

Questions on Notice

No. 1 – Question on Notice

Question:

The Hon. CHRIS RATH: Hopefully we can get this up and running as quickly as possible but, in the meantime, is there any way of potentially making the process a little bit easier? You're quite right that when the documents come in, often we like to scan them so that we can then use them electronically and share them amongst members and staff et cetera. Is there any possibility of moving towards a system where, if there's capacity for the LC staff—your staff, essentially—to scan those documents or, if there isn't that capacity for the staff to do that, potentially a way—and maybe it's something we need to do voluntarily amongst the members. If I go down or my staff go down and scan all of the public documents onto SharePoint and then, say, Ms Boyd's staff wouldn't need to go down to your office and scan those documents again, spending many hours scanning documents. It would be better if we could just share them. But I might not know that Ms Boyd's staff has already scanned all of those documents. If there is a way to collaborate amongst the members and the staff of the LC for documents so we don't all need to duplicate that or if there is any potential capacity for your staff to do that—I know that you've got a million other things that you need to do as well and there's no shortage of SO 52 documents coming in. But I think there's a lot of duplication at the moment amongst members and staff. I don't know. Maybe it's something to take on board or consider for the future.

DAVID BLUNT: I'd be happy to take the question on notice and come back to you with a thorough answer.

Answer:

The Procedure Office, on behalf of the Clerk's Office, has always scanned the index of returns to orders and covering correspondence, and has made them available through the Clerk's Office to members, and has put them online.

In the last Parliament, the Procedure Office, at the request of members, also made available to members and their staff a high capacity scanner to scan public returns to order. It is now routine for members and their staff to scan public returns to order for further interrogation. They are also likely further shared amongst interested parties.

The role of the Procedure Office and the Clerk's Office has always been to facilitate access to returns by members and staff. This has been achieved by scanning and distribution of indexes and covering correspondence, and by facilitating bookings to view returns and the subsequent provision of the high capacity scanner. At present the Procedure Office does not have the staff resource capability to become actively involved in the scanning and distribution of public returns beyond its current role with the indexes and correspondence.

As suggested in the question, however, there are potentially opportunities for the opposition and cross-bench to work more collaboratively together to share the efforts of their staff to scan documents, avoiding the duplication that currently occurs.

No. 2 – Question on Notice

Question:

The Hon. CAMERON MURPHY: Thank you for coming along and giving evidence today. I might start by going back to the bicentenary last year. We had a lunch on 20 October. At that lunch there was quite a glorious red carpet. It ran from the front of the building, right through to the Strangers' Dining Room, in two parts that then came together. How much was that? Was that bought for that lunch?

The PRESIDENT: The short answer is I don't know. We're happy to take that on notice. We'll come back to you. In terms of the red carpet itself, we have always had a red carpet in the Parliament for major ceremonial events. That, however, did fall into disrepair. This was a new one.

The Hon. CAMERON MURPHY: It was a new one for that event?

The PRESIDENT: It was a new one, and the first event for which it was used was that event. This, however, we expect will last for decades and will be used for a range of events, including any openings of Parliament, ceremonial events and so forth. While this was its first outing, it wasn't solely and only used for that particular event. But we'll come back to you about the cost.

The Hon. CAMERON MURPHY: The one that it replaced, how many times was that used?

The PRESIDENT: I don't know. But, again, we're happy to come back to you on that.

MARK WEBB: I could get the exact details, but it had been in place for at least 10 to 15 years. It had been there for a long time. We have it still as a backup. For instance, if we had an event where there was a lot of rain and the primary carpet was to get wet, we have the old carpet as a backup if required. But in terms of exactly how long and exactly how many events, I'd have to take that on notice. I just don't have that to hand.

Answer:

Supply, overlocking and laying of the new carpet cost \$45,000 plus GST. It is expected this red carpet will be used for major ceremonial events for decades.

We have also retained as much of the old carpet that we could that can be reused at a future time.

No. 3 – Question on Notice

Question:

The Hon. CAMERON MURPHY: I might just quickly ask about something else. Are all the committee staff permanent employees of the Parliament, or do we have a mix of temporary and permanent staff?

DAVID BLUNT: I presume you're talking primarily about the staff of the Department of the Legislative Council?

The Hon. CAMERON MURPHY: That's right, but also joint committees that Legislative Council members might serve on.

