

FREEDOM OF INFORMATION PROCESS

Motion

Resumed from 25 March on the following motion moved by Hon Ljiljanna Ravlich —

That this house condemns the Premier for failing to honour his election commitment to review the manner in which departments are administering the freedom of information (FOI) process, to ensure that the government is accountable and open in accordance with the spirit of the Freedom of Information Act and calls on the Premier to explain why he has allowed a culture of arrogance, secrecy and of deliberately keeping information from the public to develop among his cabinet ministers when dealing with FOI requests.

The PRESIDENT: Before I call the Leader of the House, I should say that a lot of these things will be resolved when we are in our own chamber in a couple of weeks, I am sure. However, we are now obviously on temporary orders. For motions on notice, there is an overall time limit of two hours, and there is a time limit on individual speakers. In the case of the Leader of the House, who is the main speaker countering this motion, the time limit is 45 minutes.

Hon Simon O'Brien: We could make it retrospective.

HON NORMAN MOORE (Mining and Pastoral — Leader of the House) [2.15 pm]: Thank you, Mr President. I agree with that. It is a pity it could not have been made retrospective.

I am a victim of the temporary order, and seeing I had something to do with it, I suppose I have to accept the outcome of it. I had about four hours of material with which to respond to Hon Ljiljanna Ravlich. Anyway, I found some compatriots who are prepared to add a bit of extra information to the amount that I was going to provide.

When I was so rudely interrupted by standing orders the last time I was speaking on this motion, I was in the middle of explaining to Hon Ljiljanna Ravlich that she ought to have a good, hard look at the Information Commissioner's report for 2008–09, because when we read through that report, we see that there is no suggestion at all that there are problems in the freedom of information system of the sort that Hon Ljiljanna Ravlich would suggest apply at this time. One would have thought, based upon all the allegations made by the honourable member, that the commissioner might have at least made a passing reference to some issues, when in fact the only thing that has changed in recent times is the dramatic increase in the number of complaints being made by the opposition. However, there has been virtually no change whatsoever in the outcome of the process.

I want to spend a bit of time reminding the honourable member that there are processes in the act available to applicants that sets out ways to obtain relief. The first one is that if a person is not happy, that person goes to section 39 of the act, which refers to the right to review. Therefore, the person goes back to the agency or the ministerial office from which he is seeking information, advises it that he is aggrieved by the decision and has it reviewed by the agency. On most occasions in the past that has in fact resolved the matter. However, if the person is still not happy—I do not know of any way in which we could make Hon Ljiljanna Ravlich happy about these sorts of things—he then goes to —

Hon Ljiljanna Ravlich: I do. I have lots of ideas for you.

Hon NORMAN MOORE: I hope it is not that she will be a minister again, because the country just could not cope with that again!

The PRESIDENT: Order! It is nearly Easter time. Somebody might get an Easter egg; we never know.

Hon NORMAN MOORE: There is only so much that the people of Western Australia can sustain in terms of Hon Ljiljanna Ravlich's ministerial career.

If the person cannot get satisfaction from going to the agency to have the agency review his claim, he can then go to the commissioner and lodge a complaint with the commissioner, who will then make a decision. I say to the member: how many times has she been to the commissioner to lodge a complaint?

Hon Ljiljanna Ravlich: He sent me a personalised Christmas card!

Hon NORMAN MOORE: Did he?

Hon Ljiljanna Ravlich: I have a very close relationship with the commissioner.

Hon NORMAN MOORE: No; I am asking the member a rhetorical question: how many times has she complained to the commissioner? Bearing in mind that she went through a whole list of so-called grievances in

this house, how many times has she actually taken the third step in the process and gone to the commissioner with a complaint; and, secondly, how many times has she been successful? There is stunned silence. I suspect that probably none of her complaints has been upheld. She may have taken some complaints to the Information Commissioner—I believe she has—but I think the outcome has been that the commissioner has upheld the position of the ministerial office or agency.

The Freedom of Information Act contains a provision for a complaint process if a person is unhappy with the response to a request. Coming into Parliament to whinge is another part of the process, and members are entitled to do that; it is just a pity that Hon Ljiljanna Ravlich's speech took so long! It is strange that the opposition is complaining about the processes of an act of Parliament that the former Labor government did not endeavour to amend, except by attempting to take away the commissioner's powers to review decisions and giving them to the State Administrative Tribunal. It did nothing about it, but members opposite claim the act is inadequate.

Hon Ljiljanna Ravlich: I've never seen you do anything about it either! What have you done about it? You're going to inquire into the departments; they're not the problem!

Hon NORMAN MOORE: We have done what we said we would. Firstly, we said that we would retain the independent FOI commissioner and not refer the functions to the State Administrative Tribunal, as was proposed by the Labor Party. That independence was promised during the election campaign, and we have done that. Secondly, we decided to inquire into the operation of the FOI act, unlike the previous government, which simply decided to refer the appeal processes to the State Administrative Tribunal.

Hon Ljiljanna Ravlich complained about the government review into FOI processes, and claimed that, somehow or other, Mr Grant Washer, who is conducting the review, might be related to Dr Mal Washer, MP. That is the sort of thinking that goes on inside Hon Ljiljanna Ravlich's head; she has an appalling attitude towards life. As far as we know, Mr Grant Washer is not a relative of Mr Mal Washer, MP. The review of the act will be an open and transparent process, and if the honourable member had spent more time making a submission to that inquiry instead of wasting the house's time, she might have achieved a better outcome. I remind the member that it is expected that the review will be completed by August this year and submissions close on 30 April 2010. If the member wants to make a submission, she has one month to do it in. Maybe she could just send them her speech.

Hon Ljiljanna Ravlich: That's exactly what I'm doing!

Hon NORMAN MOORE: That would be a total waste of time, because most of her speech is absolute rubbish, and anybody conducting a review of an act of this sort would not waste five minutes reading her speech. However, if she wants to send it in, I suspect it will get the treatment it deserves.

The government is undertaking a proper review of the act and, as an opposition member, Hon Ljiljanna Ravlich is entitled—in fact I think she has been invited—to make a submission, as has the Leader of the Opposition. We are very keen to hear people's points of view about the FOI process. It would be good for there to be bipartisan support of the FOI legislation. As I said the other day, the funny thing about the FOI legislation is that it came in in the dying moments of the Lawrence government but it was never proclaimed. Ironically, it was proclaimed by the Richard Court government. I suspect that if Carmen Lawrence had fallen over the line, it would never have been proclaimed because the then government was dragged kicking and screaming into Parliament to bring it in in the first place.

I mentioned the commissioner's annual report the other day and I will mention it again now. There has been a 66 per cent increase in formal complaints. Where have they come from? Public complaints have decreased by seven per cent; media complaints have decreased by 50 per cent; but opposition complaints have increased by 2 000 per cent. The Labor Party seems to be engaging in these great trawling and fishing expeditions, and the agencies are responding to them by saying that they need to go through the processes of review because the scope of the application needs to be narrowed or more information needs to be provided about what members are looking for in certain instances. Agencies have indicated on many occasions that the expected time frame referred to in the act for a reply simply cannot be kept because of the significant amount of work that has to be undertaken by agencies to provide a response.

I will give members some examples of the trawling questions that we have had to put up with: all correspondence regarding the Attorney General's involvement in a possible bid for the Commonwealth Games; all documentation between the Premier and any other minister since September 2008; all documentation in relation to the logo being used on government correspondence since 23 September 2008; the Premier's diary, the Premier's daily itinerary documents, and documents detailing expenditure on his ministerial credit card; all matters relating to the Premier, ministers and parliamentary secretaries taking leave, including, but not limited to, personal leave, annual leave, holiday leave, sick leave and carers leave, and all the time when they would not be attending their ministerial offices, other than weekends; all day sheets and diary appointments, all ingoing and

outgoing correspondence, including email, and all briefing notes within the minister's office that refer to Rio Tinto and/or any of its operations; all day sheets and diary appointments, all ingoing and outgoing correspondence, including email, and all briefing notes within the minister's office that refer to Fortescue Metals or FMG and/or any other of its operations; and all documents within the Premier's office received, submitted or dated since 23 September 2008 containing the words Rita Saffioti, member for West Swan, Ben Wyatt, member for Victoria Park, Eric Ripper, member for Belmont, and Paul Papalia, member for Warnbro. That is just a simple outline of some of the freedom of information requests that have been received across government. They are just trawling expeditions. There is no particular purpose for asking these questions. The member told us the other day that she had agreed to narrow the scope of the request relating to the Premier's diary. But when the member nominated a date and the Premier happened to be out of the state, she said, "Why didn't they give me another week?" What is the member looking for? The member wants to pick any week she likes. It is just a trawling expedition, looking for a bit of gossip. That is what the member is all about.

I will give members another example. This is a freedom of information request that I received from Hon Jon Ford: all documents containing the words, either together or individually, demersal finfish, dhufish, pink snapper, baldchin groper, breaksea cod, blue morwong—queen snapper—and red snapper; and all documents relating to fishing, including restrictions and closures, within the west coast bioregion. That is what he asked for!

Hon Simon O'Brien: That would be every document that you have in the building!

Hon NORMAN MOORE: Yes. Hon Jon Ford might as well come into my office and sit down and go through all the files! If that is what he wants to do, he should get himself elected as a minister some time! But to give Hon Jon Ford his due, he was prepared to work with my FOI officer and reduce the scope of the request, because the way in which this was interpreted, it could have meant that everything in my office to do with fishing would have to be given to Hon Jon Ford. That is not what the FOI legislation is about. The purpose of the FOI legislation is to enable people to seek particular information about what is happening within government. It is not to enable people to simply go fishing, as Hon Ljiljanna Ravlich and the Labor Party have wanted to do.

I gather that on four occasions Hon Ljiljanna Ravlich has requested the Information Commissioner to conduct reviews of decisions by the Department of the Premier and Cabinet, and on each occasion that the matter has been reviewed by the Information Commissioner, the department's decision has been confirmed. What is the member's problem? Does the member have a problem with the commissioner?

Hon Ljiljanna Ravlich: I have already told the Parliament that I have some problems with the commissioner.

Hon Simon O'Brien: You didn't like the last one either, did you!

Hon NORMAN MOORE: I will talk about her in a minute.

Hon Ljiljanna Ravlich: I have already put that on the public record.

