

The Role of Questions on Notice in Parliamentary Democracy

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Introduction

The Westminster system of parliamentary democracy is based on the principle of responsible government, in that Ministers (Executive Government) are answerable to the Parliament. While modern parliamentary democracy has seen a gradual weakening of this philosophy, within the Parliamentary process, Members can seek information from Ministers through a range of procedures including questions on notice (written questions), questions without notice (question time) and adjournment debate. Members appointed to serve on parliamentary committees can also question Ministers on aspects of their portfolios, most notably through the budget and estimates committees.

Further, Governments that do not control both Houses are increasingly being scrutinised in the Upper House through select and standing committees. The Brumby Government in Victoria is now facing the consequences of a reformed Upper House where two select committees are presently investigating activities of the Government.

This paper examines the value of questions on notice as a legitimate avenue to scrutinise Ministerial responsibility and the extent to which government Ministers in Australia are fulfilling their duty to reply to questions and to uphold the fundamental principles of open and accountable government. The paper also explores the notion that Oppositions may be taking their opportunity to ask written questions to extreme and unnecessary levels in terms of the volume and scope of questions asked.

Analysis will be made of the extent to which Ministers are adhering to parliamentary rules and standing orders in answering questions, and the extent to

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which oppositions are using this mechanism to seriously analyse policy/portfolio matters.

In my conclusions I focus on recommended changes to Victorian Parliament standing orders to strengthen Government accountability in the question on notice process. The conclusion also briefly suggests ways in which other mechanisms referred to above could be improved to compliment any change to the question on notice procedures and to further enhance government accountability and scrutiny.

Ministerial Scrutiny in Parliament

The importance of questions on notice in terms of how the government is held accountable to parliament for its activities is increasing as other avenues of scrutiny appear to be eroded. Before I examine questions on notice, it is necessary to outline the other avenues for members to seek information from the Executive (other than Freedom of Information) namely: question time, adjournment debate, and parliamentary committees.

Question Time

Questions without notice are asked orally in the House during the order of business known as question time. While in theory it provides Members of Parliament an important opportunity to scrutinise the government, question times are commonly performed with a sense of theatre and under close attention of the media looking for a five second news grab.

In the Victorian Parliament, question time in both Houses commences at 2.00 p.m. and includes a maximum of 10 questions (up to an hour). The Opposition starts with a question, usually designed to criticise or embarrass the Government over a topical issue. A Government backbencher has the next question which is known as a 'Dorothy Dixer' which is a pre-arranged question providing a Minister with an opportunity to outline a policy initiative. Many regard the frequent use of 'Dorothy Dixers' as an undesirable aspect of the parliamentary process as it tends to weaken the Government's accountability to Parliament during question time.

Adjournment Debate

The Adjournment debate is intended to have a more limited purpose than question time in that it provides a forum for Members to raise matters of concern which are of recent occurrence and relate to Government administration. In Victoria, the period for raising matters lasts for 30 minutes, or until 10 members have spoken, whichever is the shorter. Within that overall period, a member may speak for a maximum of three minutes. Most importantly, this is not an opportunity for members to ask questions. The adjournment debate, however, allows members to provide information which they consider requires attention.

Ministers present during the adjournment will provide a response at the time; however Ministers absent from the chamber (or Ministers in the other place) will take the matter on notice. There are no formal rules for matters taken on notice to be addressed. In theory, Ministers taking a matter on notice during adjournment should respond in writing to the Member raising the matter. In Victoria, the courtesy of a written reply is often not provided, or provided after considerable delay, and responses do not get tabled in Parliament.

Parliamentary Committees

Without going into great detail, the parliamentary committee system also provides members (on those committees) an opportunity to scrutinise the Executive.

In Victoria, there are 11 joint investigatory committees, with 10 having a majority of Government members and Chaired by a member of the Government. The most important joint committee in terms of scrutiny is the Public Accounts and Estimates Committee (PAEC). During PAEC's annual budget estimates review, Ministers and senior departmental officers give evidence in a series of public hearings focussing on proposed government expenditure and departmental performance.

Criticisms of these government controlled committees are that the investigations are rarely on matters scrutinising the affairs of government departments, the majority findings and recommendations are also unlikely to criticise the government, and outcomes are usually consistent with existing policy.

