

Chapter 14 Questions Seeking Information

The standing orders permit questions seeking information to be asked by any member¹:

- To Ministers relating to public affairs, matters under the Minister's administration and proceedings in the House for which they have carriage (S.O. 126).
- To the chair of a committee, relating to the affairs of the committee (S.O. 127).²

There is no provision in the standing orders for questions (either during Question Time or written) to be put to the Speaker. The proper course is for the member to raise the matter with the Speaker in the Speaker's chambers.³ Despite rulings by recent Speakers of the House to this effect, there are early precedents of questions being put to the Speaker, with Speaker Meagher ruling in 1916 that questions could be put to the Speaker in the House so long as they are confined to points of order or proceedings arising in the House.⁴

Questions asked during question time about Ministers and whole of Government matters are asked of the Premier, who at times has also answered questions on behalf of Ministers.⁵ Ministers are also able to answer questions on behalf of another Minister.⁶

The rules which should be followed by members in asking questions are set out in standing order 128 and have been elaborated on by Speakers' rulings:

- Questions addressed to a Minister should relate to public affairs with which the Minister is officially connected, or to any matter of administration for which the Minister is responsible.
- Questions relating to proceedings pending in Parliament should be addressed to the Leader of the House.
- Questions relating to the affairs of the committee may be addressed to a member who is the chair of the committee.
- The purpose of a question is to obtain information, not to supply it; questions, therefore, should be brief and ask directly for the information sought.⁷

¹ Speaker ruled that members could ask questions prior to making their inaugural speeches, PD 12/05/1999, p. 127.

² For example, see PD 10/11/1993 pp. 5081-2 where the chair of a committee was asked a question during Question Time concerning the unauthorised publication of a committee's draft report. Standing orders were amended to remove provision for any member being asked a question on any business of the House for which they had carriage, VP 25/09/1996, p. 433. Question to Chair of Public Accounts Committee ruled to be in order, PD 31/10/2000, p. 9356. The Speaker ruled that questions to chairs must be on business that is before the committee PD 19/06/2001, p. 14767.

³ PD 26/11/1997, p. 2718.

⁴ PD 17/08/1916, pp. 924-5; VP 1916, p. 57.

⁵ PD 06/05/1997, p. 8050; PD 15/09/1999, p. 527; PD 16/09/1999, p. 672.

⁶ PD 06/05/1997, p. 8050; PD 17/06/1998, p. 6027.

⁷ Speakers' rulings have indicated that prefacing questions with the words "Are you aware..." is tantamount to giving information: Murray, PD 27/10/1994, p. 4864; Ellis, PD 12/08/1971, p. 294; Kelly, PD 04/11/1976, p. 2420; Kelly, PD 03/04/1979, p. 3554; Kelly, PD 22/11/1979, p. 3568; Rozzoli, PD 25/05/1988, p. 520.

- Questions should not be based on newspaper reports unless the member asking the question can vouch for the accuracy of the press reports.⁸
- Questions requiring information set forth in accessible documents such as statutes, reports and printed speeches are not permissible.⁹ However, there appears to be a tendency for Speakers to allow questions where the information would require research or where the information is just becoming available.¹⁰
- Questions concerning the conduct of members have been ruled out of order, even when no member is specifically referred to, as such questions reflect on all members and do no credit to them.¹¹

Questions should not contain:

- (1) statements of facts¹² or names of persons unless they are strictly necessary to render the question intelligible and can be authenticated.
- (2) argument or expression of opinion.¹³
- (3) inference.
- (4) imputation.¹⁴
- (5) epithets.¹⁵
- (6) ironical¹⁶ or offensive expressions or
- (7) hypothetical matter.¹⁷

Questions should not ask for:

- (1) an expression of opinion.
- (2) legal opinion.¹⁸
- (3) an announcement of Government policy.¹⁹
- (4) confirmation of rumour²⁰ or media reports.

⁸ See considered ruling given by Speaker Ellis where he warned all members that should they assure the House that material reported is true and accurate when in fact it is not the case the member may be held in contempt by the House, PD 01/11/1967, p. 2697.

⁹ See ruling of Speaker Ellis, PD 12/10/1967, p. 2361.