DAVID BLUNT: Most of the joint committees are supported administratively by our colleagues in the Department of the Legislative Assembly, so I can't answer on their behalf. There are now two or perhaps three joint committees that are supported by the Department of the Legislative Council, including, for instance, the joint committee on modern slavery. In terms of the Department of the Legislative Council committee staff, I would have to take on notice the precise number but it's probably about 40 per cent who are in temporary positions.

Answer:

As noted during the hearing, of the 38 total staff supporting Legislative Council and Legislative Council supported joint committees, 14 are temporary, which represents 36 per cent.

No. 4 – Question on Notice

Question:

The Hon. Dr SARAH Kaine: Can I go to staffing more generally. Last week, members received an updated copy of the Members' Staff Conditions of Employment determination. I note that it was indicated that there was a significant number of contributions during the consultation process. Can you give me a sense of how many responses were received?

Would it be possible to get on notice a breakdown of the number of responses by electorate office versus our research assistants? I have a couple of questions on this, so I don't know if that's one you can just say that you'll take on notice.

The PRESIDENT: I will. I've obviously got general information that I can happily talk about in terms of MOPS and the process that we've gone through and so forth. But in terms of those specifics, I'll take it on notice.

The Hon. Dr SARAH Kaine: It's also a bit unclear from the version of the determination that members were sent what was changed from the consultation process. Could we get a summary of the feedback that was received and how it was dealt with, including those bits of feedback that didn't fit with this determination but are about budget or Government policy? If we could get a summary of what was actually provided, that would be useful.

The PRESIDENT: We'll give you what we can.

The Hon. Dr SARAH Kaine: Excellent. The last part of this bit is could we please get circulated the tracked changes version, the members, which I understand that staff might have received?

The PRESIDENT: We will absolutely give you everything that we can.

Answer:

On 14 March 2025 additional information was circulated to members including:

A summary of the feedback received from members' staff, with the following breakdown:

1. A version of the final-draft determination with tracked changes highlighting the amendments made after consultation with members' staff.
2. A summary of the key changes made in response to staff feedback.

A total of 43 submissions were received from members' staff as follows:

- 14 LC members' staff
- 24 Electorate Office staff
- 5 Whips' Advisors

No. 5 – Question on Notice

Question:

The Hon. Dr SARAH KAINE: Sorry, Mr Webb, if I could stop you there. My concern is—and it's a concern that I initially had. Given that you're relying not on a directive but on some policy advice from IR, of which we don't accept in other areas for staff in here because it's a particular arrangement—and I see that you seek to codify that in the next determination. I am concerned that we have this period between 2018 and whenever the determination comes in where this wasn't explicit in the determination. It's reasonable for staff to think that their calculation was based on the words in the determination, given that there was no reference anywhere to how it was calculated. I don't think this issue is resolved properly yet. If there is further you can provide, please do. At the moment I think we're in a situation where that issue has not been resolved.

MARK WEBB: The other part to your original question was why did we put it in this way this time around. It was as a result of the feedback saying that we should be giving clarity on how we make those calculations. That's the reason it was in this time around. This is something we've kept working on since the last estimates. As recently as yesterday, I was sitting down with the human services team to try to work through in a little bit more detail, to try to get my head around the maths around some of this and to try to understand a little better. I understand that in some of the Federal awards, this is one of the reasons why they have moved to expressing salary as fortnightly pay rather than an annual salary; it is because of some of these interpretation issues which people have been struggling with.

The Hon. Dr SARAH KAINE: I'm conscious that my colleague wants to ask further questions. If there's anything that you can provide that suggests where you land on this and how that's justified for that period, given that it wasn't explicit and given that the directive did not apply, I would appreciate that. I do think this is something that should be addressed officially to staff, because they weren't told of how this was being calculated.

MARK WEBB: I'm happy to take that.

Answer:

For the period from 2018 until now, the method for calculating hourly and daily rates from annual salaries has not been stated in the determination of the Presiding Officers governing members of Parliament staff conditions of employment.

There has been no change to the way that that these rates were calculated prior to 2018.

The calculation method is not in contravention of the conditions of employment stipulated by the Determination.

No. 6 – Question on Notice

Question:

The Hon. CAMERON MURPHY: Mr Webb, how many full-time equivalent staff are employed by DPS at the moment?

MARK WEBB: It is around 300 staff.

The Hon. CAMERON MURPHY: At last estimates it was 278?

MARK WEBB: Yes. It's around 300, but I'll get the exact numbers.

Answer:

The total number of full-time equivalent staff employed at DPS is 292.77. This data is accurate as at 31 January 2025.