A key feature of the current Parliament in Victoria is the establishment of two separate select committees in the Legislative Council; one dealing with gaming licensing and the other with public land development. Both committees are placing increasing demands and pressure on the Government to be held accountable through the call for documents and appearances at public hearings.

Parliamentary Rules Governing Questions on Notice

Members ask questions on notice, in writing, by having them placed on the question paper published each sitting day. Usually, it involves non-government members seeking information from Ministers on matters of government administration. While it is different from question time, many of the rules relating to content are the same.

It is generally accepted that the first recorded question occurred in the House of Lords in 1721. The procedure for asking questions developed slowly in the House of Commons with the practice of giving a Minister notice of a question by printing it in the Notice Paper began in 1833. Questions on notice were therefore an increasingly common feature of the British House of Commons' proceedings when

the Victorian and New South Wales Parliaments were established in 1856.¹ As a consequence, the custom of allowing questions on notice was adopted in NSW and Victorian parliaments and has remained a prominent feature of Australian parliamentary practices ever since.

The rules governing written questions to Ministers are covered in relevant parliamentary standing orders. Generally, the processes for asking written questions, the structure of such questions and the rules for asking questions are fairly standard through all parliaments. Questions must be worded in such a way that they do not breach the rules and conventions of the House.

The standing orders of parliaments in Australia have specific rules dealing with the scope of questions and language. Briefly, key limitations are that questions must relate to a Minister's current public responsibilities; relate to matters other than Government administration; be facetious, frivolous, trivial, vague or meaningless; and request information which is readily available in accessible documents.

In theory the Clerks, on behalf of the Speaker or President, make rulings in relation to the standing order limitations. However, in my experience, the large volume of questions tabled in a given sitting day make it impossible for the Clerks to determine whether a question may be considered trivial, vague or meaningless, and whether the information sought could be available in other documents, such as annual reports.

The key focus of my research paper focuses on the specific rules dealing with the number of questions that can be asked and the process for tabling responses, including timelines. The section below sets out relevant standing orders in the Australian, Victorian, New South Wales, Queensland and Western Australian parliaments.

Australian Parliament

The practice of asking questions on notice in the House of Representatives and the Senate are similar but differ in term of the rules governing written replies.

In the Lower House, Standing Order 98 enables a Member to ask a question in writing of a Minister (but not a Parliamentary Secretary) which is to be placed on the Notice Paper for written reply. A Minister's written reply to a question must be delivered to the Clerk within 60 days after a question first appeared on the Notice Paper. If this does not occur, the Member who asked the question may, at the conclusion of Question Time, ask the Speaker to write to the Minister concerned, seeking reasons for the delay in answering.²

¹ Information Sheet No. 3 — Questions, Legislative Council, Parliament of Victoria

² House of Representatives, Standing Orders 98 & 104, Parliament of Australia

It is the established practice of the House of Representatives, as it is in the House of Commons, that Ministers cannot be required to answer questions. Further, if a Minister does not wish to reply to a question on the Notice Paper ultimately he or she may choose simply to ignore it. The question then eventually lapses on prorogation of the Parliament or dissolution of the House.

The Senate has a more stringent rule for replying to questions in writing. Senate Standing Order No. 74 (5) states:

If a minister does not answer a question on notice asked by a senator within 30 days of the asking of that question, or if a question taken on notice during a hearing of a legislative and general purpose standing committee considering estimates remains unanswered 30 days after the day set for answering the question, and a minister does not, within that period, provide to the senator who asked the question an explanation satisfactory to that senator of why an answer has not yet been provided:

at the conclusion of question time on any day after that period, the senator may ask the relevant minister for such an explanation; and

the senator may, at the conclusion of the explanation, move without notice —
That the Senate take note of the explanation; or

in the event that the minister does not provide an explanation, the senator may, without notice, move a motion with regard to the minister's failure to provide either an answer or an explanation.³

Not only does the Senate have a reply deadline half that of the House of Representatives, Senators have greater opportunity to raise in the House the issue of unanswered questions and seek an answer or an explanation from a Minister.

Victorian Parliament

Rules governing questions on notice in the Victorian Parliament in terms of volume and requirement to answer the questions are less stringent in Victoria than in some other Australian parliaments (most notably NSW and QLD).

The key difference between the two Houses is that the Legislative Council has a 30 day reply limit while the Assembly has no reply timeline; and that Members in the Council may pursue unanswered questions in the House by seeking an explanation or by making a statement.