Hon NORMAN MOORE: Yes. Let us just look at this business. Who is the Information Commissioner? The current Information Commissioner was appointed by a properly established panel, chaired by Mr Mal Wauchope—

Hon Ljiljanna Ravlich: His former employer!

Hon NORMAN MOORE: Sorry. It was not chaired by Mal Wauchope. It was chaired, I think, by the director general of the Department of Local Government. I have that written down somewhere, and I will come to that in a moment. The member comes in here and tells us that there is something improper about the way in which that particular appointment was made. The member is now suggesting that the only reason that the Information Commissioner is not upholding the member's appeals is because he is politically tainted. That is the substance of the member's allegations. I find that quite outrageous. I suggested to the member that she should take her chances in the courts over that. She should do that, because when a member of Parliament gets up in Parliament and makes that sort of allegation about a public officer who is meant to be independent and believes that he is independent, and the member says that he is not, it is a serious allegation.

Hon Peter Collier: It has never bothered her.

Hon NORMAN MOORE: It never has bothered this member, but it is a problem for that particular individual because the member is casting aspersions on his character and his integrity. Even if she does not want to withdraw the allegation, she should do it so that he gets a chance to respond. He cannot respond to her, whereas she can say whatever she likes about him. But if she were to say it outside the house, he could respond by taking out a writ against her.

I mentioned this in my comments the other day. Let us go back to the history of the freedom of information commissioners. I am sure that the member will defend this—was Darryl Wookey in her faction—

Several members interjected.

Hon NORMAN MOORE: No, she was not. She was in Brian Burke's faction. The member is not in his faction anymore; is that right? I wonder why.

Several members interjected.

The PRESIDENT: Order!

Hon NORMAN MOORE: The Labor Party made Darryl Wookey Acting Information Commissioner. She was Brian Burke's candidate for election to Parliament.

Point of Order

Hon ADELE FARINA: Mr President, it is my understanding that the speech needs to be relevant to the issue being debated. The issue that is being debated and that is before the house is a motion condemning the government for not undertaking a review of the FOI process, as it promised to do before the election. I fail to see how a history of FOI commissioners adds in any way to the debate on the issue being considered by the house.

The PRESIDENT: A point of order has been taken. The debate, since it began some weeks ago, has taken on a fairly broad scope. If I were to allow that point of order, retrospectively I would suggest that Hon Ljiljanna Ravlich's speech might have been a couple of days shorter than it was. The particular issue canvassed by the Leader of the House was the independence or otherwise of the Information Commissioner, which has certainly been an issue canvassed in previous contributions to this debate, so I rule there is no point of order.

Debate Resumed

Hon NORMAN MOORE: The member who moved this motion has cast serious aspersions on this government on the basis that we have appointed an Information Commissioner in an improper way. I am going back into history to inform the house of how her party operated in government. Darryl Wookey was appointed as the Acting Information Commissioner, not as the substantive Information Commissioner. Why was that? Why were there one-year terms? If she did not do the job properly, she would be out the door—she should just make sure that she toed the line because if she did not, the government would simply terminate her appointment after 12 months. What happened with her? She did not actually do what the government wanted at all, because when Mr McGinty came out and said what he wanted to do with the Office of the Information Commissioner and to change the way in which people could appeal and refer appeals to the State Administrative Tribunal, what did she say? She said things such as the changes were simply aimed at creating work for the SAT and —

It is adding an extra step and from my point of view it makes it less accessible ...

What did Mr McGinty say? He said that it was self-serving nonsense and that she had been involved in horrendous delays in resolving FOI disputes. That has got more to do with the internal factions of the Labor Party than anything to do with the FOI commissioner or anything to do with what the FOI process is all about. They are a disgusting lot when they get into government and get hold of the power that goes with being the FOI commissioner. They brought in somebody like that who was supposed to do the job for them. When she did not do it, what happened to her? Did she get promoted or appointed substantively? No, she got the sack. That is what happened to her because she did not toe the Labor Party line. What disgraceful behaviour from a party that produced the member who has come in here and made these unsubstantiated allegations about the current FOI commissioner.

Hon Ljiljanna Ravlich: You should calm down.

Hon NORMAN MOORE: I am not going to calm down, because I am sick to death of the way in which the member gets in here and pours buckets all over people who cannot respond.

Hon Ljiljanna Ravlich: Come on; chill out.

The PRESIDENT: Order!

Hon NORMAN MOORE: She has also said in respect of the Information Commissioner —

... the Commissioner for Public Sector Standards ... determined in her report that there was an undisclosed conflict of interest in the appointment of the Information Commissioner.

Would Hon Ljiljanna Ravlich please show me where that is written down? I have had my staff go through that report and there is no reference to undisclosed conflict of interest.

Hon Peter Collier: This one is a pearler.

Hon NORMAN MOORE: A good hard look at all this will reveal a number of pearlers.

This is the sort of unsubstantiated allegation the member makes. She suggests that somehow or other the Public Sector Standards Commissioner has found something wrong with the appointment of the Information Commissioner. Again I recommend that the member might also try that out publicly at some time.

In respect to Mr Bluemmel, he has never been a member of a political party, he had not had extensive dealings with any member of cabinet prior to his appointment and he is a person who is offended by the allegation that somehow or other he has a political point of view.

Hon Ljiljanna Ravlich: I am sure that he has a political point of view.

Hon Kate Doust: Anyone who can breathe has a political point of view.

Hon NORMAN MOORE: Well, a party political point of view.

Hon Kate Doust: They have that too.

Hon NORMAN MOORE: This particular person claims not to have.

The other day I went through some of the reasons why there might have been different responses from different ministers' offices and I referred to the complexity of the act and the fact that a number of decisions that FOI officers have to make are very subjective. If the member does not agree, she can tell me in due course why they are not. I am sure that a person of her knowledge and substance will be able to explain that a level 4 public servant should be able to decide what is in the public interest.

Hon Adele Farina: No, the minister should be making that decision.

Hon NORMAN MOORE: Is Hon Adele Farina telling me that ministers should be responding to FOI inquiries?

Hon Adele Farina: The minister is required under the act to make that decision.

Hon NORMAN MOORE: Does the member know how it works in my office? It is not the way it worked in Hon Ljiljanna Ravlich's office. I have an FOI officer in my office who responds to all the FOI applications, and I might add that she is a very busy person, as are all the FOI officers in government agencies, albeit there are fewer employees in ministerial offices now by a long way than there were in the previous government. There are fewer people to deal with these things. My FOI officer responds to all the FOI applications. She works out with the applicant whether she believes there should be a review of the scope and things of that nature. She writes the letters and I sign them. I do not get involved. It is different from the way the previous government operated, because its ministers got involved on a regular basis. I am told that Hon Ljiljanna Ravlich spent half her life overseeing the answers she sent back under FOI. The irony of it is, if members look around the government service at the moment, that most of the people preparing FOI responses for this government in ministerial offices today were doing it for the previous government. They are doing it properly.

Hon Adele Farina: There is a difference.

Hon NORMAN MOORE: The difference now is that they are not told by ministers what to put in them.

Hon Adele Farina: They are being told.

Hon NORMAN MOORE: They are not being told at all. If Hon Adele Farina believes that ministers should be responsible for all FOI responses, she is leading us down a path in which every response the opposition gets will be a political one. If that is what the opposition wants, go for it.

Hon Adele Farina interjected.

Hon NORMAN MOORE: Last week I told members opposite that they could take their pick: they can have somebody independent of the minister giving the information, so that it is not seen to be a political outcome, or they can have the minister doing it, so that it is a political outcome. The opposition has chosen the latter. I understand that, because that is what they did when they were in government.

Hon Adele Farina: Are you reflecting on all opposition members?

The PRESIDENT: Order! Hon Adele Farina, like other members, has the opportunity to contribute to this debate at some other stage.

Hon NORMAN MOORE: This is the member who the other day interjected on me and said, "It is easy to give your diary—just photocopy it and send it in." Has the member read the act?

Hon Adele Farina: Yes I have, have you?

Hon NORMAN MOORE: The act requires for a start that third party acceptance must be obtained for their name to be used. If my diary, which is very fulsome, listed everybody I met with everyday and it happened to be

a delegation from the Chinese ministry of mines on which there are 27 people, they would have to be listed in my diary. I would have to write to every one of those people in China to see whether their names can be used. The same applies to every other meeting I have. If Hon Adele Farina wants us to have diaries that say only “Meeting 10 o’clock”, “Meeting 10.15”, “Lunch” or “Parliament”, she should go for her life! That is how stupid it has become. I actually have a fulsome diary so that I know what I am doing, and history will show whom I met with. Indeed every diary a minister has must go into the public archives anyway.

Hon Adele Farina interjected.

Hon NORMAN MOORE: Mr President, I am telling the member over there to go and have a look at what a minister is supposed to do when somebody makes an application under freedom of information legislation. One of the requirements is that a minister must go to third parties and ask them whether they are unhappy about having their names included. That can take a very long time if a significant number of people are involved—and there are in my case. One of these days I am going to sit down and go through a standard week in my diary and find out how many people’s names are mentioned so that I know how many letters to those people I would have to write to find out whether they have a problem with that.

Hon Adele Farina: Are you willing to table your diary for a week so that we can have a look at it?

Hon NORMAN MOORE: If Hon Adele Farina is happy to provide her diary to me, I am happy to provide her with my diary.

Hon Adele Farina: You are the one who raised the issue.

Hon NORMAN MOORE: My diary is what I do in my life. Hon Adele Farina’s diary is what she does in her life.

Hon Adele Farina: But you said that you would like to show us what a typical week in your life is like.

Hon NORMAN MOORE: If the member is happy to show me her diary, I am happy to show her mine—you show me yours and I will show you mine!

Several members interjected.

The PRESIDENT: Order! This is not a debate about “show me yours and I’ll show you mine.” We want to get onto the issue at stake, and that is freedom of information.

Hon NORMAN MOORE: The applications that we are getting from the opposition require vast amounts of work. Whether the member wants to agree with that or not, I am just telling her that that is the case. FOI officers in ministerial offices are overwhelmed with the volume of material they are required to provide. Indeed on most occasions they go back and ask the applicant to narrow the scope of the request. Hon Jon Ford, in an application for anything that mentioned “fishing”, narrowed the scope to “west coast demersal scalefish”. That is what he wanted to know about, and so we sent him the information. But people like Hon Ljiljanna Ravlich just say no. I will refer to an example in a minute of an application for information on uranium mining made to my office in which she did not respond to our request to narrow it down, even though hundreds and hundreds of documents could have fallen within the broad scope of the request.