No. 7 – Question on Notice

Question:

Ms ABIGAIL BOYD: We have two separate issues. One is that we are under-resourced in terms of number of staff, and I understand that is a PRT determination issue. The other issue is that we have staff in the upper House who are, effectively, research officers. They're policy people—that's what they do, day in, day out—who are now being paid, say, \$90,000 as opposed to the \$150,000 you get if you're a research officer in the lower House, where they have a lot more staff and are more well resourced anyway and so are likely to have lower hours. So you've got these incredibly overworked, very educated, very well-placed people in our offices, who are now getting paid less than two-thirds.

The PRESIDENT: Understood. As you rightly say, the first issue is an issue of the PRT and one which you are welcome, as all members are, to advocate for to Justice Schmidt. The second—there are two things. One is to discuss the third part of the three-tranche process in terms of MOPS, which is the broader consideration of classification of staffing. The sorts of issues you talk about will be considered in that reclassification. That's the first point. I know that doesn't answer your initial and immediate question, but it nonetheless, hopefully, will give staff some comfort that this issue is being considered in a holistic way over the years to come.

The second point that I'd make, though, is I understand the concern. I understand the point. I don't have specifics in front of me. But, if you would be comfortable, I'd like to take that away and for us to actually do a little bit of analysis about that and come back with something substantive to you. Because, instinctively, the point that you make is utterly valid and reasonable. I don't know what the reasoning is behind it, and I'd like to have a look into it.

Ms ABIGAIL BOYD: I guess my purpose here is to work out where the pressure point is and who is actually responsible. It sounds to me like it is the government of the day who gets to make that final decision. But there is an element of advocacy from yourselves in terms of role description et cetera and then pointing out that—

The PRESIDENT: I understand that. It's a very valid issue. On the premise that you've raised, it's a very valid issue. I would like to be able to go and consider it and, potentially, continue to engage with you on the issue, as I have, for example, with Dr Kaine over many months between these sorts of hearings.

Answer:

This issue can be looked into as part of the ongoing review of Members' Staff Conditions of Employment. This will have funding implications for the Parliament which will need Treasury approval.

No 8 – Question on Notice

Question:

Ms ABIGAIL BOYD: The other question, which you may want to take on notice because it's more techy and I think it's an oversight, is that in the provisions there's provision for miscarriage leave, I think, of up to 20 weeks and then there's also leave for early birth in that period up until full term. But what there isn't leave for, as far as I can see, is stillbirth after 20 weeks. I was just wondering if you could look into that.

The PRESIDENT: That would be an oversight, if that were the case. We will absolutely look at that.

Answer:

This was an oversight and the provision has been included in the final determination.

No 9 – Question on Notice

Question:

The Hon. WES FANG: Exactly. But, Mr President, can I ask about resourcing in opposition? Can you explain some of the rationality around not providing a backbench member of, say, The Nationals the ability to draft a bill?

The PRESIDENT: It's a very good question. This has been something that has been discussed for many years about the fact that obviously government have their bills drafted appropriately and that members of the crossbench are able to go to the Parliamentary Counsel to do so but that that opportunity doesn't extend to all members. Mr Blunt, no doubt, will make some comments about this. The short answer is that I don't know whether this is merely a convention and that the Opposition, for example, has determined internally that its not allowed to do that and that it's only if it goes through shadow Cabinet, for example, or if in fact it's a rule of the Parliament itself. I'll look to Mr Blunt to answer that question shortly. With the quizzical look that he has on his face, he's no doubt thinking that through.

But I'm conscious, obviously, of the time requirements and the workload requirements of the Parliamentary Counsel. I think that's something that always needs to be considered. But my view is and always has been that if any member of Parliament wants to take advantage of Parliamentary Counsel, they should be able to do so because every member of Parliament is elected as a member of Parliament and should have the same opportunity as any other. But that is a philosophical view rather than a practical view, so I'm not announcing a change in policy here. It is my own personal philosophical view, but I'll throw to David on anything further you might like to add.

DAVID BLUNT: I can take on notice the latest guidelines that have been issued by the office of the Parliamentary Counsel and precisely what they provide.

Answer:

Since the 1991 election of the Greiner Government the services of the Parliamentary Counsel Office (PCO) have been made available to non-government members of Parliament in accordance with an authorisation from the Premier. This authorisation was renewed by Premier Minns at the beginning of the 58th Parliament and is set out in the Manual for the Drafting of Non-Government Legislation issued by PCO in May 2023. The arrangements authorised by Premier Minns on behalf of the Government continued the previous arrangements authorised by Premiers of both Coalition and ALP-led Governments.