In both Houses, no limits are imposed on the number of questions Members may submit on either a daily or sessional basis. Consequently, Members sometimes table a series of questions on a particular matter which may add up to dozens of questions. On occasions a single member has asked over 300 questions in one sitting day.

³ Senate, Standing Order 74, Parliament of Australia

In the Legislative Council, if a Minister does not supply an answer within thirty days, or offer an explanation within that period of the reasons for any delay, Sessional Orders adopted in February 2007 permit:

The Member to ask the Minister for an explanation at the conclusion of Questions without Notice. Following the explanation the Member may move without notice that the Council take note of the explanation — this would then be listed as an item of General Business on the Notice Paper to be debated at a future date.

If the Minister does not provide an explanation, notice may be given of a motion to discuss the matter on the next day the Council meets, with the matter being given precedence under Sessional Orders.

Members may make a statement about the Minister's failure to answer the question during Statements on Reports and Papers on Thursday, providing they give at least one day's notice of their intention to do so.⁴

A Member may speak for not more than 5 minutes on the statement.

New South Wales Parliament

The rules for written questions in both Houses of the New South Wales Parliament are identical. An important element of the NSW system relates to restricting the number of questions a member may ask in a any given sitting day. The number of questions able to be lodged accumulative over one sitting week are: Members — three questions per sitting day; The Leader of the Opposition — four questions per sitting day.

NSW standing orders require Ministers to lodge answers to written questions within 35 calendar days after the question is first published and the answers shall be published. If an answer to a written question is not received within 35 calendar days the Speaker or President, at the next sitting day after the expiry date, shall forthwith inform the House and the Minister shall immediately explain to the House the reason for non-compliance.

If the Minister, after explanation in the House, has not submitted an answer within 3 sitting days the Speaker or President, shall again inform the House and the Minister shall again be called to explain with such procedure continuing until a written answer is submitted.

Unless an answer to a question not provided within 35 calendar days, but provided before the next sitting day, is accompanied by an explanation of the reasons for the late provision of the answer, the late provision of the answer will be reported to the House by the Speaker or President.⁵

⁴ Sessional Orders, February 2007, Legislative Council, Parliament of Victoria

⁵ Legislative Assembly SO 132 & Legislative Council SO 67, Parliament of NSW

Queensland Parliament

Queensland's Legislative Assembly has the most stringent rules limiting the number of questions being asked.

Standing Order 114 states that each member may ask one question on notice each sitting day, and that the relevant Minister or member shall answer the question by supplying a copy of the answer to the Table Office within 30 calendar days.⁶

Western Australian Parliament

In Western Australia, both Houses of Parliament have different timelines for answers to be tabled however neither House attempts to restrict the volume of questions that can be asked.

In the Legislative Council, if a question on the Notice Paper remains unanswered after 9 sitting days, the Minister or Member to whom the question is directed is to state at the conclusion of the period of oral questions on the next sitting day whether an answer will be provided and when that will occur.⁷

In the WA Assembly if no answer to a question on notice has been received one calendar month after the question was asked, the Member who asked the question may rise at the end of the time for questions without notice and ask the Minister why no answer has been received, and may similarly ask again after each succeeding month during which the question remains unanswered.⁸

Volume and Content of Questions on Notice

Volume of Questions

The House of Representatives Practice notes that in the early Parliaments relatively few questions on notice were asked, only two or three usually appearing on the Notice Paper for a particular day and more than eight or nine being unusual.

Over the years more and more time was taken up with questions without notice, and in order to save the time of the House, a new standing order was adopted in 1931 to provide that the reply to a question in writing could be given by delivering it to the Clerk, who would supply a copy to the Member concerned and arrange for its inclusion in Hansard.

By the early 1980s an average of 50 questions was being asked each sitting day, with a record number of 711 questions being placed on a single day's Notice Paper.

⁶ Standing Order 114, Legislative Assembly, Parliament of Queensland.

⁷ Standing Orders 136–138, Legislative Council, Parliament of Western Australia.

⁸ Standing Orders 75–80, Legislative Assembly, Parliament of Western Australia.