¹⁰ See for example, PD 25/03/1975, pp. 5184-5 where Acting Speaker Brown permitted a question on a judgment which had just been handed down because it was unlikely to be available at the time.

¹¹ For example, see PD 08/08/2000, pp. 7943 and 7945. However, Ministers have made personal attacks on other members when answering questions and the Speaker has ruled them to be in order noting that if a member referred to in an answer wishes to take a point of order in relation to the matter it is for that member to do so, PD 29/04/1992, pp. 3011 and 3014.

¹² See PD 03/09/1992, p. 5477 where the Speaker warned members that questions which gave facts rather than seeking information would be ruled out of order. The particular question was not ruled out of order on this occasion but the Speaker stated he would like members to take this as a precedent on which to frame questions.

¹³ See ruling of Speaker Ellis, PD 14/10/1969, p. 1579.

¹⁴ Speaker ruled a question out of order because of the manner in which it was asked, PD 02/06/1996, p. 820; and on another occasion the Attorney General asked a member to withdraw the imputation that he was not performing his duty to which the Speaker ruled that although the question contained an imputation, the words used were not offensive and that the Attorney General would have adequate time to refute any imputations during his answer, PD 20/03/1992, p. 1636.

¹⁵ See ruling of Speaker Ellis, PD 12/03/1970, p. 4211 where a part of the question was not allowed as it used intemperate language.

¹⁶ Whilst questions with ironical expressions are discouraged the test is whether the question truly sought information or pressed for action. For instance, a question on whether a referendum would be held on "April Fool's Day" was allowed because the member wanted to know for when it was planned. PD 09/11/1966, p. 2289.

¹⁷ VP 02/06/1998, p. 668.

¹⁸ On one occasion a point of order was raised that a question asked in the House had asked for a legal opinion to which the Speaker ruled that although the question asked whether a matter had legal validity in NSW, the question was capable of being answered factually and in simple terms and therefore was in order, PD 27/11/1992, p. 10446. On another occasion, a question which asked whether firms tendering identically could be charged with restrictive trade practices was allowed because the question asked what action the Government intended to take, PD 28/09/1965, p. 946.

¹⁹ Announcement of a policy and a change in the implementation of a policy distinguished, PD 20/05/1997, p. 8828; noting a change in existing legislation was not an announcement of policy, PD 20/05/1997, p. 8830.

Questions should not refer to business that is to come before the House. However, the Speaker has ruled that questions that seek to elicit facts about an issue that is to be considered by the House at a later stage are not necessarily anticipating debate but seeking information which may be pertinent to the debate that follows.²¹ The Speaker has also allowed questions to be asked about matters which may be the subject of a motion to be accorded priority (formerly a motion for urgent consideration) of which notice has been given.²²

Questions substantially the same as a question on the Questions and Answers Paper are not allowed to be asked during Question Time and questions which are badly framed may be ruled out of order.²³ Furthermore, Speakers' rulings have indicated that questions are not in order if the answers to any such question is contained in public documents or documents which could be considered to be of a public nature²⁴ or if they renew or repeat in substance questions already answered or refused.²⁵ However, Speakers have also ruled that a question similar in nature to an earlier question may be asked so long as it does not renew or repeat in substance questions already answered or declined to be answered.²⁶

Questions which anticipate discussion of an order of the day or other matter on the business paper are not permitted.²⁷

It is not in order to ask whether certain things, such as statements made in a newspaper, are true, but attention may be drawn to such statements if the member who puts the question makes himself responsible for their accuracy. It is also in order to ask questions which reflect on persons outside the Chamber.²⁸

All questions, whether they be written or asked in Question Time, should be framed in interrogative forms "what", "where", "will", "why" and "when". The use of words such as, 'Is it a fact....' suggests that the question is seeking an opinion or giving information. In fact, time and again Speakers have said that "...the true and only valid purpose of a question is to seek factual information...or to press for action."²⁹

Answers to questions must be relevant (S.O. 129) and in answering a member must not enter into debate.³⁰

²⁰ PD 15/10/1969, p. 1638 and PD 27/08/1974, p. 647.

²¹ PD 09/09/1993, p. 2976; PD 27/10/1993, p. 4520; PD 29/09/1966, p. 1348.

