

Questions on Notice

No. 1 – Question on Notice

Question:

The Hon. CAMERON MURPHY: Have you reached out to the staff member—the victim of this—to offer them any assistance?

MARK WEBB: That's interesting. From the point of view of the investigation, we have engaged with them. Are you talking about—

The Hon. CAMERON MURPHY: The employee assistance programme, in the way that you otherwise would.

MARK WEBB: —whether or not we've done the employee assistance programme et cetera? That is usually referenced in any interview we do, but I can check on that specifically.

Answer:

Whilst general support was provided in discussions, the employee assistance program had not been specifically discussed. Upon being brought to our attention on 27 August contact was made with the staff member, an apology issued, and EAP contact details provided.

No. 2 – Question on Notice

Question:

The Hon. Dr SARAH KAINE: Speaking of security—and I know we did at the last estimates talk a bit about a MOU and we had discussions with the then Clerk about what we could discuss in here et cetera—I do want to raise this, and I don't think it breaches any particular security issues. I understand that has been quite a large turnover of our special constables. In fact, there's been an increase, as I understand it, in casuals and people who haven't spent time here. As I said, without wanting to go into areas that might be an issue for our own security, do you have any concerns or have you done anything about it? It is really important that we do have people who are familiar with this building and that corporate knowledge is maintained. All of the special constables—whether permanent or otherwise—are very good, but if keep churning through them, that is a concern for us.

The PRESIDENT: You're quite right to say that in any of these security questions there's always the appropriate parameters whereby we can't go into too much detail. Before I throw to Mr Webb, I will make a couple of points. The first is I just want to reinforce what you just said, which is that they do an excellent job. For this unique environment, of which we have spoken, for everyone to feel safe—members of Parliament, members of the parliamentary community and visitors—is of utmost importance. I think they do that very effectively. The second point that I'd make is, by nature of the job, there is a reasonable amount of turnover in it. That's always been the case. I am not au fait enough to be able to say whether in the last year or two there is a greater degree than normal. But I know that certainly in the 10 years that I've been here, it's been understood that there is some reasonable amount of turnover as some of the special constables move onto different positions and so forth within the force.

The Hon. Dr SARAH KAINE: Is there any chance that we could get details?

The PRESIDENT: I'll ask Mr Webb if he's got any more specific information than those general framing comments.

The Hon. Dr SARAH KAINE: Mr Webb, I'll preface before that. If it is possible—and obviously not necessarily today, but on notice; and, again, we don't need details—it would be good to see a trend of that. As the President has just said, it is consistent; I'd like to see a trend. Also, do we have a breakdown of permanent versus casual versus other? I know it's an unusual relationship, but we all work in complex supply chains. We can figure this out. We're at the top of that, so we can ask for detail. I'd like to put that as a request.

MARK WEBB: Absolutely. I'm happy to take that on notice. The caveat I'm putting—the reason I was hesitating slightly is, of course, some of that information is held by New South Wales police, so I can't guarantee exactly to what detail and what information they'd be willing to provide. But I am happy to ask the question, absolutely, and go through there. You pointed to an interesting answer. The President said even at normal times, there's a reasonable amount of turnover in special constables. One of the things that we work with

the police on is what induction is required for this place. As you know, the special constables look after quite a few sites around New South Wales, including police headquarters, 52 Martin Place for the ministry et cetera, and many other spaces as well.

For some of that rotation, some of it is new people coming on. But some of it is long-serving special constables, but who have never been placed here at Parliament House, as well. So sometimes people get rotated in who are not new special constables, but they are new to Parliament House, as well. We've been talking with police about "You do an induction for a new special constable," which is great. There is a site induction that is done when someone comes into a new space. But there are perhaps dimensions to working in Parliament House that might go beyond a standard site induction.

So, while the police do an excellent job in their general induction processes, we have made the offer that we could perhaps help enhance those induction processes by bringing some of the more specific issues that can come up in a parliamentary context to the fore. We're still in discussions with police about exactly what form that would take. But there is a real willingness and the police are very keen that their constables have everything they need in order to do their job effectively, so I feel like we're pushing at an open door to try and enhance this side of things. We're definitely trying to do that.

Answer:

Special Constables posted to NSW Parliament are part of the broader pool of 150+ officers in the NSWPF Security management Unit Command. There are no 'permanent' or 'casual' officers posted here, but the general desire is that officers perform regular duties for at least two years at this site before they rotate to other locations. Normal staff turnover (officers leaving and entering service) and higher sick leave rates in winter months can lead to less familiar faces being seen at NSW Parliament for short periods.