The average for the 40th Commonwealth Parliament was 37 questions in writing each sitting day.⁹

The table on the following page provides a breakdown of the number of questions asked in the Victorian Legislative Council since 1994. While there has certainly been an increase since the ALP formed government in 1999, they themselves were not sitting idle in 1996-98 where questions asked in the Council in successive years reached over 2000.

Since the commencement of the 56th Victorian Parliament in December 2006, up to October 2007, a total of 1075 questions on notice have been asked in Legislative Council. 556 of these remain unanswered, including 250 beyond the 30 day rule (approximately 25 per cent). In this period, the Council has sat on 42 sitting days, with the average number of questions on notice being 25.5 per sitting day.

During the same period in the Legislative Assembly, a total of 536 questions on notice have been asked, with many of these being duplicates of questions asked in the Council. A total of 415 remain unanswered as at October 2007, representing over 75 per cent.

Questions on Notice Tabled in the Victorian Legislative Council

Year	No. Questions
1994-1995	351
1995-1996	623
1996-1997	2068
1997-1998	2023
1998-1999	876
1999-2000	731
2000-2001	1263
2001-2002	1497
2002-2003	1047
2003-2004	2826
2004-2005	1670
2005-2006	2878
2006-2007	1187

Source: http://www.parliament.vic.gov.au/council/info_sheets/Questions.htm

During the 55th Parliament in Victoria (2002–2006), a staggering 8786 questions on notice were asked in the Legislative Council, with 340, or 4.2 per cent, remaining

⁹ House of Representatives Practice, 5th edn, p.548.

unanswered upon the dissolution of Parliament. In the Assembly, a greater percentage remained unanswered. There was a total of 1095 questions, with 114 (10.5 per cent) unanswered.

It is worth highlighting that on 20 July 2006, Liberal Opposition member in the Council, Mr Richard Dalla-River asked 389 on the one day. Later I highlight the Government's reaction to this significant overload of questions in one sitting day. However, the Labor Party cannot complain. When they were in opposition in 1996, Mr Theo Theophanous in the Upper House asked 325 questions on a single day on 5 December.

By way of comparison, it is interesting to look at some statistics from the Commonwealth, NSW and QLD Parliaments.

Following the recent prorogation of the House of Representatives on 11 October 2007, a publication listing all answered questions in writing was produced. The paper runs for 81 pages and shows out of a total 6351 questions asked, 842 (13.3 per cent) remained unanswered.

So far in the current NSW Parliament session (commencing 8 May 2007) there have been 1021 questions asked in the Assembly over a total of 23 sitting days. That is an average of 44 questions each sitting day. In the Council a total of 364 questions have been asked over 20 days; an average of approximately 18 per sitting day. All questions appear to have been answered in accordance with standing order timelines.

Looking at the NSW Legislative Council, with restrictions on the number of questions a member can ask each day, there has been an average of 18 per sitting day compared to 25 per sitting day in the Victorian Upper House.

In Queensland, 1506 questions have been asked so far in 2007, more than in Victoria. However, all questions have been answered by the deadline, give or take a couple of days.

Content of Questions

The content and range of questions on notice varies. Members often ask a very specific question to a single Minister seeking an explanation on a policy matter or details of a current project under the Minister's portfolio responsibility. However, where I see a weakening of the question on notice process is regular instances where generic questions are asked of all Ministers and every statutory body seeking a wide range of information. The Government label these questions 'fishing expeditions'. The Opposition no doubt considers the information is valuable and should be presented to the Parliament. Either way, each side of politics asks the same generic questions when in opposition. Yet each major party will object to the questions when in Government.

Examples of the information sought through these generic questions include: consultancies commissioned, including costs, purpose, recommendations, tender details; advertising contracts, including purpose and costs; expenses of the office of the Minister, including entertainment expenses; costs and details of all domestic and international travel; costs and details of all media research and public opinion polling; details of staff stress leave; allocation of funds to major capital works; expenditure on external legal advice; details of any gifts from the private sector up to the sum of \$380 received by the Minister since being appointed a Minister of the Crown; and details of FOI requests received, denied and released.

The same type of questions is repeated each financial year or at other regular intervals throughout a parliamentary session.

Answers to Questions on Notice **Victorian Government Process for Answering Questions**

During a break in my career at Victorian Parliament, I took on a role within the Department of Innovation, Industry and Regional Development to manage its cabinet and parliament functions for Ministers. Part of my role was to monitor Ministerial responsibility to Parliament including responding to questions on notice. In fact one of my greatest challenges or frustrations was in actually obtaining Ministerial sign-off on draft responses.