²² This is because the House is yet to determine whether the motion will come before the House and as such any answer is not anticipating debate. PD 07/05/2003, p. 408.

²³ PD 15/11/1994, p. 4999.

²⁴ PD 08/09/1971, p. 842.

²⁵ See ruling of Speaker Ellis, PD 23/09/1971, p. 1413 and ruling of Speaker Kelly, PD 24/11/1977, p. 10247. See also rulings by Speaker Rozzoli PD 24/06/1992, pp. 4110-1 and 15/10/1992, p. 7153.

²⁶ PD 24/06/1992, pp. 4110-1.

²⁷ A question relating to the specific provisions of a bill while the bill was still being considered by the House ruled out of order, PD 21/05/98, p. 5062 *but* the Speaker has ruled questions about bills before the House are in order to enable members to be better informed, PD 23/06/1999, p. 1194; anticipation rule suspended for question time during currency of motion of no confidence in Government, VP 08/09/1998, p. 828, PD 08/09/1998, p. 7172.

²⁸ See PD 27/10/1993 where the Speaker ruled that there was no bar to asking questions which reflect on a person outside the Chamber.

²⁹ See ruling of Speaker Ellis, PD 27/10/1970, p. 6917.

³⁰ See rulings of Speaker Ellis, PD 20/11/1968, p. 2626 and PD 21/10/1971, p. 2255; Speaker Cameron, PD 04/09/1975, p. 803 and PD 15/10/1975, p. 1857; and Speaker Rozzoli, PD 18/05/1988, p. 229.

14.1 Question Time

Within the routine of business specified in standing order 97, Question Time occurs each sitting day at approximately 2.15 p.m.³¹ On some occasions when the House has resumed a sitting which was suspended on a previous day or days standing and sessional orders have been suspended to allow additional Question Time periods.³² The Speaker has also delayed Question Time in the House, due to the absence of Ministers³³ and members supporting the Government, by leaving the Chair until the ringing of one long bell.

The procedure for Question Time is set out in standing order 131. The duration of questions is limited to 45 minutes or the answering of 10 questions, whichever is the later. This was first introduced in 1992 following concerns about Ministers using up the time available for questions by making lengthy responses. A ruling of Speaker Ellis in 1966 indicated that any attempt to deprive private members of the opportunity to ask questions during Question Time by asking lengthy and involved questions and thereby limiting the time available to ask questions would not be tolerated. Speaker Ellis also advised that such questions would be placed on the Questions and Answers Paper unless the Minister to whom the question is directed advises the Chair that a brief answer can be provided or that an answer will be provided by way of a ministerial statement. In such cases the Minister would be given an opportunity to make the statement at the conclusion of Question Time.³⁴

Ministers still provide lengthy answers and may be asked to draw their response to a close or warned that the answer may constitute a ministerial statement. However, this is not to say that all answers of a lengthy nature are ruled by Speakers to be ministerial statements. Such issues that would be considered by the Speaker when determining whether an answer should be ruled a ministerial statement include whether the matter is substantially a policy matter or a reply to a question which is substantially a factual question.³⁵

Given this practice, it is not unusual for a Minister to object to a lengthy and involved question being asked during Question Time. The Speaker may direct members to rephrase lengthy questions³⁶ or questions otherwise out of order and ask them again later.³⁷

³¹ On one occasion standing and sessional orders were suspended to allow the routine of business normally occurring at 2.15 p.m. on Tuesday to commence at 10.00 a.m. on Tuesday 6 November 2001 due to the running of the Melbourne Cup in the normal period for Question Time.

³² VP 26/11/1997, p. 351. On 24 and 25 November 1999 Question Time was held although both days were continuations of the sitting which began on 18 November 1999, VP 18/11/1999 pp. 271 and 291.

³³ PD 14/12/1993, p. 6035 where the Speaker left the Chair for 15 minutes to ensure more Ministers were present in the Chamber; and VP 19/06/2001, p. 1277 where the Speaker, having received advice from the Leader of the House that some members were having difficulty attending in Parliament due to a trade union blockade, left the Chair for approximately 3 hours.

³⁴ PD 03/03/1966, p. 3826.

