

INFORMATION COMMISSIONER — APPOINTMENT

**422. Mrs L.M. HARVEY to the Attorney General:**

I am pleased that the government has fulfilled another one of our election commitments with the appointment of the new independent Information Commissioner. Will the Attorney General please advise of the process involved in the appointment of the new commissioner?

**Mr C.C. PORTER replied:**

I thank the member for her question. I also acknowledge, courtesy of a note passed to me by one of the National Party members, students from the Mount Barker Community College who are in the public gallery today.

I will turn to the appointment process for the Information Commissioner in just a moment. It is clear that the Information Commissioner and, indeed, the freedom of information process have become something of a live issue for this government. I noted in an earlier debate today that the member for Willagee accused us of “laziness”, which I think was the word he used about our responses to freedom of information requests.

**Mr A.J. Carpenter:** No.

**Mr M. McGowan:** Refusal.

**Mr C.C. PORTER:** I have personally refused one of those requests, and I will tell members what the request was for.

**Mr M. McGowan** interjected.

**Mr C.C. PORTER:** No; it is all about the member, of course. I forgot. The request was for all diary entries and related itineraries for the seven-month period for which we have been in government.

**Mr E.S. Ripper:** We all got similar requests when we were in government, and we honoured them.

**Mr C.C. PORTER:** Did the Leader of the Opposition honour those requests? Let us look at this particular request. All members of government are under a statutory obligation to seek permission from third parties who might be the subject of diary entries of that nature because they contain either personal information or commercial information. I did a quick, random audit of a two-week sample in my diary. I met with 60 individuals in a two-week period. I do not meet with many people who have commercial concerns, but I meet with victims of crime and secondary victims of homicides who, I imagine, would not be keen to have their personal details released under an FOI application. That is why we have a statutory obligation to seek permission from those people. If I multiply 60 individuals by seven months, that is a ridiculous request. I asked Hon Ljiljanna Ravlich to narrow the request, and she broadened it and asked for more documents about every diary entry!

This brings me to the point of the member’s question, which is about the appointment of the Information Commissioner. At the same time that we are being accused of being unaccountable or lazy with FOI applications, for the first time in a long time this government has a full-time Information Commissioner. The position was advertised on 29 November 2008 and 5 December 2008 in *The West Australian*, *The Australian* and *The Australian Financial Review*. Applications were received and interviews were held by a selection panel constituted by Mr Mal Wauchope, who is the Public Sector Commissioner; Ms Cheryl Gwilliam, the Director General of the Department of the Attorney General; and Mr Chris Field, the state Ombudsman. Mr Wauchope was the Director General of the Department of the Premier and Cabinet at the time of the panel’s appointment, but had been made Public Sector Commissioner by the time the panel convened. The panel’s recommendations then went to cabinet for a decision, and a decision was made. Let us look at that process, because some statements were made in the other place by the queen of freedom of information, Hon Ljiljanna Ravlich. She said —

To say the least, there seem to be some strange practices occurring in relation to the formation of the panel for the selection of the new Information Commissioner. It certainly appears to me that the representation on the selection panel is such that it smacks of not having possibly a representative group to make the decision about who would be the best applicant.

I was intrigued. I hold a fairly selected panel to be quite important. What was wrong with that panel? If it looks dodgy, Mr Speaker, the chances are that there is something dodgy about it! It is sensational and riveting stuff. What is the dodginess? It continues —

... the Director General of the Department of the Attorney General is also a member of that panel given that the appointment is actually for the FOI commissioner and given, I think, that the FOI commissioner falls within the Attorney General’s portfolio.

It goes on —

... it appears a bit unusual that Cheryl Gwilliam who, as a director general, would probably be the subject of the commissioner's authority, is also sitting on that particular panel.

It is unusual that a public servant would sit on the panel because that person might be subject later to an FOI application. Who would be left? It goes on —

It is also a bit unusual that only three members sit on the panel.

What is unusual about that?

Several members interjected.

**Mr C.C. PORTER:** It is not that funny; it is just bizarre. Why is it unusual that only three members sit on the panel? How many members did the opposition want on the panel—five, eight, 50? We now have a full-time FOI commissioner. We are responding dutifully and in time to reasonable and rational FOI requests, and that really is the crux of the matter.