If opposition members were prepared to abide by the spirit of the act, they would seek information that is relevant to their inquiry. If they want to know whether I met Joe Blow on such and such a day, whether I discussed such and such an issue and whether they can have any information in relation to that meeting, that would be provided to them subject to all the other issues that could exempt the information, but at least the application would be specific about what they wanted. A request for everything to do with fish is an extraordinary request. If opposition members want to know about dhufish, they should say “dhufish”. If they want to know who I met with or what I did on a particular trip somewhere, they should ask, “When you went to Exmouth last week, who did you meet with? Send us all the information about that”, and they would get the answer back straightaway. But when members opposite want information on the contents of somebody’s diary for the past 12 months, of course it will take a very long time; and if they do not cooperate by narrowing the scope of the request, it will take an even longer time, and that is part of the problem.

Let us look at an example. A request from Hon Ljiljanna Ravlich for information about uranium asked for “all correspondence in relation to the environmental approvals, mining, processing, transport and export of uranium”. That request was received on 10 March 2009. On 11 March an acknowledgement letter was sent from my office confirming receipt of the application. On 16 March a TRIM—total records and information management system—and manual search was carried out by my office. On 18 March my FOI staff left a phone message on the member’s phone requesting that somebody call to discuss narrowing the scope. On 19 March the honourable member’s office returned the call and discussed with my staff the request to narrow its scope. We therefore made the first request to narrow the scope. On 20 March a letter was sent by my executive officer to Ms Ravlich

requesting a narrowing of the scope, as the application would divert a substantial and unreasonable portion of resources away from other operations. This is the second time we have asked the member to narrow the scope. On 26 March, we received an email from the member's office noting that my office had concerns about the amount of information and asking the basis of that opinion. On 26 March, my office emailed the State Solicitor's Office for advice on FOI. On 30 March, the State Solicitor's Office advised —

... whilst the applicant can still ask for all 70 documents you will need to consider whether dealing with all 70 would still divert a substantial amount of your resources away from other tasks. If this is the case you will have taken all reasonable steps to assist the applicant in reducing the scope.

An email was sent on 31 March to Hon Ljiljana Ravlich's office explaining that situation. It stated —

A Trim search has been completed, and that it will require 3rd party consultation, more work is required to review all notes and documentation in the office. The office is currently dealing with 2 other applications from the Hon Ravlich one of which we has already resulted in a request for a reduction in scope.

Accordingly so that I can deal with your application in the most expeditious and cost effective manner, I would ask you to narrow the scope of your access application or reduce the timeframe to a particular month, a specific heading such as environment or processing or transport. You may in the future, submit a further FOI application to locate those documents you are most interested in if they are not found within the information you receive.

This is the third time we have asked the member to narrow the scope. On 3 April, an email was received from the member's office requesting a schedule of the 70 documents, but no offer to narrow the scope was made. On 3 April, an email was sent from my office to the State Solicitor's Office seeking assistance on her latest request. Incidentally, a search of the Outlook accounts has located in excess of 400 documents. On 3 April, an email was received from the State Solicitor's office stating —

I agree with you—if you have tried on 2 occasions to limit the scope and the access applicant has not—then you can proceed to rely on section 20.

We went to the State Solicitor's Office twice before we relied on section 20. The email continued —

As for the request for a schedule for the documents to review—you are not required to do this and in a recent decision of the Acting information commissioner, he agreed that to do so would defeat a key purpose of section 20 which is to avoid processing FOI application that would divert a substantial amount of resources away from other tasks.

In my view, this office took reasonable steps to liaise and assist the member to change the access application, without success.

On 9 April, a notice of final decision was sent confirming the use of section 20. On 17 April, the Acting Information Commissioner notified me that the member had made a complaint to the Information Commissioner regarding the decision to invoke section 20. We await with interest the outcome of that process.

The member was looking for 400 documents. If her interest was in the transport of yellowcake through Kalgoorlie, that would have narrowed the scope of the request and she could have been provided with that information. She wanted 400 documents—70 to start with and 400 when we progressed it further—to find out what she wanted to know about something. I do not know what she wanted to know. As I said to her last week, if she wants to know what is going on with uranium mining, she has an opportunity that nobody else has: she can ask the minister a question directly whenever she likes. If I mislead Parliament, I am in serious trouble.

Hon Ljiljana Ravlich: We got from the department what we couldn't get from you, so that says it all.

Hon NORMAN MOORE: As I said, there are a lot of people handling FOI in government at the moment. They are not all lawyers. Indeed, they are public servants working in ministers' offices—it was the same when the member was a minister. While the member was in government some of them had the minister looking over their shoulder telling them what to send and what not to send. In my case, it does not happen like that. I have a very conscientious officer who does her best to understand the act. These officers get training in this, albeit they are not lawyers. They seek to understand the act and respond in a way that is in accordance with the act. The trouble is that the applications we are getting from people such as Hon Ljiljana Ravlich are not in accordance with the spirit of the act.

Hon Adele Farina: They are.

Hon NORMAN MOORE: They are not. What goes around comes around. I am looking forward to the day in the long distant future—like about 2050—when Hon Ljiljana Ravlich is a minister, and I will send in all these

FOI applications. I will want to know the name of everyone the member has ever met with since becoming a minister and what she discussed with them. I am talking about not only those people with whom she has a formal arrangement, but also everyone else she has ever met and discussed anything to do with public policy. I will want to know who she has had lunch or dinner with and what issues were discussed. The level of information being sought is absurd because the only reason for doing it is to trawl through all the information members opposite think they can get in the hope that they will find a tidbit that might get them a headline on page 27 of *The West Australian*. Having listened to Hon Ljiljanna Ravlich go on for four hours —

Hon Ljiljanna Ravlich: I have had more than my share of headlines.

Hon NORMAN MOORE: The member sure has, but not for the right reasons! The member got more headlines as Minister for Education than does Barack Obama, the President of the United States! Does the member know why she got them? She got almost as many headlines as Brian Burke, and for the same reasons—for doing the wrong thing. That is the member's record. If she thinks that getting her name in the paper is good, regardless of the content of the story, and if she believes that any publicity is good publicity, so much for her. However, her four-hour speech did not result in one line being printed in any newspaper that I have seen—not one line.

Hon Ljiljanna Ravlich: I didn't do it for the media.

Hon NORMAN MOORE: The member sure did not do it for anyone in this chamber! Given a choice —

Hon Ljiljanna Ravlich: I did it for you.

Hon NORMAN MOORE: For the benefit of the chamber, when the member has another four-hour speech, she should write it down and just table it.

Hon Ljiljanna Ravlich: The last time I tried to table something, you didn't let me.

Hon NORMAN MOORE: I would love to.

Hon Adele Farina interjected.

Hon NORMAN MOORE: Hon Ljiljanna Ravlich raised this issue and nine out the next 10 motions on the notice paper are in her name. Thank God for the temporary orders beyond today, Mr President, because we will not get another moaning and whingeing four-hour speech from the member.

Hon Kate Doust: We are getting it from you.

Hon NORMAN MOORE: Members will be pleased to know that I have only 45 minutes in which to speak. If I had four hours, I would spend a lot more time talking about Darryl Wookey and the Labor Party and how members opposite dealt with freedom of information and why they do not want to hear about it any more.

Hon Adele Farina: It is pathetic.

Hon NORMAN MOORE: It is not pathetic. What is pathetic?

Hon Adele Farina: Your whole argument to this motion.

Hon NORMAN MOORE: Hon Ljiljanna Ravlich is saying that the Information Commissioner is corrupt. That is what she says.

Hon Adele Farina: She did not say that.

Hon NORMAN MOORE: Hon Adele Farina thinks that that is okay, but it is not okay if I say that Darryl Wookey was a political appointee.

Hon Adele Farina: That is what she said about the current Information Commissioner; not that he is corrupt. It is outrageous to misrepresent a member of Parliament like that.

Hon Ljiljanna Ravlich: Tell us about Noel.

Hon NORMAN MOORE: I would be happy to tell members opposite about Noel Crichton-Browne any time the member likes. I would be happy also to tell her about the guy who used to be a minister and who now lives in Cockburn somewhere. What is his name?

Hon Peter Collier: Norm Marlborough.

Hon NORMAN MOORE: Norm Marlborough. Do members opposite want me to talk about Norm too? I will talk about Hon Ljiljanna Ravlich's friend Norm.

The PRESIDENT: Order!

Hon NORMAN MOORE: Quite right, Mr President, now I am straying. I was provoked. I did not start talking about people who were not involved in this debate until Hon Ljiljana Ravlich decided to interject and raise the name. I am always happy to have those debates with the member any time she likes. However, as the President said, now is not the time for doing that. I look forward to that debate one of these days because it is time to have that debate. It is time that everyone knew about the relationships that have been going on and why Hon Adele Farina is so upset about me mentioning Darryl Wookey.

Hon Adele Farina: Why would I be upset about you mentioning Darryl Wookey, other than it is absolutely irrelevant and you are the Leader of the House and should show more respect?

Hon NORMAN MOORE: Because I think that Darryl Wookey was probably the member's friend at one stage, but then ultimately found out that Darryl Wookey was not Hon Adele Farina's friend when Mr Burke was not happy with the member's testimony. He was not happy at all. He is probably still not happy, if the truth be known.

Hon Ljiljana Ravlich raised a number of other particular examples in her speech, which my colleagues will respond to in detail. I have 27 pages of detail that I could use to rebut the arguments put forward by Hon Ljiljana Ravlich. However, I will let other members respond, because I think I have probably said enough today.