³⁵ See comments by Speaker Ellis, adopting a ruling of Speaker Lamb, PD 18/11/1965, p. 2138.

³⁶ See PD 17/09/1992, pp. 5994-6 where a member argued that it had been a regularly accepted principle that questions should not exceed 100 words, to which the Speaker replied that it was impossible to gauge the exact number of words, which was not necessarily a determinant of whether a question should be ruled out of order, and pointed out that the Chair would not be brought into the "farfical situation of being called upon to arbitrate on the precise length of questions"; and PD 24/03/1992 pp. 1736 and 1738 where the Speaker ruled a question out of order for being too long noting that he did not intend to count the number of words in questions after the member noted questions had been asked that contained the same number of words as the one just asked by him.

³⁷ PD 23/06/1998, p. 6249; PD 16/09/1998, p. 7505.

The Leader of the Opposition is entitled under standing order 131 to be called first by the Speaker³⁸ and the Speaker traditionally extends a high degree of latitude to the Leader of the Opposition when asking their question and may in exceptional cases allow questions normally out of order.³⁹

The Speaker has asked members to rephrase questions with two distinct parts, although two part questions related to the same matter have been allowed.⁴⁰ Parts of questions have also been ruled out of order for asking for an opinion rather than seeking factual information.⁴¹

One supplementary question (the answer to which counts towards the 10 answers) may be asked each Question Time. A supplementary question must be asked by the member asking the original question, provided that it:

- (1) clearly arises from the Minister's answer;⁴²
- (2) only relates to a question asked by the same member at the same Question Time;
- (3) is asked immediately following the original question; and
- (4) must not be addressed to another Minister.⁴³

The Speaker has also ruled that if a supplementary question has been ruled out of order the member is prevented from asking a further supplementary question.⁴⁴

Ministers may at the end of Question Time provide additional information to an answer already given at that day or a previous sitting (S.O. 131(5)).

According to *May* the purpose of a question is to obtain information or press for action.⁴⁵ However, as has been noted by other parliamentary authorities, given the media coverage of Question Time in the House it is also a period of political opportunism.⁴⁶ Question Time in the Legislative Assembly provides both Opposition and Government members an opportunity to ask questions of Ministers and committee chairs. Questions asked by members supporting the Government tend to be pre-arranged⁴⁷ and give Ministers opportunities for announcing good news or making statements. Such questions are referred to as "Dorothy Dixers".⁴⁸ Speakers have commented that it is not for the Chair to judge whether questions are so-called "Dorothy Dixers".⁴⁹ However, on one occasion, the Speaker expressed doubts about the propriety of a question and its reply arguing that all the House had been doing was carrying on a debate about a bill which had already been completed. The

³⁸ Person representing the Leader of the Opposition failed to receive the call as they did not seek the call, PD 20/11/1996, p. 6302; PD 18/06/1998, p. 6157; PD 17/09/1998, p. 7644.

³⁹ See comments by Speaker Murray PD 18/06/1998, p. 6157 and PD 28/10/1998, p. 9199.

⁴⁰ PD 15/04/1997, p. 7505; PD 09/04/1997, p. 7330; PD 21/08/1968, p. 419.

⁴¹ PD 13/10/1992, p. 6652.

⁴² PD 28/05/1998, p. 5423; PD 04/06/1998, p. 5821; 24/09/1998, p. 8033.

⁴³ PD 24/06/1992, pp. 4110-1.

⁴⁴ PD 08/04/1992, p. 2399.

⁴⁵ *May*, p. 345.

⁴⁶ *House of Representatives Practice*, 5th edition, p. 527.

⁴⁷ For example, see PD 13/05/1993, pp. 2071 and 2079 where a Minister noted that he had prior notice of a question.

⁴⁸ The name itself derives from that of a newspaper columnist who published answers to questions that were presented as coming from readers, but were actually written by the columnist herself. See the Collins Australian Dictionary of Political Terms, 1994 p. 60.

⁴⁹ PD 29/11/1967, p. 3855.

