



12 QUESTIONS SEEKING INFORMATION

INTRODUCTION

12.1 The purpose of parliamentary questions is to allow Members of the Assembly to seek and obtain information. They are an important parliamentary procedure used by Members to ensure that the government is held accountable for its policies and actions through its Ministers. Questions are also used to obtain information from the Speaker or from private Members on matters for which they are responsible (see paragraphs 12.5 and 12.6). Opposition, crossbench and government backbench Members of the Assembly also use questions to obtain information about matters of concern to their constituents. They do this by directing their questions to the Minister who has the appropriate portfolio responsibility.

12.2 Questions may be asked orally without notice in the Chamber or placed on the *Notice Paper* for written reply.¹ The importance of questions without notice as a means of gaining information and holding Ministers accountable is demonstrated by the requirement that there must be a period set aside on every Assembly sitting day for questions to be asked (see paragraphs 12.11 to 12.18).

WHO MAY ASK QUESTIONS

12.3 The standing orders do not place any restrictions on who may ask questions. However, the majority of questions are asked by private Members. Ministers do not ask questions of other Ministers. There is also nothing in the standing orders to prevent the Speaker from asking questions, although the practice has been that they don't. From time to time Speakers have placed questions on the *Notice Paper*.²

TO WHOM MAY QUESTIONS BE DIRECTED

Questions to Ministers

12.4 The majority of questions are directed to Ministers. They may relate only to public affairs for which a Minister has some connection, to proceedings pending in the Assembly or to any matter of administration for which that Minister is responsible.³ A question cannot be put to a Minister about the portfolio responsibilities of another Minister unless, for whatever reason, he or she is acting in that Minister's portfolio. This does not apply to the Chief Minister.

Questions to Speaker

12.5 Any Member may ask the Speaker a question relating to the Speaker's responsibilities.⁴ However, if the question relates to a matter of privilege, the Member must raise the issue in accordance with standing order 276. Unlike the House of Representatives,

1 Standing order 113.

2 For example, see NP (15.2.2005) 39.

3 Standing order 114.

4 Standing order 115.

which only allows oral questions to be put to the Speaker at the conclusion of question time, questions without notice can be asked of the Speaker at any point during question time.⁵ Although not provided for in the standing orders, and it is not the practice elsewhere, the Speaker has permitted questions to be asked that relate to rulings made by the Chair.⁶ In relation to questions on notice to the Speaker, the same process is followed as is the case for questions directed to any other Member (see paragraphs 12.24 to 12.26).⁷

Questions to private Members

12.6 On rare occasions, private Members are asked questions, usually in the form of questions without notice. The question can relate only to a bill, motion or other public matter which is connected with the business of the Assembly and of which the Member has charge.⁸ A question to a committee chair has been permitted concerning committee proceedings, though care would need to be taken to ensure that the question did not transgress the provisions of standing order 241. For example, the chair of the Standing Committee on Planning and Urban Services was asked a question in relation to his conduct as chair of the committee.⁹ Questions may also be put to shadow ministerial spokespersons. For example, on 25 August 2005, the then Shadow Minister for Education was asked a question without notice relating to the Education Amendment Bill 2005, which she had presented to the Assembly.¹⁰

GENERAL RULES APPLYING TO QUESTIONS

12.7 Chapter 10 of the standing orders sets out the rules for the asking and answering of questions. Standing order 117, which outlines the general rules that apply to questions, states that questions shall be brief¹¹ and relate to a single issue and that they must not contain:

- statements of fact or names of persons unless they are strictly necessary to render the question intelligible and the facts can be authenticated; or
- arguments, inferences, imputations, epithets, ironical expressions or hypothetical matters.¹²

12.8 Ministers should not be asked for an expression of a personal opinion or for a legal opinion. Nor should they be asked to announce executive policy, but a question may seek an explanation regarding the policy of the executive and its application, and a Member may ask the Chief Minister whether a Minister's statement represents executive policy.¹³

12.9 Under standing order 117(f), the Speaker has the authority to direct that the language of a question be changed if it does not conform with the standing orders. This standing order can be applied more strictly to questions on notice as there is more time for them to be examined. This function is performed by the Clerk, who has the Speaker's authority to

5 For example, see Assembly Debates (9.5.2000) 1277; Assembly Debates (7.4.2005) 1525.

6 For example, see Assembly Debates (24 .8.2006) 2809-10

7 For example, see NP (15.1.2006) 813; NP (2.5.2006) 991.

8 Standing order 116.

9 Assembly Debates (9.8.2001) 2673. The question related to whether the Member was confusing his responsibilities as committee chair with his role as a Member of the Assembly.