I will conclude on this point: when freedom of information legislation was brought in, it was done so reluctantly by the Carmen Lawrence government. It was proclaimed by the Richard Court government, which reviewed it halfway through its term. The Richard Court government was subjected to freedom of information applications. It wore that process, because it realised that that was the way in which a transparent government would operate into the future. When the Labor Party was elected to government in 2001, it tried to subvert the intention of the FOI act by appointing an acting commissioner of its own sort, a person who had been a potential candidate for the Labor Party at the 2001 election. A government cannot get any more political than that. She was appointed for rolling one-year terms in an acting capacity, but was sacked when she did not agree with Mr McGinty's intention to change the act so that the final arbiter of FOI applications would be the State Administrative Tribunal. Indeed, I think the Labor government introduced legislation to that effect. Had it been successful, the commissioner would have attempted conciliation and, if conciliation had not been achieved, the matter would have been taken out of the commissioner's hands and dealt with by SAT. Who would have made money from SAT, particularly if a matter had any substance? It would have been the legal profession. Who introduced that legislation? It was Mr McGinty. Had it been successful, the Labor Party's proposal would have achieved more lawyers and less information. When we came to government we decided that we were not going to do that. We decided to maintain an independent commissioner. We appointed Mr Bluemmel who, in my view, is an independent commissioner. It is a pity the Labor Party cannot accept that. He is doing his job according to the act. However, the whole system is being gummed up by the Labor Party's outrageous trawling expeditions. In conclusion, I say to the Labor Party: what comes around, goes around.

HON GIZ WATSON (North Metropolitan) [2.57 pm]: This motion has generated a considerable amount of debate. I note that the motion seeks to condemn —

the Premier for failing to honour his election commitment to review the manner in which departments are administering the freedom of information (FOI) process, to ensure that the government is accountable and open in accordance with the spirit of the Freedom of Information Act ...

Hon Ljiljana Ravlich has spoken at length about the problems she has had accessing information from ministers' offices. The Greens (WA) have not been in government and perhaps will not be for a little while. Therefore, our view —

Hon Peter Collier: What about Tasmania?

Hon GIZ WATSON: Apart from Tasmania, of course.

Our view is different from the view of those who believe that what comes around, goes around. Political parties view FOI applications differently when they are in government compared with when they are in opposition. Our role has been to take a keen interest in freedom of information not only for the Greens as a political party seeking to gain information, but also on behalf of the public, because freedom of information legislation is critical for accountability and transparency no matter which party is in government. I have listened with interest during the extended contributions to this debate. I have sympathy for both sides of the argument. I will add to the debate some of our experiences with regard to the Freedom of Information Act and make observations about what other sources have said about the operation of the act.

As I say, the Greens have a very strong view about the need for freedom of information laws. The critical thing for us is that members of the public particularly are not restricted in their access to this information by

unnecessary delays or restrictions such as the high cost of freedom of information applications. Those are the sorts of matters that we have taken an interest in.

Hon Norman Moore mentioned proposed changes to the FOI legislation that were under consideration by the previous government. We had similar concerns to the former opposition—now the Liberal government—about where that was heading. We were of the view that the freedom of information commissioner should maintain an initial decision-making role rather than a mediation role, which I think was envisaged under that proposition. It seemed to me that that was reducing the role of the FOI commissioner significantly. In our view we have had a good track record with FOI commissioners in this state. They have worked very well to ensure that the legislation operates as intended.

In terms of the Greens' experience with FOI requests, we do not use the processes very much but we do from time to time. As Hon Norman Moore has pointed out, as members of Parliament we have the opportunity to ask questions directly of ministers and often that is a quicker way to get information than to chase down FOI applications. When this new government first came in, we had a lot of difficulties getting briefings on bills. I use that by way of comparison in accessing information from ministerial offices. Many of the new ministerial staff did not seem to understand what a briefing was or why it was appropriate to comply with our request for one.

Interestingly enough, I wrote to the Premier in July 2009 and advised him of the problem. I suggested that ministerial staff be provided with information about briefing processes. To the Premier's credit, that problem was resolved promptly and satisfactorily and has not recurred. There is now a good pathway for us to get information on bills and regulations. I particularly acknowledge that the office of the Minister for Police and the Department of the Attorney General have been particularly forthcoming with information in answer to our queries. We take a very strong interest in both those areas of ministerial responsibility.

It is worth noting that my colleague Hon Alison Xamon has had slightly different experiences. She has been unsuccessful in arranging meetings with Minister McSweeney's office on any subject, apart from upcoming bills. This is not a problem we have had with any other minister's office. It is frustrating as there seems to be no good reason for this difference. That is something we would like to see changed. That is why I bring that to the attention of the minister at this time.

It is almost impossible to get any useful information out of the office of the Minister for Education, the member for Churchlands, whether it is by email, phone or letter, or whether it is by direct request from staff or myself directly. If there is a good reason for that, I am afraid we cannot see it. There have been a range of experiences in accessing information from ministerial offices.

We have had some very cute and unenlightened responses from some ministers' offices to some of our requests for information. That seems to me to also be a waste of everybody's time. For example, a recent letter to Minister Waldron asking that we be told the reasons behind the approach taken to the Northbridge plan—because the approach did not seem to be consistent with the research—led us to receive a reply that repeated information we already had and did not answer the question we had asked. Similarly, an email to Minister Redman's office asking the nature of any land that might be sold as a result of the government's intention to drop much of the Forest Products Commission's role in share farming led us to receive repeated information and provided only a tiny bit more information. It did not provide the information about the land we asked for. In that instance we resorted to asking questions without notice instead.

I have used these responses as some examples of the frustration that we experience. In contrast, the offices of some ministers have been particularly prompt and professional in helping us access information to resolve constituent inquiries. I can think of the specific example of a query raised with Minister Buswell's office about transportable homes and also requests raised with Minister Johnson's office and Minister Faragher's office. Those requests were dealt with very promptly and thoroughly, and we should acknowledge that when we get that sort of cooperation.

I want to go back to what has been said about the role of the Freedom of Information Act, the debate we are having today about whether things have become better or worse with the change of government, and whether we can support Hon Ljiljana Ravlich's motion. It is worth looking at a submission by the Acting Information Commissioner dated 8 May last year on the exposure drafts of the federal Freedom of Information Amendment (Reform) Bill 2009. Although that submission was about federal legislation, it draws out some key aspects of the Western Australian legislation that we are discussing today. It was noted in the submission that a key improvement in the WA law is in section 4, which states —

Agencies are to give effect to this Act in a way that —

- (a) assists the public to obtain access to documents;

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Hon Norman Moore; Hon Giz Watson; Hon Peter Collier; Hon Max Trenorden; Hon Simon O'Brien; Deputy President

- (b) allows access to documents to be obtained promptly and at the lowest reasonable cost; and
- (c) assists the public to ensure that personal information contained in documents is accurate, complete, up to date and not misleading.

The submission also commented on the review processes and stated that it must be ensured that a review does not confound prompt and low-cost access to documents. Some third parties and agencies take advantage of review processes as strategic opportunities to delay an FOI decision, particularly when commercial issues or embarrassing documents are at stake. It was also noted that too many layers of review can cause appeal fatigue and confound speedy resolution of issues. Therefore, I think it is worth noting that these are the key aspects of the WA legislation as presented by the Acting Information Commissioner.

The 2008–09 annual report of the Office of the Information Commissioner has also been mentioned in our debate on this motion. Under “Overview” the commissioner notes that there is a high level of technical compliance by agencies, but that he has a growing concern that the spirit of the FOI legislation is not being complied with. I think that certainly is part of what Hon Ljiljana Ravlich has raised by way of her motion. The annual report states also that some agencies seem to view the Freedom of Information Act as the main means for making government information available. The report goes on to say that the act—this is clear from its wording—is not intended to discourage agencies from making information available by other means if it is proper to do so; for example, either proactively or on request. The annual report notes also that agencies are focusing more on procedural requirements and less on achieving an outcome consistent with the act’s objects, particularly when freedom of information applications are ill-defined or the applicant is not very knowledgeable about the legislation. It goes on to say that time and effort can be saved by early discussion and attempts to meet the applicant’s needs. Further, the information statements published by agencies—it is worth noting that ministers do not have to publish them—are increasingly being complied with technically, but the quality of information provided varies enormously. Information statements are supposed to be useful tools for transparency and accountability but sometimes they are overwhelmingly technical or lacking in information relevant to the public.

Under “Significant Issues and Trends” the commissioner also reported —

This year has seen a significant increase in total complaints—

I think that point has been made on both sides of this argument —

and, in particular, complaints made by Members of Parliament. In the 5 years to 2007/08 a total of 13 complaints were made by Members of Parliament at an average of around 3 complaints per year. However, during the current reporting year 80 complaints were made to this office by Members of Parliament. This is an increase of 76 from the 4 that were received last year. Many of these were complaints against decisions of Ministers.

The total number of complaints received (181) has increased by 79 from last year. Given the total number received in each of the 5 years to 2007/08, it appears that the significant increase in total matters received in 2008/09 is largely attributable to the increase in complaints made by Members of Parliament.

Further on it states —

Of the applications made to State Government agencies, 267 were made to Ministers (including Ministers prior to the 2008 State election), significantly more than the number made to Ministers last year (94). The Minister receiving the highest number of applications was the Hon T Buswell, Treasurer.

The next highest number of requests was made to Mr Grylls, Minister for Regional Development. Mr Buswell received 50 and Mr Grylls received 25. It states further —

Of the decisions on access made by Ministers in the reporting period, 28 (13%) were to give full access; 153 (70%) were to give access to edited copies of documents; and 36 (17%) were to refuse access. The statistical tables also reveal that 10,519 decisions on access applications were made by State Government agencies i.e. exclusive of local government agencies and Ministers, under the FOI Act in 2008/09. Of those decisions made, 62.6% resulted in the applicant being given access in full to the documents sought; 28.9% resulted in the applicant being given access to edited copies of the documents sought; and just under 0.5% resulted in either access being given but deferred, or being given in accordance with s.28 of the FOI Act (by way of an approved medical practitioner). Only 8.1% of the decisions made were to refuse access.

Those figures indicate that approximately 91.9% of the 10,519 decisions made by agencies on FOI applications were to the effect that access in some form was given. That is consistent with the statistics for the previous year.

This is also consistent with what Hon Ljiljana Ravlich has contended, particularly that ministers are providing less access overall than agencies are providing—a 17 per cent refusal rate compared with an 8.1 per cent—but also that, where access is given, ministers are much less likely to provide the full version of the document and to edit it instead.

Hon Norman Moore: That is because of the changing nature of the applications.

Hon GIZ WATSON: I am just quoting from the annual report.

Hon Norman Moore: These are trawling expeditions rather than just dropping in a line.

Hon GIZ WATSON: To finish that point, we are looking at 13 per cent of applicants gaining full access, versus 62.6 per cent. I guess that brings us back to the part of the debate about when is it a reasonable ask for information, and when is a question cast so broadly that it is basically, as Hon Norman Moore has described it, a “trawling” exercise. We know that that is a strategy that can be used in a range of circumstances to frustrate and slow ministerial offices or departments. I am not suggesting that is the case, but that approach can be used.