The Manual is available online here: https://pco.nsw.gov.au/download/Members_Non-Government_Legislation.pdf

For each 6-month period the Opposition is allocated 250 hours of PCO's drafting and editorial time and other non-Government members are allocated 25 hours each. PCO's services are provided to the Opposition and other non-government members on the basis

the provision of the services will not interfere with the Government's legislative program and is subject to PCO's resources.

In relation to the time allocated to the Opposition for use of PCO's services, it is a matter for the Opposition Leader and the Shadow Cabinet how that time is used for the preparation of Opposition bills and amendments in committee to bills introduced by the Government and non-Government members.

The arrangement between the Opposition (regardless of who is in Opposition) and PCO is that PCO will only use the time allocated for the preparation of Opposition legislation if the preparation of the legislation is in accordance with Shadow Cabinet's approval or otherwise with the approval of the Opposition Leader.

This arrangement of requiring Shadow Cabinet or Leader of the Opposition approval is longstanding, regardless of which party is in Opposition or who the Opposition Leader may be, to ensure the time allocated for non-government drafting is prioritised and managed efficiently and effectively. It also ensures a consistent approach is taken to requests from backbenchers from the Government or Opposition for access to PCO's services, none of whom have access to PCO's services other than in the event of a conscience vote.

It is noted that the approach to access to PCO drafting and editorial services by non-government members of Parliament varies across jurisdictions, with some jurisdictions providing access on a statutory basis (e.g. Queensland) and other jurisdictions not providing any access to PCO's services by non-government members (e.g. the Commonwealth).

No 10 – Question on Notice

Question:

The Hon. WES FANG: That would be most appreciated. The last question I've got is just related to the point that Ms Abigail Boyd made about different resourcing. Mr Blunt, we spoke about this at the start of this term of Parliament. Members of the National Party, for example, are entitled to one staff member, across the board, effectively, when they're in the upper House. But if there was to be a circumstance where maybe The Nationals and the Liberals were to separate, and if there was perhaps a circumstance where The Nationals weren't part of the official Opposition anymore, what would be the staffing arrangements that would be in place then? Is it still the case that they would only be entitled to one staff member?

The PRESIDENT: I think that's right. I'll throw to David as well, but I think that's right. I've dealt with this on a different matter. In fact, it was Taylor Martin, who was a member of the Liberal Party but then became an Independent. Of course, Independents have more than one staffer. But when we went to look at it, it says that you are entitled to the number of staff you got when you were elected. This is a slightly different situation. I don't know if David has any views that he'd like to share. We're happy to take it on notice—that's the short answer—but there may be something else that you might like to add.

Answer:

If such a situation occurred we would consult with the PRT to determine the impact on entitlements.

No 11 – Question on Notice

Question:

The Hon. ROBERT BORSAK: Can you tell me how many special constables would be on duty on a normal day, for example, like today?

The PRESIDENT: I suspect we can't answer that question for security reasons, but we might take that on notice if we can, Mr Borsak.

Answer:

We cannot provide this information in a public forum for security reasons. There are Special Constables on site 24 hours a day, 7 days a week and the numbers fluctuate depending on what is occurring in the Precinct.

No 12 – Question on Notice

Question:

The Hon. WES FANG: In terms of Parliamentary Counsel and how they are directed or receive instruction, who is in charge of making sure the guidelines are updated or redetermined if required? What's the process in ensuring that that occurs, should it be the case that a member can't, at this stage, access some of those resourcing from Parliamentary Counsel?

DAVID BLUNT: It's my understanding that the guidelines are updated and reissued by the Office of the Parliamentary Counsel at the beginning of each term of Parliament. But, as I indicated before, I've taken on notice to provide the latest entitlement that each non-Government member has under the current guidelines. I don't think I can really add anything to that undertaking.

The Hon. WES FANG: I understand that. Who formulates the guidelines and how do they get amended?

DAVID BLUNT: I can come back to you on notice with precision on that.

Answer:

Since the 1991 election of the Greiner Government the services of the Parliamentary Counsel Office (PCO) have been made available to non-government members of Parliament in accordance with an authorisation from the Premier. This authorisation was renewed by Premier Minns at the beginning of the 58th Parliament and is set out in the Manual for the Drafting of Non-Government Legislation issued by PCO in May 2023. The arrangements authorised by Premier Minns on behalf of the Government continued the previous arrangements authorised by Premiers of both Coalition and ALP-led Governments.