No. 3 – Question on Notice

Question:

The Hon. BOB NANVA: Beyond committees and research, does DPS routinely need to seek external advice to supplement its HR, governance and legal staff?

MARK WEBB: Absolutely. We don't have a legal service within the department, so anything legal does tend to go out. For day-to-day things, we use Crown solicitors—for lease negotiations for electorate offices, for instance, although we don't talk about the LA here, and other things like more commercial-related stuff. You're right: Occasionally, we might bring in an expert in a particular area to do a particular piece of work around technology or HR—less so finance, but certainly in those kinds of areas. In those situations, as Steven said before, we tend to gravitate towards the pre-evaluated government contracts. They usually have panels that have been established with providers of services, so we gravitate towards those. We've established procurement rules that mimic those of the public sector, so essentially there are thresholds that if it's less than 30 grand, you get a couple of quotes and that kind of stuff.

The Hon. BOB NANVA: I might come to the procurement aspect of that in a moment. Is it possible, on notice, to provide a breakdown of how much was spent in the last financial year on those external services in DPS?

MARK WEBB: Absolutely. For instance, last year, on the legal side of things, DPS spent about \$46,000 on legal services, as an example. A lot of the spending last year—we spent about \$950,000 on other consultants, but a lot of that was things like the RISE training. We had an external person come in for the RISE training. In particular, things like art conservation and the like—we have a fairly extensive collection of artifacts, so all the conservation work we do, we have to bring in external people to do that work. It's things along those—

The Hon. BOB NANVA: I could probably digest it better if I've got it in front of me—just on notice, if that's possible.

MARK WEBB: Yes. Happy to do that.

Answer:

The Department of Parliamentary Services uses external services, such as consultants and law firms, to fill gaps in services where we don't have in-house expertise. We have previously used these services across many of our teams for a wide variety of purposes, including RISE training, governance, art conservation and specialised HR support.

The total amount of DPS spending on consultants and legal costs for the 2024-25 financial year was more than \$945,000. Examples of costs for external services (excluding GST) include:

a. RISE training: \$327,500

- b. Independent reviews of core services: \$255,000
- c. External review of security in parliamentary workplaces: \$137,500
- d. Business case for Net Zero pathway: \$102,320
- e. Legal costs: \$12,000
- g. Wellbeing: \$42,445
- h. Employee relations (workplace issues): \$42,807

No. 4 – Question on Notice

Question:

The Hon. BOB NANVA: With respect to those recurring roles—the independent arbiter, ethics adviser, and the legal support for the Delegated Legislation Monitor—how are those retainers set? Is it possible to get those retainers on notice, or some information about those retainers?

STEVEN REYNOLDS: Each one is set slightly differently, of the examples that you've raised. The ethics adviser, who's appointed by the resolution of the House—the payment for the ethics adviser is determined by PEG, which is the same process for determining the remuneration of the independent complaints officer. I'd have to take on notice the adviser to the Delegated Legislation Committee—how that was determined. I suspect it was probably ultimately approved by the Clerk. What was the other position?

The Hon. BOB NANVA: The ones I've got on my list are the ethics adviser, the Delegated Legislation Monitor adviser and the independent arbiter.

STEVEN REYNOLDS: The independent arbiter—it's an ad hoc arrangement. When there's a dispute—

The PRESIDENT: Although less ad hoc than—at the moment, relatively regular. Sorry.

STEVEN REYNOLDS: Mr President approves the appointment of the arbiter, and the arbiter then just bills us according to how long he spent on the dispute. A very complex dispute will cost a lot more than something where a member is just disputing two documents. I will say, we get incredible value from Mr Mason. He could charge us very much more than he does.

The Hon. BOB NANVA: Again, on notice, just to provide whatever information you can with respect to the tenure, the nature of the retainers—if there are retainers—the rates, and how much it is costing the department for those services.

STEVEN REYNOLDS: Okay, I'll take that on notice.

The Hon. BOB NANVA: To the extent that you can.

STEVEN REYNOLDS: We do report on it in our annual report. Certainly we've got last year's figures in the 2024 annual report. But I'm happy to take that on notice and come back to you with the figures for this year.

Answer:

Parliamentary Ethics Advisor: Both Houses have passed a resolution establishing the position of Parliamentary Ethics Adviser but the resolution does not specify how this appointment is made. In practice the Presiding Officers identify a suitable candidate and both Houses then resolve the appointment on “such terms and conditions as may be agreed upon”. The current occupant, a former Clerk of the Parliaments, has held the position since July 2014.

