

Mr J.A. McGINTY: I cannot remember whether it was the 20th or the morning of the 21st.

Mr T. Buswell: It was sent to you on the 20th.

Mr J.A. McGINTY: I know that I saw a draft on the 21st at 9.15 in the morning prior to my making the statement to the Parliament.

Mr P.D. Omodei: Who took the paragraph out minister? That's shown here in black and white.

Mr J.A. McGINTY: My chief of staff dealt with this matter without reference to me prior to the 20th and the 21st. An email came late in the afternoon, I think; I am not sure at exactly what time.

Mr T. Buswell: It was 4.26 pm.

Mr Paul Omodei; Speaker; Dr Kim Hames; Mr Jim McGinty; Mr Max Trenorden; Mr John Kobelke; Mr Colin Barnett

Mr J.A. McGINTY: It was 4.26 on the afternoon of 20 June. It was sent to me. I cannot remember off the top of my head exactly when I read that email. This was in the 12 hours prior to my making that statement.

Mr T. Buswell: Did you edit that draft?

Mr J.A. McGINTY: The document was subject to some editing and changing by my chief of staff. I read out to the Parliament on the morning of the 21st the documents that he drafted for me. There is nothing more that I can say. In these circumstances I do not think that there is any reason to suspend standing orders. Frankly, there is nothing more that I can add to the debate. Given the allegation by the Leader of the Opposition that it is likely that I knew, I have told the Parliament that I did not. As to the statement that I may have removed information from the ministerial statement, I have already said that my chief of staff drafted the ministerial statement.

MR M.W. TRENORDEN (Avon) [11.57 am]: Having no knowledge of what the Liberal Party or the opposition is putting forward and just having listened to the minister, there is absolutely no way that I understand at all what is happening here today and, unless we have some reasonable process through some debate, nor will anybody else understand what is happening. This is a private little conversation between the minister and the Liberal Party, which is totally unacceptable. The minister's explanation may be absolutely correct, but I cannot judge that on today's debate.

Mr J.N. Hyde: Justify why you should.

Mr T.G. Stephens: You have made serious allegations.

The SPEAKER: Order!

Mr R.F. Johnson: You are running scared.

The SPEAKER: Order!

Mr M.W. TRENORDEN: I would just point out to those government backbenchers that if they were being accountable, they would have immediately agreed to this debate so that people such as I, members of the National Party and Independents, who have no idea what is going on here, could at least have some glimpse of what this debate is about. After this motion gets knocked back, government backbenchers will claim that this matter has been cleared. It has not.

Point of Order

Mr P.D. OMODEI: I am more than happy to adjourn the debate for the minister to have some time to check on how that paragraph was removed from the document.

The SPEAKER: The question is that standing orders be suspended.

Debate Resumed

Debate adjourned until a later stage of the sitting, on motion by **Mr R.F. Johnson**.

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