I simply wanted to contribute to this debate by saying that there is room for improvement by at least some ministerial offices regarding the consistency with which FOI objectives are met. We clearly support the fact that information and training needs to be provided to all ministers and their staff reminding them of the FOI objectives, which encourage the provision of information proactively and on request, even without an FOI application. For me, and I am sure it is true for other members of Parliament, the ideal situation is a good exchange of information in a prompt and useful way, which means that we do not have to resort to using FOI. Hopefully, that is what one would expect in a robust democracy, no matter who is in government. I do not think that is unreasonable. If it is considered by the government that an opposition member or a Greens member is using the freedom of information processes incorrectly—which is what I think Hon Norman Moore is suggesting—we suggest that similar information and training could be provided to our officers and our staff if he thinks that that is the problem. I do not know whether that is the problem, but my staff would be happy to discuss FOI applications and improve their writing of them if it would improve the level of efficient and timely responses.

On behalf of the Greens, I reserve my final position on this motion. I think there is probably some merit in the criticisms that this motion raises, but, on the other hand, I think that perhaps its tone is a little more vigorous than we would choose on this topic. Suffice to say that the use of FOI and whether everybody is playing fairly and in accordance with the spirit of the act will probably continue to be contentious, no matter who is in government, and we will continue to have a strong interest in how the act is used.

HON PETER COLLIER (North Metropolitan — Minister for Energy) [3.16 pm]: I am obviously going to oppose this motion. I do so for a number of reasons, and I will go through those reasons in the short time that I have. Like Hon Norman Moore, I could probably talk on this matter for a couple of hours. I will pick up on a point that Hon Giz Watson made. I want to make it quite clear at the outset that I do not have a problem with any debate on the FOI process. If there are genuine issues with the FOI process, I have no problems about whether —

Hon Kate Doust: Not once has your office complied with FOI.

Hon PETER COLLIER: Has the member appealed its decisions?

Hon Kate Doust: Yes, I have.

Hon PETER COLLIER: And what has happened with the appeal?

Hon Kate Doust: I am waiting on the decision.

Hon PETER COLLIER: Okay. The appeal process will be gone through. Again, based on individual cases, there is nothing wrong with objecting to decisions. I will have to look at the individual cases. The situation is exactly the same with Hon Ljiljana Ravlich; it is the actual process.

I will get to the point at hand. I take the point made by Hon Giz Watson. I say to Hon Ljiljana Ravlich that I am concerned about the actual tone of the motion, because it is without foundation. The member put a motion on the *Daily Notice Paper* that condemns the Premier—that was on 25 March 2009, just four months after we took office—for failing to honour his election commitment —

Hon Ljiljanna Ravlich: And now it's 18 months.

Hon PETER COLLIER: There is a review in progress.

Hon Ljiljanna Ravlich: No, there isn't.

Hon PETER COLLIER: Yes, there is; there is a review in progress of the FOI process. The motion goes on to state —

... and calls on the Premier to explain why he has allowed a culture of arrogance, secrecy and of deliberately keeping information from the public to develop among his cabinet ministers when dealing with FOI requests.

With all due respect, if that motion was put forward in good faith and with the intent of producing a valid outcome, I really think that Hon Ljiljanna Ravlich needs to take stock of her position, because, quite frankly, that is almost an obscene motion. After four months in office, she cannot talk about a culture of arrogance. She has to be joking. Having said that, I say to Hon Ljiljanna Ravlich that a lot of the things that she talked about in her contribution were post her putting forward this motion. She tabled this motion in early March, and virtually everything she talked about happened after March. Therefore, she came to a conclusion on what was wrong with the government after she had put the motion on the *Daily Notice Paper*. That in itself absolutely defeats the purpose.

I will give examples to reinforce exactly what the problem is, and to show that it is nothing more, as Hon Norman Moore said, than a fishing expedition. It is skulduggery, and an absolute abomination for this upper house and where it is going. It is beneath contempt to have a motion such as this on the notice paper. We should be trying to uphold some credibility as an upper house. Let us consider the FOI application I received from Hon Ljiljanna Ravlich on 19 November—eight weeks after the election—to see whether any reasonable person would think it is a valid application. The application requested access to all documentation between the office of Minister Collier and any other minister since 23 September 2008. I will accept interjections: does Hon Ljiljanna Ravlich honestly think that is a valid request?

Hon Ljiljanna Ravlich: Yes, I do!

Hon PETER COLLIER: Why?

Hon Ljiljanna Ravlich: Because you're a cobbled-together government! Yes, I do!

Hon PETER COLLIER: That application is an abuse of the FOI process!

Hon Ljiljanna Ravlich: You're just very, very precious, and that's spot-on!

Hon PETER COLLIER: I support the FOI process.

Hon Ljiljanna Ravlich: No, you don't!

Hon PETER COLLIER: With all due respect, this is an abuse of the FOI process!

Let us consider an application of 6 March. The application requested access to all correspondence to and from me and any person or organisation; to and from my chief of staff and any other person or organisation; and, to and from my policy officers and any other person or organisation relating to vocational education and training in schools. I did not have a problem with that one because it was specific to a particular issue.

Hon Ljiljanna Ravlich: But you didn't provide it!

Hon PETER COLLIER: Because there was nothing to provide, and the member knows there was nothing!

Hon Ljiljanna Ravlich: That's why you didn't have a problem with it!

Hon PETER COLLIER: I do not have a problem; I will hand anything over!

Hon Norman Moore: Somebody give her a valium!

Hon PETER COLLIER: But the next one is a pearler, and all ministers received it. The application requests access to the information in the minister's diary, the minister's daily itinerary documents, and documents detailing the expenditure on the ministerial credit card from 23 September to the current date. And it continues. I will talk about that further and demonstrate that I am not the only person who thought that that was an irrelevant request.

Hon Ljiljanna Ravlich is a former minister. She has been through the processes and understands the operations of a ministerial office. With all due respect, if she really looks in the mirror and is honest with herself, she will

appreciate that the requests contained in her nine FOI applications have, in almost every instance, been unreasonable. If she is really honest with herself, she will understand that and say that it is unreasonable. Any attempt to restrict or constrain her FOI applications has been met with abject rejection. Hon Ljiljanna Ravlich is being totally unreasonable, and for her to be out there now slating the government in a completely unfounded fashion is, with all due respect, testimony of why she failed as a minister.

Of the 10 motions on the notice paper under the name of Hon Ljiljanna Ravlich, nine are very similar. I can just imagine how the Greens (WA), or other opposition members who might have a very pertinent motion to discuss, feel, because, quite frankly, at this rate they will not get there before the next election, although we will have a better chance with the new sessional orders. We are dealing with a shadow minister who basically throws these hand grenades all the time—it does not matter whether they have a foundation; it does not matter about truth; it does not matter about logic—in the hope of hitting; and she never does.

Hon Ljiljanna Ravlich: You could have put the motion on; why didn't you put the motion on?

Hon PETER COLLIER: I am not talking about myself; I am a minister of the Crown! I am asking the member whether she has asked her colleagues if they would like to put a motion on the notice paper. Did she ask the Greens before she stood, in about the first month after we took office, and read out this long list of motions? Did she discuss it with her colleagues? I bet they are absolutely delighted!

Hon Ljiljanna Ravlich: You're still sore about it!

Hon Kate Doust: We are; we support her. It went through caucus!

Hon Ljiljanna Ravlich: Yes, it went through caucus!

Hon PETER COLLIER: I say to Hon Kate Doust that I would love there to be a motion on the notice paper about energy; it would be great to talk about renewable energy! It would be terrific! We could talk about what wonderful things we have done and are doing! It would be great to talk about the mismanagement of tariffs by the previous government! I would love to discuss that, but we cannot, and we have no hope of doing so until the end of the year because the *Daily Notice Paper* is taken up with this tripe that has been put on by Hon Ljiljanna Ravlich!

Hon Ljiljanna Ravlich made a number of comments about, and cast aspersions on, public servants. She said that the ministerial offices were full of political appointees, and that is why we have this almost corrupt government, because these political appointees are sitting there and just banging the drum of these corrupt ministers. It was there; the assertion was there. That is abject nonsense. I, like Hon Norman Moore, have an executive officer who is extraordinarily professional. She has wonderful expertise and experience in the public sector. She really is terrific. She is managing my office in an extremely professional manner and I have great confidence in her. She also manages my freedom of information applications. I do not know anything about that. She looks after the FOI applications, and I rely on her experience, expertise and knowledge with regard to FOI applications. Is she a political appointee? I do not know. I have never to this day had a discussion with my executive officer with regard to politics or party politics. I never have, and I never will. I have great confidence in her and her capacity to manage my office in a professional manner. I will never have a political discussion with her. What are her politics? I might ask Hon Ljiljanna Ravlich, because she used to be Hon Ljiljanna Ravlich's executive officer. So, if she was a political appointee, Hon Ljiljanna Ravlich might know! Is she? Is she party political?

Hon Ljiljanna Ravlich: I don't know.

Hon PETER COLLIER: So how can Hon Ljiljanna Ravlich cast an aspersion upon her if she does not know?

Hon Ljiljanna Ravlich: So she is the only person who works in your office?

Hon PETER COLLIER: My executive officer is responsible for FOI applications—as she was when she was in the member's office. What are her political persuasions? Does the member know?

Hon Ljiljanna Ravlich: I don't know.

Hon PETER COLLIER: So how can the member make a comment like that?

The Attorney General came in for an absolute shellacking from Hon Ljiljanna Ravlich. The Attorney General was lower than a pregnant ant in terms of accountability! He had no credibility! Let us look at the executive officer—the officer who is responsible for FOI applications—in the Attorney General's office. Is that officer party political? Why not ask Hon Jim McGinty? The current executive officer for the Attorney General used to be the executive officer for the former Attorney General, Hon Jim McGinty! Therefore, it is abject nonsense for the member to come in here and throw these hand grenades—they are all duds—and cast aspersions upon public servants by saying, "This is the issue: we've got this terrible corrupt government; it's beneath contempt."