Remuneration is determined by the Presiding Officers and is currently \$50,000 pa. The Legislative Council pays half of this, sharing with the Assembly.

Independent Legal Arbiter: Standing Order 52 requires that the independent legal arbiter be appointed by the President and must be a Kings Counsel, a Senior Counsel or a retired Supreme Court judge. Each time there is a dispute the President makes the appointment for the specific dispute. The practice since 1998 has been to have a primary arbiter, so as to ensure consistency in decision making, then depending upon the volume of work, engaging additional arbiters if the principal arbiter is unavailable. Currently the Hon Keith Mason AC KC, former President of the Court of Appeal is the primary arbiter appointed when a dispute arises.

The arbiter invoices the Legislative Council based upon the time spent on the dispute. In 24/25 the arbiter was appointed for 7 disputes; Mr Mason invoiced the Department \$24,914 in total.

Independent legal adviser to the Delegated Legislation Committee: Paragraph 16 of the resolution of the Legislative Council establishing the Delegated Legislation Committee sets out that the committee may appoint a legal adviser to support it in the performance of its technical scrutiny function.

When the committee considered a process to appoint an independent legal adviser for an initial period of 12 months in early 2023, it was proposed in consultation with the Clerk that the adviser be paid \$60,000 per annum (GST not applicable), paid in monthly instalments.

This figure was based on the remuneration of the independent legal adviser to the Senate Standing Committee for the Scrutiny of Delegated Legislation, who undertakes a similar role to the independent legal adviser to the Delegated Legislation Committee.

Following a targeted expression of interest process, the Committee resolved to approve the recommendation of the secretariat for the Clerk to appoint Dr Ellen Rock, Associate Professor UNSW, as independent legal adviser to the Committee for a period of 12 months, then on 17 February 2025, the Committee resolved to approve a recommendation for the Clerk to appoint Dr Rock as legal adviser until the end of the 58th Parliament.

No. 5 – Question on Notice

Question:

The Hon. CHRIS RATH: What is a Legislative Assembly document is probably more the dispute. I'm not asking so much about the Legislative Council's ability to summons documents from the Legislative Assembly.

I think that's a separate issue. I take the point that getting documents from the Speaker or individual members of the lower House is an issue regarding comity. They're not Executive Government, so I understand that. But if, for instance, a member of the lower House wrote a letter to a Minister lobbying for a particular project or grant or made representations on behalf of a constituent—

The CHAIR: Do you have an example, Mr Rath?

The Hon. CHRIS RATH: No, I don't.

The CHAIR: It's a hypothetical?

The Hon. CHRIS RATH: It's seeking some advice about what would happen in this situation. Members of Parliament write to Ministers all the time on behalf of their constituents, often lobbying for various projects.

But in that case, the documents that would be being sought by the Legislative Council are Government documents held by the Minister or by the department—not seeking documents from an individual MP. If there was a dispute that happened in that case, it's not so much up to us to censure the Leader of the Government. Doesn't it then become a dispute where the lower House has a fundamentally different opinion about what is classified as a Legislative Assembly document versus an Executive document, which we do have access to?

STEVEN REYNOLDS: I'm just struggling to answer that. I think, as I've said, in the past the type of document that you've described has been provided to the Legislative Council as part of a return, where it's just an Assembly member writing to a Minister about an issue or something like that. So it's a situation where the Assembly defines that any correspondence from their members isn't to be provided in a Legislative Council return?

The Hon. CHRIS RATH: That's right, yes.

STEVEN REYNOLDS: I might have to take that on notice and give a more considered response to that.

If the document was provided to the Assembly—for instance, the Speaker or the Leader of the Opposition's documents—obviously members of the Opposition in the Assembly would be able to view those documents and perhaps try to pursue making them public in their House. But I'd have to look at that question that you've asked and then—

The Hon. CHRIS RATH: I think it's more that the document is held by the Minister or the department, which is why, surely, under our Standing Order 52 provision we are able to access that. It's not what the origin of the document was. A private business could write to a department in some way. We can't SO 52 documents from private businesses, for instance, but the document is held by the department, meaning we're able to access it under the SO 52 provision. Surely it's the same when it comes to members of the lower House. We're not summoning documents from individual members of the lower House; we're summoning documents from the department or from the Minister.

STEVEN REYNOLDS: Yes, correct.

The Hon. CHRIS RATH: It's just that they hold documents that might be correspondence or representations made to them by members of the lower House. We routinely get these in SO 52s.

STEVEN REYNOLDS: I'm not aware of the situation you're describing happening to date. That's probably all I can say.