Speaker advised the House that he would in future not allow questions of that nature if they referred to debates of the same session.⁵⁰

It should be noted that the practice, in many of the provincial legislatures in Canada, is that Government Members rarely ask questions in the House during the official question period which means that the Official Opposition is entitled to the first question and other parties in Opposition later questions. This tends to be because there are a number of parties in Opposition, unlike in New South Wales where the two-party preferred system is ingrained. For example, in the Legislative Assembly of New Brunswick, the members supporting the Government do not usually ask questions during the official question period given that such questions will be seen as staged questions and answers. Similarly, in the Legislative Assembly for Prince Edward Island the Speaker exercises his discretion and allocates the first 30 minutes of the official question period and usually the remaining 10 to the parties in Opposition. In the National Assembly of Quebec, the Official Opposition is provided with the opportunity to ask the majority of questions with Government members limited to asking two questions every three sittings and Independent members to asking two every five sittings.⁵¹

14.2 Written Questions

Written questions are published in the Questions and Answers Paper and the same rules are applicable as to questions asked during Question Time. Under the standing orders questions must be handed in writing⁵² to a Clerk at the Table before the end of Question Time (S.O. 132(1)).

The procedure for written questions is set out in standing order 132:

- Members are able to lodge three questions per sitting day (the Leader of the Opposition four) which are cumulative over one sitting week. Standing and sessional orders were once suspended to allow members to submit additional questions on notice during a single sitting which extended over several days.⁵³
- Ministers must answer questions within 35 calendar days or be subjected to explaining their failure to answer to the House. However, on a number of occasions the Speaker has not called the Minister in explanation due to the fact that the answer was unintentionally late⁵⁴ or because answers were lodged late in the sitting.⁵⁵ There is, however, no requirement under the standing orders for a chair of a committee who has been asked a written question to answer within a certain timeframe or even to answer the question at all. However, invariably questions are answered because if a question is left unanswered it will continue to draw attention by appearing on the Questions and Answers Paper each day.

⁵⁰ PD 24/10/1967, p. 2398.

⁵¹ Information collected for a survey in 2003 on oral questions in the Canadian Provincial Legislatures for the Canadian Association of Clerks-at-the-Table.

⁵² Speaker's ruling that questions on notice must be lodged in writing, PD 31/3/1993, p. 1038.

⁵³ VP 18/11/1999, p. 296.

⁵⁴ VP 06/12/1996, p. 483; after prorogation, PD16/04/1996, p. 62.

⁵⁵ Received late during adjournment, PD 19/09/1995, p. 1061.

- A question containing argument, unbecoming expressions or otherwise not conforming with the practice of the House may under the authority of the Speaker, be amended by the Clerk or divided if it contains matters that are not relevant to each other. The Speaker can also direct that a question not be printed or be removed from the Questions and Answer Paper.

On a number of occasions members have argued that not receiving an answer to a written question, either in full or in part, is a matter constituting a breach of privilege. However, given that the standing orders do not restrict the way in which Ministers answer questions, no privilege is involved.⁵⁶ In fact, in one instance the Speaker ruled a notice of motion out of order on the grounds that it claimed that the Minister had not answered a question properly. The Speaker also stated that in future he would rule out of order similarly worded notices and noted that there were alternative avenues available to members to express their dissatisfaction with Ministers replies.⁵⁷

A member must seek the leave of the House to withdraw a written question. The appropriate time for a member to seek leave is during the placing or disposal of business after each category of business has been called over.⁵⁸ There is no provision for a member to seek leave to withdraw a written question of another member.⁵⁹ Furthermore, in practice Government members rarely submit written questions.

When the House prorogues all questions unanswered lapse. Members are not able to carry over unanswered questions from one session to the next. However, it is usual for the majority of questions to be answered before a prorogation due to the requirement for Ministers to answer written questions within 35 calendar days.⁶⁰

⁵⁶ See for example, PD 31/03/1993, p. 1038; PD 12/05/1993, p. 1991.

⁵⁷ See ruling of Speaker Rozzoli, VP 01/04/1993, p. 135.

⁵⁸ See section 12.3 of Part One for further information on the placing or disposal of business.

⁵⁹ VP 20/11/1996, pp. 640-1.

⁶⁰ Under the previous standing orders of the House members were able to carry over unanswered questions from one session to the next in the same Parliament without affecting limits.