The following is an assessment of the internal departmental procedure for answering question on notice which is consistent throughout all Victorian Government departments.

1. Department's search through Parliament papers the day after each sitting day to identify questions on notice directed to their respective Ministers. There is no formal mechanism where Parliament advises Departments or Ministers of questions being tabled.
2. Questions are directed to relevant policy officers within the Department for draft responses with copies sent to the Department Secretary. Draft responses required within 14 days to enable final responses to be tabled within 30 day deadline (Leg Cnl Standing Order).
3. Many questions relate to functions of statutory bodies. These are forwarded to the external bodies for draft answers.
4. Once a draft answer has been prepared and approved by the Secretary, the final response is forwarded to the Minister for signature.
5. The signed response is then forwarded to Premier's private office in Department of Premier and Cabinet (DPC) for approval.
6. Once DPC has approved the response, it is then forwarded to Parliament's papers offices to meet the 30 day time limit.

The above procedure invariably did not occur. To be precise, stages 1-4 were always carried out by bureaucrats, but significant delays occurred at approval stages 5-6.

The generic questions referred to earlier require a consistent whole-of-government response (despite the example given on page) from departments and Ministerial offices.

During my period with the Department (2004-05) the Opposition raised the issue of unanswered questions in Parliament and through the media. It was revealed that the Brack's Government had established written guidelines for public servants to follow which set out how questions on notice were to be dealt with. In essence, the guidelines highlighted the large number of generic questions and gave examples of standard answers. It also required that these generic responses should be brought to the attention of Ministers' offices for direction prior to departments gathering the required information to furnish responses.

In the Melbourne Age newspaper on 24 August 2004, under the heading '*Bracks dumps bureaucrat guidelines*' it was reported that the 'State Government had dumped a set of guidelines under which Government ministers would be encouraged to provide bland, standardised answers to some parliamentary questions and effectively sidestep scrutiny from Opposition MPs.' The article further observed that 'some public servants — who often draft answers to questions on notice for ministers - received a copy of the guidelines, prompting one senior public servant to accuse the Government of becoming 'cynical and arrogant' about openness and of 'an abuse of executive power'.¹⁰

Dr Ken Coghill, a former Labor speaker in the Victorian Legislative Assembly, and now head of parliamentary studies at Monash University, commented at the time that the guidelines were 'an affront to the very principles on which Steve Bracks campaigned to defeat Jeff Kennett'. Dr Coghill believed 'guidelines directing public servants to introduce spin into answers risk leading ministers to provide answers that actually undermine these principles'.¹¹

By and large, it is these generic questions which take the longest to be answered and tabled in Parliament due to the fact that all Departments and Ministerial offices are liaising to ensure a consistent approach and then DPC will deliberate on them, often for a lengthy period, before being satisfied they can be tabled.

It is also these generic questions which, to my mind, detract from the existing process.

¹⁰ Darren Gray, 'Bracks dumps bureaucrat guidelines', *The Age* newspaper, 24/08/04, p.4

¹¹ Ken Coghill and Colleen Lewis, 'When spin hurts the spinner', *The Age* newspaper, 25/08/04

Non-Provision of Information Requested

Often responses to questions on notice do not contain the information sought, and are responded to with statements such as: ‘To provide details as requested would be an unreasonable diversion of my Department’s resources’.¹²

Different Ministers will find different ways in which to avoid providing information sought. By example, in 2006 the Opposition directed questions to all Ministers seeking details on the numbers of the total number of staff that had taken time off because of stress-related illnesses, the number of days taken and costs.

Some of the responses were as follows:

Minister for Small Business — ‘The personal medical records of staff are in confidence between that staff member and their doctor, and therefore I have no intention of relaying details of staff members’ personal circumstances’.¹³

Minister for Arts — ‘Provision of details would be an unreasonable diversion of my Department’s resources.’¹⁴

Minister for Major Projects — ‘Staff are entitled to a range of authorised absences/leave including sick leave. No data is [sic] available as to whether any sick leave absences are due to any particular illness.’¹⁵

Minister for Environment — ‘This question does not specify a relevant time period and is therefore impossible to answer. Responses have been tabled to similar questions that were asked in 2005, which sought information regarding stress related leave taken by staff members of agencies and authorities under my administration during the 2004–05 financial year. I refer the member to these responses.’¹⁶

In the very least, the Government is inventive in ways in which it will avoid providing information sought by the Opposition.

