

GENE GIBSON — EX GRATIA AWARD

310. Hon MICHAEL MISCHIN to the Leader of the House representing the Attorney General:

I refer to the ex gratia award of \$1.5 million to Gene Gibson by way of “compensation” “in recognition of the miscarriage of justice suffered by him”, and the Attorney General’s media release of 18 April 2018.

- (1) Was the decision to make the award based on his recommendation to cabinet and when did he make that recommendation?
- (2) Did he seek advice on making an ex gratia payment; and, if so, when and from whom?
- (3) Was his recommendation consistent with that advice, whether as to make the payment or as to the amount?
- (4) How was the amount awarded calculated?
- (5) What precisely was the “wrong done to Mr Gibson by the state” that warranted an ex gratia payment?

Hon SUE ELLERY replied:

I thank the honourable member for some notice of the question.

- (1) The matter was referred to cabinet by the Attorney General. The decision to make the award was made by cabinet on 27 November 2017. The deliberations of cabinet are confidential.
- (2)–(3) Prior to the matter being referred to cabinet, legal advice was sought from State Counsel, George Tannin, SC. The content of that advice is privileged and confidential.
- (4)–(5) Ex gratia payments are discretionary and take into account the particular circumstances of the case. The state’s decision to make the award reflected acknowledgement and recognition of the wrongs identified in the judgement of the Court of Appeal in *Gibson v State of Western Australia* [2017] WASCA 141. I table that decision.

[See paper 1327.]