Answer:

The answer to the questions referred to by the member is not straightforward. As per the resolution of the House of 4 June 2025 regarding comity, the Legislative Council has a legally recognised role under the system of responsible government in scrutinising the executive government, which includes Legislative Assembly ministers. Orders for papers are one means by which the Council performs this role.

When there is a failure to table documents it is enforced through action by the House against the Leader of the Government in the House in which the failure to table has occurred, because each House is responsible for its own members. This was the process which lead to the Egan cases, when the Leader of the Government was suspended by the House for non-compliance with orders for papers. The role of the Council in scrutinising the Executive does not extend to scrutiny of the actions of members of the backbench of the Assembly, and in situations where documents are sought which relate to Assembly members on matters unconnected to the actions of the Executive the return of their documents to the Speaker of the Legislative Assembly for consideration by that House may at times be an appropriate way forward in certain circumstances. At the same time, in other circumstances returned papers held by ministers or agencies may include communications to them by members of the Legislative Assembly, such as lobbying for the government to provide services in their electorate. Such documents have been returned to the Legislative Council on occasions throughout the years that the House has used SO 52s in the modern era, and has contributed to understanding how decisions of the Executive have been made.

No. 6 – Question on Notice

Question:

The CHAIR: President, Standing Order 13—is it lawful? Because it requires new members to swear either the oath of allegiance or the pledge of loyalty. The oath of allegiance says, "I swear that I will be faithful and bear true allegiance to King Charles III"—and the important part is—"His heirs and successors according to law." The Constitution Act, in disqualifications, 13A (1) (b), says that you're disqualified from Parliament if you take an oath, make a declaration, or adherence to any foreign prince or power. Are those two—

The Hon. CHRIS RATH: He's also the King of Australia.

The CHAIR: Has there ever been any advice—are those two in conflict? How is it that people who have taken an oath of allegiance are not disqualified from Parliament? Noting that the eighth in the line of succession is Prince Andrew, the Duke of York.

The PRESIDENT: It will shock you to know that my very excellent staff haven't prepared me for this particular question. Firstly, I'm not a lawyer. Secondly, I am happy to look at it if there is any substance here to look at it. My third comment is that my instinct is that the interjection from the Hon. Chris Rath is quite correct, which is: he is not the King of England; he is the King of Australia. His successors are his successors to be the monarch of Australia and the Head of State of Australia. Whatever your views, or others' views of that may be, Mr Buckingham, that is the current system under which we all operate.

Answer:

I refer the honourable member to the interjection by the Honourable Chris Rath, and to section 12 (4) of the *Constitution Act* 1902. Also section 3 of the *Constitution Act* 1902 defines "the Legislature" as "His Majesty the King with the advice and consent of the Legislative Council and Legislative Assembly".

No 7 – Question on Notice

Question:

The Hon. Dr SARAH KAINE: Could I just go back to the questions that Mr Rath asked about Cafe Quorum and the July change to hours. I just wanted to mention that one of the ways you were trying to manage that is having people on leave, and that kind of thing.

MARK WEBB: Sorry, no, it was more the patronage drops because people are on leave. Not the leave of the staff.

The Hon. Dr SARAH KAINE: Sorry, I thought you were saying that part of the way that you managed what was happening—

MARK WEBB: No.

The Hon. Dr SARAH KAINE: That then is really relevant to my question, which is what staff arrangements were put in place and what kind of consultation were staff engaged in? I'm particularly concerned if we have casual staff who then perhaps weren't engaged over that time—and I'll get all my questions out and then you can answer. With that, could we get a breakdown—and I think we might have asked this before, so it might be an update—of the contract types—casual, temporary and permanent—both in catering but across DPS.

MARK WEBB: Of course. I think we have provided those figures previously.

The Hon. Dr SARAH KAINE: Yes, so if we could just have an update.

MARK WEBB: I'm happy to give you an updated version of them, absolutely.

Answer:

Cafe Quorum staff were informed of the changes one month prior to the start of the modified trading hours and the Monday/Friday closure of Cafe Quorum. Staff employed by the Parliament were redeployed to the Long Bell Cafe on the Monday and Friday. Those agency staff who are employed in catering on a long-term basis received options to work in our functions and restaurant areas when shifts became available. It is important to note that during the July trial only front of house staff were relocated to other service areas as the Cafe Quorum kitchen remained fully operational during this period. The catering team currently consists of 24 staff. The breakdown is 1 casual, 3 temporary fulltime, 3 permanent part time and 17 permanent full-time staff.