10 Assembly Debates (25.8.2005) 3246. The question was asked by another member of the opposition and was effectively a 'Dorothy Dixier' (see paragraph 12.18). It provided an opportunity for the shadow spokesperson to make a statement with regard to her bill which was critical of the government. Since the question related to a matter that was on the *Notice Paper*, the answer could not include matter that could be regarded as debate on the issue (see standing order 117(f)). The Member was repeatedly warned by the Speaker to restrict herself to making a statement and not to debate the issue.

11 For example see Assembly Debates (23.9.1998) 2075-6 and Assembly Debates (18.8.2005) 2900.

12 Standing order 117(b).

13 Standing order 117(c).

amend questions before placing them on the *Notice Paper*. The Clerk also edits questions to adapt them to the style of the *Notice Paper*. Generally, these edits are carried out to eliminate unnecessary words, to ensure the questions are directed to the correct Ministers and to put them into the proper form.

12.10 The Speaker also has the authority to rule any question out of order if it does not conform to the standing orders. The reasons for doing so have included, but are not limited to, the following:

- sub judice convention;¹⁴
- not being within a Minister's ministerial responsibility;¹⁵
- imputations;¹⁶
- seeking legal opinions;¹⁷
- being hypothetical;¹⁸
- duplicating a question on the *Notice Paper*;¹⁹ and
- re-asking a question that had been fully answered.²⁰

QUESTIONS WITHOUT NOTICE (QUESTION TIME)

12.11 The accountability of the government is tested most clearly and publicly during question time when questions are asked orally without notice by opposition, crossbench and government backbench Members. This is why question time is one of the most significant parts of a sitting day. In fact, the importance placed on question time is indicated by the fact that all non-executive Members will usually be present in the Chamber and wish to ask a question.

12.12 At 2 pm each sitting day the Speaker calls for questions without notice.²¹ Members indicate their wish to ask a question by rising in their places. In accordance with standing order 113A, the period of time allocated to questions without notice is determined by the time necessary for all non-executive Members who wish to do so to have asked at least one question.²² This is generally approximately one hour. If question time proceedings are interrupted by other proceedings—for example, a motion to suspend standing orders or a motion of dissent from a Speaker's ruling—the requirement of standing order 113A still applies.

12.13 The practice of allowing all non-executive Members to ask at least one question was adopted by the Assembly on 15 September 1994 after a motion to suspend standing and temporary orders was moved by a non-executive Member during questions without notice. The motion sought to allow all non-executive Members to ask a question without notice if they wished to do so.²³ Given that the Member had a similar notice on the *Notice Paper* to amend the standing orders to include the provisions he wished to adopt for that sitting day, it was suggested that the Member withdraw the motion he had moved and move instead to suspend standing and temporary orders to allow the relevant private Members' business notice to be called on forthwith.²⁴

14 Assembly Debates (18.10.2005) 374.

15 Assembly Debates (9.4.2002) 824.

16 Assembly Debates (6.6.2002) 2018-9.

17 Assembly Debates (25.9.2002) 3220-1.

18 Assembly Debates (14.11.2002) 3642.

19 Assembly Debates (23.4.2003) 3604.

20 Standing order 117(g).

21 Standing order 74.

22 Standing order 113A.

23 MoP 1992-94/707; Assembly Deb (15.9.1994) 3015.

24 NP (15.9.1994) 1953.

12.14 The Member withdrew the motion, standing orders were suspended and the relevant private Members' business motion was called on. Members of the Assembly indicated during debate that the adoption of this standing order would be an equitable way to ensure all non-executive Members were given the opportunity to ask a question during questions without notice. The motion was agreed to.