Non-provision of information is not unique to Victorian Parliament. The House of Representatives Practice notes that occasionally Ministers reply to questions in

¹² Answer to Question on Notice No. 1488 — ‘Entertainment Expenses’, Legislative Assembly, 13/07/05, Victorian Hansard

¹³ Answer to Question on Notice No. 1035ae — ‘Stress Leave’, Legislative Assembly Victorian Hansard, 4/10/06, p 3677

¹⁴ Answer to Question on Notice No. 1035e — ‘Stress Leave’, Legislative Assembly Victorian Hansard, 4/10/06, p 3676

¹⁵ Answer to Question on Notice No. 1035am — ‘Stress Leave’, Legislative Assembly Victorian Hansard, 4/10/06, p 3678

¹⁶ Answer to Question on Notice No. 1035n — ‘Stress Leave’, Legislative Assembly Victorian Hansard, 23/08/06, p 3143

writing by stating, for example, that the information sought by a Member is unavailable or that the time and staff resources required to collect the information cannot be justified. Ministers have refused to answer questions in writing which a public servant had admitted to preparing. A Minister has declined to supply information which was considered to be readily obtainable by other means — for example, in response to a question in writing a Minister has suggested that a Member use the resources of the Parliamentary Library rather than those of his department. Ministers have also stated in answer to a question in writing that the question or part of the question sought, for example, a legal opinion or an answer to a hypothetical situation, and a substantive reply has not been given.

Rulings and Debate in the Victorian Legislative Council

In the Victorian Upper House, Presidents have made various rulings over the years relating to Ministers answering a question on notice. In particular the examples given above of Ministers answering a question but not providing the information requested, have been ruled in order.

In May 1994 the President ruled that Ministers have the discretionary power to consider the balance of a question and the cost of providing an answer. Later that year, the Deputy President ruled that a Minister may answer a question on notice in the manner they see fit provided that they respond to the question. The President cannot on whether or not the form of the answer was justified.¹⁷

However successive Presidents in the Victorian Council have ruled that it is not sufficient for a Minister to answer a question by referral to a Freedom of Information request. On 21 June 2007, the President directed that several questions be reinstated on the Notice Paper as the answers provided attempted to advise that the information requested is the subject of an FOI request.¹⁸

When Governments fail to table answers to questions in a timely manner, Oppositions will use whatever means possible through standing orders in the House or through the media, to highlight concern over late or unanswered questions.

On 24 February 2005, the Opposition in the Legislative Council, clearly frustrated by the delays in Ministerial responses to large numbers of questions, sought a response from the Government as to reasons for the delays beyond the 30 day rule.

The Leader of the Government in the Council, Hon. John Lenders, responded as follows:

I will, though, make the point that there has been an absolute record number of questions on notice lodged in this place — I think an all-time parliamentary record.

¹⁷ Rulings from the Chair 1979-2006, Legislative Council of Victoria, pp.118–119

¹⁸ Legislative Council Victorian Hansard, 21/06/07, page 1932

I make the observation, without trying to score any political points, that from my perspective if I get a question from an opposition member who has asked 5, 10 or 15 questions on notice in a year, I will bust my boiler to get those questions answered.

If, however, it comes from someone who has asked thousands — and I mean thousands — of questions on notice which have been generated from a word processor and often ask inane questions like, as in my case on occasions, questions seeking information on the major capital works programs of advisory committees, then you tend to put less effort into answering them.

As a courtesy to members of this house, where a member has asked a small number of questions, I as a minister will go out of my way to get a quick response. Where a member has asked thousands of questions, answers are even further down the list of my priorities.¹⁹

So clearly from this Government response, it is the volume of questions asked by one member that leads to delays and makes the Government less likely to take the question seriously and respond with an answer within timelines.

The issue of unanswered questions did not dissipate during the 55th Parliament, as evident in a story which ran in the Melbourne Age newspaper on 24 July 2006. Under the heading '*Ministers avoid scrutiny by ducking questions*' pressure was now being put on the Government in the media for its inability to adhere to the 30 day rule.