Let us look also at the assertion by Hon Ljiljanna Ravlich that there was a conflict of interest in the appointment of the Information Commissioner. Hon Norman Moore has alluded to that matter. I refer to a letter to the Attorney General from Sven Bluemmel, Information Commissioner. The letter states —

Dear Attorney General

MOTION BY HON RAVLICH REGARDING FREEDOM OF INFORMATION

I enclose a further briefing note in relation to a motion by Hon L M Ravlich in the Legislative Council. I sent a copy of this briefing to Mr Luke Hoare of your office by email earlier today.

This briefing corrects a serious factual error in Hon Ravlich's comments in the Legislative Council on 4 March and should be read in conjunction with an earlier briefing note attached to my letter of 4 March 2010.

Yours faithfully

Sven Bluemmel
INFORMATION COMMISSIONER

The briefing note states in part —

Background

On 3 March 2010, Hon Ravlich moved that the Premier be condemned for failing to honour an election commitment to review the FOI Process. Ms Ravlich's comments on that day contained a number of factual errors which are outlined in my earlier briefing note *Motion by Hon LM Ravlich on 3 March 2010 regarding Freedom of Information (FOI) Review*.

Ms Ravlich continued speaking to the motion on 4 March 2010.

Current situation

Ms Ravlich alleged on 4 March 2010 that "... even the Commissioner for Public Sector Standards ... determined in her report that there was an undisclosed conflict of interest in the appointment of the Information Commissioner ..." [Hansard p. 419]. This assertion is untrue. At no stage has the Commissioner for Public Sector Standards made any adverse finding about the appointment of the Information Commissioner.

Ms Ravlich may be getting confused with the Public Sector Standards Commissioner's Parliamentary Series Report Six: *Audit of Senior Recruitment Processes in the Western Australian Public Sector*. That audit did not investigate the appointment of the Information Commissioner, but investigated a number of unrelated appointments in other parts of the public sector.

Yet again Hon Ljiljanna Ravlich is wrong. That is the start.

I am going back to my original point: if there is a valid, legitimate FOI application, it will follow through the processes. When there are broad-based FOI applications that ask for all of a diary or all briefing notes —

Hon Kate Doust: What if it asks for part of the diary?

Hon PETER COLLIER: Come in, spinner! I do not have any problem whatsoever with the FOI application.

Hon Kate Doust: You do. You never provide it. Your office rejects them.

The DEPUTY PRESIDENT: Order! There are still two hours allocated to this particular motion. Members have plenty of time to make contributions. It is getting increasingly difficult to understand the debate.

Hon PETER COLLIER: I hope that Hon Kate Doust does follow the FOI processes and I really hope that she gets what she wants. I have no problems with that and I have no problems with my relationship with the member at all; I can assure her of that. However, I do have problems with Hon Ljiljanna Ravlich. When we get these generic, open-ended FOI applications that go to all ministers, we must really question whether there is a sincere desire on the part of the member opposite to find something, and whether she has something she would like to discover about a particular minister, or whether it is an open-ended FOI application made for no more and no less than to waste the time of ministers' officers. I would say that that is it.

I point to a decision on an appeal by Hon Ljiljanna Ravlich on one of these very general applications. This again is a decision by the Information Commissioner. The complaint arises from a decision made by the Attorney General and Minister for Corrective Services to refuse to deal with an access application made by Hon Ljiljanna Ravlich, the complainant, under the Freedom of Information Act 1992. On 6 March 2009 the complainant applied under the FOI act to the minister in the following terms —

I wish to gain access to the following information from 23 September 2008:

- *Your diary*
- *Your daily itinerary documents, and*
- *Documents detailing expenditure on your Ministerial credit card.*

We all got one of those applications. The application was rejected. There was a request to reduce the time frame and to narrow the scope. The decision to not allow that application was upheld by the Information Commissioner, who stated in part —

26. As stated in my preliminary view provided to the parties, in my opinion it is reasonable to expect that the complainant, as a former Minister of the State Government, is well versed in the amount of work involved in dealing with her application in its current form and the ways in which its scope could be changed to a manageable level. As a former Minister with a government diary; as the former recipient of FOI access applications; and as a party to a number of previous FOI access applications, the complainant has considerable experience and knowledge of the workings of the FOI Act. If an application of the same kind were made to the Minister by a member of the public who was unfamiliar with the work involved in dealing with an application of this kind, my view as to the degree of assistance required from the Minister in order to satisfy his obligation under s.20(1) might be different.
27. I do not accept the complainant's submission that her knowledge and experience cannot be taken into account because her research officer, and not the complainant, has the day to day responsibility for the complainant's access applications. Whatever the complainant's internal arrangements for the day to day handling of the access application may be, the application was made in the complainant's name, not in the name of one of her officers. There is nothing new for me to suggest that the complainant's officer was not acting on the instructions of, and on behalf of, the complainant. In addition, there is nothing on the information before me to establish that the Minister was aware of that officer's state of knowledge or took advantage of it.
28. The complainant claims that 'some proper arrangement' may have been reached if the Minister had informed the complainant's research officer of the great deal of work involved in the access application. I understand this came to mean that the complainant would have been prepared to both accept that advice, if it was provided, and agree to reduce the scope of her application. However, the complainant has been advised of the amount of work involved in dealing with the access application in its present form on two occasions: firstly, by the Minister in his decision and, secondly, by me in my preliminary view letter. Following receipt of that advice, the complainant could have reconsidered her application on either occasion and submitted a revised application in reduced form to the Minister. However, as I understand it, she has not done so.
29. Based on the information currently before me, I find that the steps taken by the Minister to help the complainant to change her access application to reduce the amount of work required to deal with it were reasonable in the circumstances of this matter.

Again, Hon Ljiljanna Ravlich is wrong. Her efforts to try to stymie the efficiency of government officers have been —

Hon Ljiljanna Ravlich interjected.

Hon PETER COLLIER: "Stymie" means to stop; to impede. I suggest that she put her hand up next time.

I received a response, as well, from Sven Bluemmel, the Information Commissioner, about the same issue—that is, the request to gain access to my diary and daily itinerary documents. It is almost obscene that Hon Ljiljanna Ravlich is asking for that information. I cannot for the life of me work out what possible benefit it would be. The Information Commissioner's letter to me on this issue states, in part —

In short, it is my preliminary view that your decision to refuse to deal with the complainant's access application under s.20 of the *Freedom of Information Act 1992*, ('the FOI Act') is justified in the circumstances of this matter.

I will quote now from a letter that was sent by the Information Commissioner to Hon Ljiljanna Ravlich in response to her FOI application, and I want her to listen to it in case she did not read it, because she was probably as dark as when she received it. The response states —

For the reasons set out in this letter, I consider that the Minister has taken reasonable steps to help you change your access application to reduce the amount of work that would be required to deal with it. I also consider that the work that would be required to deal with the application would divert a substantial and unreasonable portion of the Minister's resources away from his office's other operations. Consequently, my preliminary view is that the Minister's decision to refuse to deal with your access application, in accordance with section 20 of the FOI Act, is justified.

Further on, the Information Commissioner's response states —

The first question for my consideration is whether the Minister took reasonable steps to help you to change the application to reduce the amount of work needed to deal with it. In that regard, I have taken into account the fact that you are a former Minister of the State Government who, as the recipient of FOI access applications and as an FOI access applicant of considerable experience —

With a lot more experience over the past 12 months —

has a good knowledge of the workings of the FOI Act. If an application of the same kind were made to the Minister by a member of the public—that is, a person who was unfamiliar with the FOI Act; the types of documents held by a Minister; and the work involved in dealing with an application of this kind—my view as to the degree of assistance required from the Minister in order to satisfy his obligation under s.20(1) might be different.

Further on the response continues—

In my opinion, the Minister's office gave you practical suggestions on reducing and clarifying the scope of your access application. I note that the second attempt to assist you, by the email of 18 March 2009, repeated the earlier suggestions of 16 March 2009 but did not offer any new suggestions on how you could reduce the scope of your application. Nonetheless, a further attempt was made by the Minister's office to assist you to change the scope of your application to a manageable level.

On the information currently before me, my preliminary view is that the steps taken by the Minister to help you to change your access application to reduce the amount of work required to deal with it were reasonable in the circumstances of this matter.

This emphasises yet again the amount of work that is needed to respond to such an application. I remind members that this is one of nine. The Information Commissioner's response states further on —

Based on my examination of the two-week sample of the Minister's daily itinerary, I note that there were 15 pages; more than 50 entries and more than 130 third party names in those documents. Using that estimate to project the number of entries and third parties over the 5–6 month period of your request, that part of your request alone—that is, not including your request for the electronic diary, contentious issues briefing, requests for contentious issue notes, credit card acquittal spreadsheets and meetings with stakeholders—would involve in the order of 180 pages, 600 entries and 1560 third parties.

Do members think that is reasonable?

Hon Helen Morton: Absolutely ridiculous; a waste of resources.

Hon PETER COLLIER: And Hon Ljiljanna Ravlich has asked every minister for that. The response continues —

If the act of examining each entry in the daily itinerary, identifying personal information about third parties in each of those entries and deleting the personal information were to take an officer of the agency between one and two minutes per entry (a reasonable estimation in my view), that activity would take between 600 and 1200 minutes or between 10 and 20 hours approximately. That does not include the time required to either delete commercial or business information or consult with the relevant third parties about the disclosure of that information. Significant additional time would also be required to assess whether the entries contain information that may be exempt under any of the other exemption clauses in Schedule 1 to the FOI Act or to photocopy the documents and prepare a notice of decision.

I will not read the next paragraph. The response continues —

Having considered the number and type of documents involved in the access application, the usual work of the Minister's office and an estimate of the resources to be devoted to the task of dealing with the application in accordance with the statutory requirements of the FOI Act, I am satisfied that the

work involved in dealing with your access application would divert a substantial and unreasonable portion of the Minister's resources away from his office's other operations.

...

For the reasons given above, my preliminary view is that the Minister's office has taken reasonable steps to help you to change the application but that the work involved in dealing with the application would divert a substantial and unreasonable portion of the Minister's office's resources away from its other operations. Therefore, my preliminary view is that the Minister's refusal to deal with your access application under s.20 of the FOI Act is justified.

Again I ask Hon Ljiljanna Ravlich to forget all the nonsense, forget all the bombastic theatre and look in the mirror and ask, "Are my applications reasonable?"

Hon Kate Doust interjected.

Hon PETER COLLIER: Hon Ljiljanna Ravlich should ask herself, "Am I performing a genuine, sincere and inquisitive role as a member of the opposition to try to keep the government accountable, or am I being basically bloody-minded and trying to waste the time and effort of the ministers of government?"