12.15 Once all non-executive Members who have risen have asked a question, the Chief Minister asks that all further questions be placed on the *Notice Paper*. On an occasion when only three non-executive Members had asked a question, the Chief Minister rose and asked that all further questions be placed on the *Notice Paper*.²⁵ The Speaker explained to the Assembly that the Chief Minister took that action because no other Member had risen. The Speaker allowed question time to continue after several non-executive Members rose to ask further questions.²⁶

12.16 Although it is not set out in the standing orders, by convention non-executive Members may each ask only one question without notice per sitting day. Nevertheless, a Member was allowed to ask two questions during a question time.²⁷ The Member rose to ask a second question and was reminded by the Speaker that she had already asked a question and that other Members had not. The Member gave a short explanation indicating that she had not been quick enough to get to her feet to ask a supplementary question and that there was nothing in the standing orders to prevent a Member asking more than one question. The Speaker ruled that he was prepared to permit the Member to ask another question on that occasion.²⁸

12.17 It is the practice of the Assembly that the Speaker calls the Leader of the Opposition to ask the first question. The call is then alternated between government and non-government backbench Members, depending on who rises next.

12.18 It is a well-established practice that questions asked by government backbenchers are often prepared with the knowledge of the relevant Minister. This enables Ministers to respond with the government's point of view, to highlight government achievements and/or to criticise the opposition party's policies (and to praise the 'perspicacity and wisdom' of the Member who asked the 'question'). These 'prepared questions' are usually referred to as 'Dorothy Dixers'.²⁹ While this practice might reasonably be considered of limited value in terms of producing accountability outcomes, it has become accepted in all Australian parliaments.

Supplementary questions

12.19 Immediately following the oral answer to a question without notice, one supplementary question may be asked by the Member who asked the original question. Invariably, a supplementary question is asked. A supplementary question must be relevant to the original question or arise out of the answer given; it must not contain a preamble, and it should not introduce new matter.³⁰ Statistics on questions and supplementary questions are contained in Appendix 13.

25 Assembly Debates (4.8.2004) 3416.

26 Assembly Debates (4.8.2004) 3416.

27 Assembly Debates (20.2.2002) 401.

28 Assembly Debates (20.2.2002) 401.

29 This reference is reputed to have come from a popular advice column by journalist E M Gilmer called 'Dear Dorothy Dix'. It was said that the journalist herself invented many of the more interesting questions that she answered in her column.

30 Standing order 113B.

Answers to questions without notice

12.20 Standing order 118, which sets out the rules relating to answers to questions without notice, states that answers shall be concise, confined to the subject matter of the question and not debate the subject to which the question refers.³¹ The freedom given to Ministers when answering questions without notice can be a source of frustration for non-executive Members. However, as indicated by Speakers on a number of occasions, Ministers cannot be directed to answer questions in a particular way. The Speaker can intervene only if the answer is not in conformity with the standing orders.

12.21 The issue of the length of answers to questions without notice has been considered by the Assembly on several occasions. In May 2001 the Assembly noted the report of the Standing Committee on Administration and Procedure which recommended that:

... the Assembly not support the imposition of time limits for the asking and answering of questions without notice.³²

12.22 On 7 May 2003 the Assembly considered a motion which proposed that standing order 118 be amended to limit the time for answering questions without notice to five minutes. The Assembly resolved to refer the matter to the Standing Committee on Administration and Procedure for inquiry and report.³³ The committee reported to the Assembly on 18 November 2003, recommending a time limit of five minutes on answers to questions without notice. The report was adopted by the Assembly after debate, creating new standing order 118(c).³⁴

12.23 If a question without notice requires a detailed and complicated answer, a Minister may take the question on notice and provide an answer to the Member at a later time, usually orally in the Chamber.

QUESTIONS ON NOTICE

12.24 Questions asked on notice must be submitted to the Clerk in writing. They are published in the *Notice Paper* for answer by the appropriate Minister at a later date. Questions on notice are usually asked when a detailed, complex or lengthy answer is required.

12.25 Standing orders do not limit the number of questions a Member may place on the *Notice Paper* and in recent years the number of such questions has increased.