The article states:

New figures show that 1250 — or almost 30 per cent — of questions asked by the Opposition's scrutiny-of-government spokesman, Richard Dalla-River, over the past three years were not answered.

The article made reference to the Bracks Government's mantra of openness and accountability and suggested Ministers are using a range of tactics to delay or avoid answering questions on notice. One example was given where a Minister answered a question by saying 'It is not appropriate use of departmental resources to spend unjustifiable hours doing the Liberal Party's homework for them'.²⁰

Again, on 5 October 2006, some 18 months after the previous reference to delays, the Opposition in the Legislative Council questioned the unanswered questions beyond the 30 day rule.

Mr Lenders responded as follows:

There are two important things: firstly, I said yesterday, and I am not saying this lightly, that with the number of questions we are talking of here it takes an

¹⁹ Legislative Council Victorian Hansard, 24/02/05, page 11

²⁰ 'Ministers avoid scrutiny by ducking questions', *The Age* newspaper, 24/07/06, p.5,

extraordinary amount of work by ministerial offices and departments to pursue the 8000-plus questions asked.

I do not say that as a point-scoring exercise, but when departments and ministers are chasing questions such as, 'What is the major capital works budget of the Victorian Strawberry Industry Development Committee?' there needs to be a filtering if those questions are to be answered. We will seek to do that and pursue them.²¹

Conclusions and Recommendations

It is worth noting the comments of Conservative MP Mr Peter Luff during debate in the UK House of Commons in 2006. Mr Luff raised concern over the question on notice process, highlighting two key issues: the deterioration in the quality of answers given by Ministers; and Members asking unnecessarily large numbers of questions.

Mr Luff noted the answers to written questions are 'increasingly late, inadequate or simply spectacularly unhelpful — often I fear, deliberately so.' Mr Luff believed if the trend were to continue, there is a risk that Parliament will be even more marginalized in our society than it is already, as people who really want to know the answer to questions opt to use the Freedom of Information Act instead of looking to Members of Parliament to use parliamentary questions'.²²

The above concerns are not unique to the UK and in fact apply to any parliamentary system where the rules concerning the volume and timelines for questions on notice are less stringent.

I concur with Mr Luff's sentiments above. In the Victorian parliament too many questions are asked and too few answered on time.

When 300 questions are tabled in one day, it places a considerable demand on the resources of Parliament in lodging questions on notice paper each day, and on Departments and a multitude of small statutory bodies who are required to prepare responses for signature and tabling within 30 days.

Statistics illustrate the 30 day rule in the Victorian Legislative Council is rarely adhered to and often answers are never tabled. In the Assembly, there is no 30 day timeline and Government accountability is further reduced.

Modern technology allowing electronic lodging of questions leads to large volumes of generic questions tabled in single sitting days. More than likely these questions

²¹ Legislative Council Victorian Hansard, 5/10/06, page 3873

²² 'Debate on written questions', *The Parliamentarian* 2006, Issue Three, p.258

are mass produced by Opposition staffers without the MP even sighting each question.

In order to enhance question on notice procedures in the Victorian Parliament, I recommend both Houses adopt similar standing orders that exist in New South Wales Parliament in terms of limiting the number of questions that can be asked by each member and providing greater accountability of Ministers in the House to explain unanswered questions. The Parliament may also consider requiring electronic lodgement of questions to be accompanied by hard signed copies of each question.

The issue of mass production of generic questions also needs to be examined by opposition and minor parties in terms of their effectiveness to gather information dealing with financial aspects of the Government's affairs. I note that the Leader of the Opposition in the Victorian Legislative Council is proposing to establish a new Upper House Standing Committee on Finance and Public Administration. It would appear this all-party committee could formally seek documents and evidence from Government departments and Ministers (not in Assembly) on public administration and public sector finances that may otherwise be sought through generic questions on notice.

Scrutiny of Government could be improved in Parliament with changes made to the rules governing question time in both Houses. The use of over half of question time by Government backbenchers when asking Dorothy Dixers needs to be reviewed. Question time should either be devoted solely to non-government questions, or at least 75 per cent to non-government questions.

In conclusion, the Victorian Government accountability to Parliament should be strengthened through appropriate changes to the question on notice rules, in particular holding the Government accountable to answering all questions in a timely manner. A more stringent question on notice process could be complimented by further enhancement to the Upper House committee system and limitation on the number of Government questions in question time. ▲