Hon Kate Doust: How many FOIs did you put in when you were a shadow minister?

Hon PETER COLLIER: Certainly none to the extent —

Hon Kate Doust: How many?

Hon PETER COLLIER: I am going to get onto that right now, and I thank Hon Kate Doust for that great introduction. I have to say that at no stage—although perhaps in another 15 to 20 years when we go back into opposition I will and we will see then whether the standards have changed.

Hon Ljiljanna Ravlich interjected.

Hon Norman Moore: I'd love to see Hon Ljiljanna Ravlich's diary in retrospect.

Hon PETER COLLIER: It would be perfect! I have never put in an FOI application for a minister's diary. I did put in applications when I felt that they were pertinent. I can assure members that I did that for both education ministers, and on each occasion the applications were relevant. They were relevant, they were pertinent and they were effective, because I knew what my role was about. I knew that as shadow Minister for Education and Training I had to keep the Minister for Education and Training accountable; and with all due respect I think I did a quite reasonable job. Mind you, members, Hon Ljiljanna Ravlich was her own worst enemy! But I really did do a reasonable job.

Hon Ljiljanna Ravlich interjected.

Hon PETER COLLIER: Hon Ljiljanna Ravlich has no credibility. No-one is interested in what she has to say.

Hon Norman Moore: Yesterday's lady.

Hon PETER COLLIER: Unbelievable!

I will tell members what I did do. In 2006 when Hon Ljiljanna Ravlich was imploding —

Hon Kate Doust: Was what?

Hon PETER COLLIER: Imploding.

In 2006 Hon Ljiljanna Ravlich was faced on a daily basis with negative press. She had virtually every member of the education fraternity bagging her. She was trying to bulldoze through the courses of study. I am sure everyone knows about it. It was on the front page of *The West Australian* for about six months.

Hon Ljiljanna Ravlich interjected.

Hon PETER COLLIER: If there was one issue that really lost government for the former government, it was that issue. Education was brought to its knees under the stewardship of Hon Ljiljanna Ravlich. The entire education sector was under siege. Every single major player in education was pleading with the minister to delay the courses of study. They were saying, "Just hold off, get these courses of study right and then we'll move on." I was supportive of that as well. I said that quite publicly.

Hon Ljiljanna Ravlich interjected.

Hon PETER COLLIER: The State School Teachers' Union of WA did it and every teacher organisation did it. I was inundated by comments not just from teachers and teacher organisations, but also from the union and from

the community at large. Day in and day out they were saying, "Delay the courses of study." I reckon that if Hon Ljiljanna Ravlich had been reasonable at that time, she could quite possibly still be the Minister for Education and Training. That issue caused an enormous amount of public dismay over that period. The government lost the confidence of the public because the minister was completely ignorant of what everyone else wanted. No matter what everyone else said, she stood in the chamber day after day saying she was not delaying.

It got to the critical point about mid-2006 at which confidence in education was seriously diminished. At that stage people were asking the minister to delay, because if she did, she would be fine, but no. At that stage the State School Teachers' Union decided to call a strike. It took industrial action to help delay the courses of study. The union said that it would not introduce the courses of study the next year. A briefing note from the Minister for Education and Training came across my desk. It was sent to the Department of Education and Training. These are the questions that were put to the education department from the Minister for Education and Training, a Labor minister —

- Q1. What clause(s) can be placed into the new EBA to restrict any industrial action being taken by the SSTU to hamper or stop the implementation of new curriculum courses e.g. Outcomes Based New Courses of Study?
- Q2. What clause(s) if any, in the existing EBA can be used to restrict SSTU industrial action in delaying the new courses of study?
- Q3. What performance indicators could be applied in regards to curriculum implementation?
- Q4. What would a restriction of industrial action (as outlined above) have on the current EBA negotiations?

We do not need a PhD to work out what that would be. As members could imagine, I was quite shocked when I saw this request from a Labor minister to the education department. I would love to see what would happen if one of our ministers put a similar request to one of our departments asking how to usurp the union to bulldoze through our legislation that no-one wanted. I would love to know what the Construction, Forestry, Mining and Energy Union would do if anything like that happened. I know that Hon Ljiljanna Ravlich is not part of it any more. The CFMEU does not like Hon Ljiljanna Ravlich any more.

Hon Ljiljanna Ravlich: It does.

Hon PETER COLLIER: That is not what I hear. As I said, the self-righteous dogmatic attitude of the former minister led to her own demise. That, if anything, was worthy of an FOI application. That went to the department. It was front page news month in, month out. If we ever wanted an example of why we needed an FOI application to see how the department responded to these questions, this was it, and I put one in. What did the paragon of virtue, "Mother Teresa" sitting on the other side of the chamber, do? Did she say, "Yes, of course. In the true art of being an open, accountable and transparent government, I will hand you the response of the department and show that we are an open, accountable and transparent government"? She rejected it. The former minister was trying to hold the union to ransom and would not provide the information that contained what the department said. Let us look at what the department did say. The answer to question 1 was —

None as the SSTUWA would not agree to such a clause.

Of course it would not.

The Department would also not be successful in pursuing a clause of this nature if the matter was arbitrated. The Western Australian Industrial Relations Commission (WAIRC) would not allow a clause that contravenes the objects of the *Industrial Relations Act 1979* to appear in a registered agreement.

The second question related to how the EBA could be used to restrict SSTU industrial action. The answer was —

None. If industrial action is threatened, the Department would apply to the WAIRC seeking orders preventing the action. The WAIRC has always listed such applications as a matter of urgency.

- Q3. What performance indicators could be applied in regards to curriculum implementation?

Answer: None. The Department's Performance Management process is used to identify employees performing below a satisfactory level.

- Q4. What would a restriction of industrial action (as outlined above) have on the current EBA negotiations?

Answer: There is no ability to restrict industrial action taken by the SSTUWA other than through the WAIRC conciliation and arbitration processes. Any attempt by the Department to restrict a union's right to take industrial action is likely to undermine the substantial progress in negotiations

made to date and the union's commitment in trying to quarantine the bargaining process from the implementation of the new courses of study. The risk for the Department is that the SSTU leadership may refuse to recommend that the next offer be put to a membership ballot.

Hon Ljiljanna Ravlich: What is your point? Is this your ammo?

Hon PETER COLLIER: No, but it is pretty good ammo. I bet that the member's Labor mates over there absolutely love the fact that she tried to blackmail a union! I bet also that the workers on the working sites absolutely love the notion that a Labor minister tried to blackmail the union!

Hon Ljiljanna Ravlich interjected.

Hon PETER COLLIER: No, that is not my ammo. As I said, we have been through that before. It may be the same old stuff, but I am saying that having to listen to Hon Ljiljanna Ravlich waffle and carry on for four hours with her self-righteous attitude that she is above any level of —

Hon Norman Moore: That she is open and accountable.

Hon PETER COLLIER: — that she is open and accountable, absolutely beggars belief. That was a perfect example of a legitimate freedom of information application, and it was rejected.

Hon Ljiljanna Ravlich: Was it really?

Hon PETER COLLIER: Yes. Why did the member reject it, as a matter of interest?

Hon Ljiljanna Ravlich: I have no idea because I told you that I did not interfere with that process. I have put that on the public record, and there is proof of it.

Hon PETER COLLIER: I tell members what—no, I had better not say that!

Hon Norman Moore: Why did you knock it back?

Hon PETER COLLIER: I would be interested to know.

Hon Ljiljanna Ravlich interjected.

Hon PETER COLLIER: Why did the member knock it back? I actually asked the member a question about it in Parliament at the time and she said that I could not have it. I asked her to table it and she said no, and so I had to go through the FOI process. Why?

Hon Norman Moore: Are you saying that you never had any involvement at all in FOIs in your office?

Hon Ljiljanna Ravlich: No; that is not what I am saying.

Hon Norman Moore: Of course not, because we know differently.

Hon PETER COLLIER: Another area offered an opportunity for a very legitimate freedom of information request. Hon Ljiljanna Ravlich can take a breather for the moment because it has to do with her successor. When Hon Mark McGowan took over as Minister for Education and Training, as I said, education was on its knees. A month after he took over, he delayed the introduction of the courses of study and everyone just got on with it. If Hon Ljiljanna Ravlich had delayed the courses of study in the first place, she would not have suffered the humiliation.

Hon Ljiljanna Ravlich: Don't worry about me; I'm happy, take it from me. Don't feel sorry for me.

Hon PETER COLLIER: Obviously, the member is not happy.

Hon Ljiljanna Ravlich: You keep going on and on.

Hon PETER COLLIER: The member will never be a minister again, I can tell her.

Several members interjected.

The DEPUTY PRESIDENT (Hon Matt Benson-Lidholm): Order, members! Hon Peter Collier has only nine or so minutes remaining. Perhaps he might like to address his comments through the Chair and maximise the effectiveness of his remaining time.

Hon PETER COLLIER: Yes. I am staggered that Hon Ljiljanna Ravlich is the shadow Minister for Training, given her record in the area. She might be the teacher's pet, so that is probably the only reason.

I will talk about what happened to my second freedom of information application. At the time, there was a lack of confidence in the education sector as a result of Hon Ljiljanna Ravlich's mismanagement. Teachers were leaving in droves and we had a teacher shortage. That was a massive issue in 2006–07. Hon Mark McGowan instigated a new task force that was to go around the state at a cost of \$500 000 to ascertain what had to be done

to either retain teachers or get them back. One did not need to be a rocket scientist to work out the situation with teachers. We had a very lengthy debate in the chamber on a motion on this issue at the time, and it was passed by the chamber. Teachers were leaving because they felt that they were not being recognised by either the salary they received or the career opportunities that were open to them, and behaviour management was out of control in our classrooms. The task force took six months to report. The report by Professor Lance Twomey still had not seen the light of day four months after the minister received a copy of it. The only reason it was not made public was that the government did not want to expose the problems in its decision-making process on how it would overcome the teacher shortage. Again, there was enormous pressure from sections of the community. I did the right thing as the shadow Minister for Education and Training by submitting a legitimate freedom of information application that sought the release of the Twomey report. As stated in the notice of decision, I asked for —

- A copy of the report completed by Professor Lance Twomey to address the long-term supply and demand issues in the education and training workforce in Western Australia.
- A copy of all submissions to the Twomey Taskforce.
- Any correspondence, electronic or otherwise to and from the Office of the Minister for Education and Training and the Department of Education and Training pertaining to report by Professor Lance Twomey as identified above.