12.26 To appear in the next *Notice Paper*, questions on notice must be delivered by Members to the Clerk by 12 noon on the day prior to the publication of that *Notice Paper*. Questions must relate to a single issue, conform to the style of the *Notice Paper* and be signed by the Member.

31 For example, see Assembly Debates (23.9.2003) 3539; Assembly Debates (9.3.2004) 897; Assembly Debates (20.9.2005) 3361.

32 Standing Committee on Administration and Procedure, *Proposed amendments to standing orders relating to disorder, questions without notice and voting*, May 2001, Recommendation 3, p. 12.

33 MoP 2001-04/712.

34 MoP 2001-04/1002.

Answers to questions on notice

12.27 Answers to questions on notice are similarly delivered to the Clerk. A copy of the answer is then supplied to the Member who asked the question, and the question and answer are printed in the next Weekly Hansard.³⁵

12.28 Occasionally Ministers will reply to a question on notice or part of a question on notice by indicating that they are not prepared to allow the use of the resources required to obtain the information requested.³⁶ This usually occurs when a question requests very detailed statistical information. The standing orders place no obligation on a Minister to answer a question.³⁷ Given that standing order 117(g) states that 'A question fully answered cannot be re-asked,' there is some conjecture as to whether a question that receives such a response has been fully answered by the Minister in the event that a Member asks another similar question on notice.

Redirected question on notice

12.29 If a question is directed to the incorrect Minister, the Chamber Support Office is contacted by the Assembly Liaison Section within the Chief Minister's Department requesting that the question be redirected. It is then the practice of the Chamber Support Office to contact the relevant Member to seek their approval for the redirection. Details of the redirection are then shown on the next issue of the *Notice Paper*. It should be noted that, although this process may take several days, the 30-day rule for answering the question still begins from the date of the original question.

UNANSWERED QUESTIONS

12.30 On 4 May 1995 the Assembly adopted standing order 118A, which deals with requests for explanations concerning unanswered questions.³⁸ Under this standing order, a Minister has 30 days to provide an answer to a question on notice or a question without notice taken on notice. If a Minister has not provided an answer to the question within that time or has not provided the Member who asked the question with a satisfactory explanation as to why the answer has not yet been provided, at the conclusion of questions without notice the Member may seek an explanation from the relevant Minister concerning the unanswered question.

12.31 At the conclusion of the Minister's explanation, if the Member wishes to pursue the matter, he or she may move to take note of the explanation or, in the event that the Minister does not provide an explanation to the satisfaction of the Member concerned, move a motion with regard to the Minister's failure to provide an answer, explanation or statement.

12.32 This standing order has been utilised regularly since its adoption. On 15 February 2005, after a Member had requested an explanation from a Minister concerning answers to two questions on notice, the Minister indicated that he would take advice on the matter. The Member then moved, pursuant to standing order 118A(c), that the Assembly take note that the Minister had failed to answer the questions and had not provided a satisfactory explanation for the lateness of the answers. The motion was negated after a vote of the Assembly.³⁹

35 Standing order 122.

36 For example, see Assembly Debates (22.10.2005) 3648-9; Assembly Debates (25.9.2003) 3812-3.

37 The Assembly may, of course, order a Minister to provide information. See paragraphs 9.94 to 9.98.

38 MoP 1995-97/26-32.

39 MoP 2004-08/50-1.

12.33 On 4 May 2005 a Member attempted to move a motion under standing order 118A in relation to an answer provided by a Minister concerning an unanswered question on notice. The Minister had indicated that he thought the answer had been signed and was on its way to the Member. On moving the motion, the Member indicated that the Minister should provide an explanation for the lateness of the answer, not speculate on where it was. The Speaker ruled that the Minister had given his explanation and the Member was unable to move a motion under standing order 118A(c).⁴⁰ The next day the Speaker made a short statement indicating that he had reviewed his ruling. He stated that Ministers need to give explanations as to why answers are late and that he would rule that way in the future.⁴¹

40 MoP 2004-08/163-4.

41 MoP 2004-08/171; Assembly Debates (5.5.2005) 1867.