The Manual is available online here: https://pco.nsw.gov.au/download/Members_Non-Government_Legislation.pdf

For each 6-month period the Opposition is allocated 250 hours of PCO's drafting and editorial time and other non-Government members are allocated 25 hours each. PCO's services are provided to the Opposition and other non-government members on the basis the provision of the services will not interfere with the Government's legislative program and is subject to PCO's resources.

In relation to the time allocated to the Opposition for use of PCO's services, it is a matter for the Opposition Leader and the Shadow Cabinet how that time is used for the preparation of Opposition bills and amendments in committee to bills introduced by the Government and non-Government members.

The arrangement between the Opposition (regardless of who is in Opposition) and PCO is that PCO will only use the time allocated for the preparation of Opposition legislation if the preparation of the legislation is in accordance with Shadow Cabinet's approval or otherwise with the approval of the Opposition Leader.

This arrangement of requiring Shadow Cabinet or Leader of the Opposition approval is longstanding, regardless of which party is in Opposition or who the Opposition Leader may be, to ensure the time allocated for non-government drafting is prioritised and managed efficiently and effectively. It also ensures a consistent approach is taken to requests from backbenchers from the Government or Opposition for access to PCO's services, none of whom have access to PCO's services other than in the event of a conscience vote.

It is noted that the approach to access to PCO drafting and editorial services by non-government members of Parliament varies across jurisdictions, with some jurisdictions providing access on a statutory basis (e.g. Queensland) and other jurisdictions not providing any access to PCO's services by non-government members (e.g. the Commonwealth).

No 13 – Question on Notice

Question:

The Hon. Dr SARAH KAINÉ: Mr Blunt, could I ask you a question about committees and committee staff? They are always so excellent, diligent and helpful, as a preface. One of the things that we've been doing more of are surveys et cetera when we run inquiries. In wanting to collect as much information as we can, we have qualitative answers that we do collect. At the moment, it seems there's not capacity to use any sort of software to do that, such as Leximancer, NVivo or, indeed, anything else that's come in the time that I've stopped being an academic. I'm sure there are others. I wondered if that's something we could consider training some people up to use? It's a considerable time saver when you're dealing with thousands of open-ended survey responses. I wondered if it had been thought of and perhaps not done for a particular reason, or if that is something that could be considered?

DAVID BLUNT: That's a great question. I'm very happy to take that on notice. What you're positing has immediate appeal, but I would like to get some advice on it.

Answer:

The Committee Office does not use software programs to analyse large volumes of qualitative information. We previously contemplated using Citavi, a software program for reference management and knowledge organisation, to assist with submission analysis. Ultimately, we did not proceed, given technical barriers to implementing Citavi in a parliamentary environment and the training required for staff to use it effectively. Neither the Parliamentary Research Service nor Legislative Assembly committees use software programs for qualitative analysis.

While we recognise that software programs such as Leximancer or NVivo may provide an efficient way to analyse the large volumes of qualitative information received through questionnaires, we do not propose to use them at this time, as the Committee Office is considering moving away from the use of questionnaires.

Questionnaires were introduced as a means of reducing the number of submissions in high profile inquiries or where it was impossible for us to process a large volume of submissions. They were also introduced for short, sharp bills inquiries, generally 2 weeks in length, where public submissions are generally not sought. Over time online questionnaires came to be adopted as common practice in committee inquiries.

Questionnaires are no longer serving their intended purpose of efficiency: even when questionnaires are offered committees often receive significant numbers of individual submissions.

But there are other reasons why the Committee Office would like to move away from using questionnaires. The designs of the questionnaires by a committee do not reflect methodological survey design standard. Further, it has always been clear that questionnaires are not intended to be statistically valid: respondents self select and are thus not a statistically representative sample of the NSW population. While questionnaires

generate qualitative information, this is comparable to what is received through the traditional means of submissions and hearings, which yield evidence rather than data.

We recognise that people responding to a questionnaire expect their responses to be reflected in a report and it is therefore not ideal to offer a questionnaire if the information yielded is not analysed.

For all of the above reasons, the Committee Office intends to take a proposal to the next meeting of the Chairs' Committee that questionnaires be discontinued other than for short bills inquiries.

The immediate issue is to ensure there is a rigorous analysis of the 1,600 responses to the questionnaire for the Social Issues Committee's inquiry into the harmful impacts of pornography. We have approached the Parliamentary Research Service with a view to identifying an independent external expert to analyse the responses and produce a report for the committee. We will consult with you as Chair and the committee as discussions progress.