The FOI application was succinct, relevant and appropriate, particularly given my role as shadow minister and given that the matter had an enormous public profile. One would assume, given that it was purportedly open and transparent, that the Labor government would have agreed that it was important to make the report public. The task force had spent half a million dollars of taxpayers' money and had been all over the state to ascertain the problems in teaching. What happened? My FOI application was rejected. For four hours Hon Ljiljana Ravlich beat on about how terrible the Liberal–National government is. She said that we have defeated the purpose of the freedom of information process, that there is something clandestine in our offices and that our offices are full of political appointees. She did so without foundation. I have given two examples of how the previous government was devoid of any transparency and accountability. If the motion had been worded differently and asked for an assessment of the effectiveness of the FOI process—we are reviewing the process—and if it had sought to debate something that could have had a productive outcome, the government would have considered it. However, given that the motion is inflammatory and without foundation, it will be rejected. I will vote against the motion.

HON MAX TRENORDEN (Agricultural) [3.58 pm]: Despite the fact that I am sitting beside the member who moved the motion, I believe that members of this house, including Labor Party members, should not support the motion. The first sentence reads —

That this house condemns the Premier for failing to honour his election commitment to review the manner in which departments are administering the freedom of information (FOI) process ...

The Information Commissioner has my 100 per cent support. I sit on the Standing Committee on Public Administration, a committee to which the commissioner reports annually, if not biannually. During my time in the other house, I spent 12 or 14 years on the Public Accounts Committee and I read similar reports. That man—the current Information Commissioner is a male—is an officer of the Parliament. He should not be told by the Premier to do anything. This is one of the arguments that riles me as a member of Parliament from time to time. We have had similar debates about the Auditor General and other officers of the Parliament. The reality is that each member of this chamber should be debating as long and as hard as he or she can for the independence of such officers so that they can do their jobs independently. They should not have to talk to the Premier. Frankly, despite my attitude towards the Premier, he is the last person I would want the commissioner to talk to. I want him to run his office as he is appointed to do. If he is not running his office appropriately, we should talk to him and not to the Premier, to members of the Liberal and Labor Parties or to anyone else. I know that the commissioner is doing his job properly, because I meet with him regularly. I have no doubt that he is passionate about his tasks and that he is passionate about doing his job properly.

If members of the Labor Party, particularly Hon Ljiljana Ravlich, really believe the Information Commissioner is doing his job inappropriately, she should move a motion and we will argue about termination. I will argue against such a motion long and hard. I do not believe there is any evidence at all out there. Obviously I do not mind the argy-bargy of politics—that is what should be happening in this place—but I do not want to spend any time on the political debate that is happening here. In reality, we either have an Information Commissioner or we do not. If we have an Information Commissioner, then the commissioner has to operate under certain parameters. Apart from when it relates to a bill, the last thing that should happen at any time is the executive becoming involved in that office. It is just totally inappropriate. It should not even be waved in front of us.

The reality is that whenever the Labor Party is in opposition—members can go back over the history of the position—the number of FOI applications rises exponentially. I will not speak about current members, but I take members back to what a good friend of mine, Larry Graham from the other house, did. There was a long debate some years ago because he sent in FOI applications for every credit card that was issued to every public servant and every transaction on every one of those credit cards. It was a fishing trip. That is not why the Office of the Information Commissioner was put into place. If that is the parameter under which it operates, we are going to have to fill that office with hundreds of public servants and have a totally different process so that the office can function.

I was the Leader of the National Party in the past. I doubt the number of FOI applications I made would get to 20. I was also opposition spokesperson on energy some time ago. Again, the number of applications I made was limited because I did not make an application unless I thought I had something I needed to find out. That is the moral question for each member in this chamber: we really need to have some concern about something to look the commissioner in the eye and say, “I believe this application warrants some action.” The reality is that currently the commissioner does not have anywhere near the resources necessary to meet the demand.

The Information Commissioner’s role is not to serve political parties. I must admit I have not heard all of this debate but I have heard a big slice of it. This debate has been about political parties not being well served by the commissioner—in fact, there has been some criticism of the commissioner himself. It is an inappropriate debate. We need to look at ourselves. It is important that roles such as the Auditor General and the Information Commissioner are occupied by independent people in our system. We need to support them, full stop. If we cannot support them, then I agree—let us have a motion in this chamber about that position being declared vacant. I have never seen it happen; and it will not happen on this occasion either.

I have not spoken to my colleagues, but I say to each member in this chamber: examine your conscience and read the motion—none of us should be supporting it.

HON SIMON O'BRIEN (South Metropolitan — Minister for Transport) [4.04 pm]: Hon Max Trenorden is absolutely right when he says that this motion does not deserve to be supported. He made very pertinent arguments that relate to whom the Information Commissioner should indeed be responsible, and whether that should be the province of a political leader or the view of a political party that holds sway at one time or another. We also heard from Hon Norman Moore, as Leader of the House, who pointed out to us in his remarks that in fact the very thing the absence of which this motion purports to condemn—that is, a review of the manner in which departments are administering the freedom of information process—is underway and has been underway for some time.

Notice of this motion by Hon Ljiljana Ravlich—one of many; her motions are a dime a dozen in terms of value—was given on 18 March 2009. That is just over a year ago and indeed, it was in this government’s infancy. But she gave notice of this motion at that time because she was getting in early. The member was getting in early in a whole lot of ways, filling up the notice paper as she has with a whole lot of motions that are all of a similar theme. If we turn to the notice paper and have a look we can see what a steady theme it is. The motion we are now debating is the first on the notice paper, notice of which was given on 18 March last year, and is that the house condemn the Premier for failing to honour his election commitment about FOI—I am paraphrasing, obviously. The second motion, notice of which was also given on 18 March last year, stands in the name of Hon Sally Talbot, and she wants the house to condemn some other ministers about something else—a hot issue from more than a year ago. In motion number —

Hon Sally Talbot: That is in your electorate!

Hon Kate Doust: It is lead in Fremantle.

Hon SIMON O'BRIEN: It affects the whole state. Please do not let me overexcite Hon Sally Talbot—I mentioned her name and she woke up!

Several members interjected.

The DEPUTY PRESIDENT (Hon Matt Benson-Lidholm): Order, members! Once again, I direct that the minister, in this particular instance, address the Chair. There are probably about only seven or eight minutes left before afternoon tea. To maximise the time, minister, perhaps you would like to continue, as you started, to address your comments through the Chair and we will leave it at that. I ask members opposite to temper their tendency to interject to the extent that they have.

Hon SIMON O'BRIEN: Mr Deputy President, forgive me, I was waylaid by unruly interjection from people opposite who cannot wait to get on to the second motion and have their hypocrisy and their standards exposed in a debate that I am sure will be heard in absolute silence from other benches.

In the third motion on the notice paper, Hon Ljiljanna Ravlich will move—again, notice was given on 18 March 2009—that the house condemn the Premier for breaking some other election commitment. The fourth motion stands in the name of Hon Ljiljanna Ravlich, notice of which was given on 18 March 2009, that this house condemn the Premier for doing something else. Notice of the fifth motion was given by Hon Ljiljanna Ravlich, again, on 18 March 2009, that this house condemn the Premier for doing some other thing, so she has filled the entire notice paper! It goes on further; there are plenty more motions all in the same vein.

Notice was given of them all on 18 March 2009, before the government had even had the chance to establish its track record in some of the areas she is condemning it for.

To return briefly to the motion before the Chair, that is why, understandably, no-one, including Labor members, despite their caucusing and everything, could support the motion currently before the Chair condemning the Premier for failing to honour his election commitment to review the manner in which departments are administering the freedom of information process et cetera. Since notice of this motion was given on 18 March last year, as we have heard from the Leader of the House, the process is well and truly underway. How can we possibly support it? The “racehorse from Cottesloe”, the member who moved this motion, was out of the blocks far too quickly condemning the Premier in a motion of which notice was given on 18 March last year. Of course, in the meantime, this and so many other election commitments have been put into process. For that reason alone, on any sensible assessment, no member with half a brain in his or her head could possibly vote in favour of this motion.

Hon Max Mr Trenorden, of course, gave us the other reason that this motion was unsupportable. In fairness to the Premier’s intent, with respect, I do not think he is trying to tell the commissioners for information or, indeed, Parliaments what to do.

Hon Max Trenorden interjected.

Hon SIMON O’BRIEN: I think he is trying to examine the question of how a government, through its departments and agencies, should deal with the question of freedom of information and its processes. That was a very large part of the undertaking. In any case, the motion itself is unsupportable.

In the brief time available to me, I have to respond to some of the inflammatory, unnecessary and discourteous remarks levied against some of my staff. They are allegations that, quite frankly, would do most people no justice if they were to mouth them. They are all too typical of the member who has moved this motion, who does not let the facts or fairness get in the way of some of the outrageous remarks she comes out with in this place.

A government member: She doesn’t care.

Hon SIMON O’BRIEN: That is right; there is a lack of care about the things she says in here about other people who do not have a right of reply in here and the effect that might have on them. Again and again —

Hon Kate Doust interjected.

Hon SIMON O’BRIEN: Why don’t you get up and have your say?

Hon Kate Doust: I will in due course and I look forward to that.

Hon SIMON O’BRIEN: I have listened day after day in almost complete silence to the remarks of the member who moved the motion and I am appalled at some of the allegations made. I will personally attest in this place that members of my staff who are involved with FOI-related tasks—from time to time that is all of them, but a number are involved in the process of responding and gathering responses—are decent, honest, committed, skilled and intelligent people. If anyone wants to challenge that, let them come up with some sort of specific allegation outside. Let them write to me and make a complaint. I am saying to some members opposite who are looking down at their feet, put up or shut up. Whenever they are challenged to do that, they cannot do it.

Hon Ljiljanna Ravlich: You don’t have to shout.

Hon SIMON O’BRIEN: Hon Ljiljanna Ravlich has been screaming, carrying on and squawking for weeks on this motion. I do not like it when I hear my staff being accused of the things Hon Ljiljanna Ravlich has accused them of. She ought to hang her head in shame for the way she comes in here, the coward she is under parliamentary privilege, trying to make wild accusations about anyone she likes.

Debate adjourned, pursuant to temporary orders.

Sitting suspended from 4.15 to 4.30 pm