

GENE GIBSON — EX GRATIA AWARD

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

I refer to the Attorney General's answer to my question without notice 422 of 12 June regarding the ex gratia payment of \$1.5 million to Gene Gibson for what he has described as a serious miscarriage of justice for which Mr Gibson was blameless but for which the state was not to blame.

- (1) Did the advice the Attorney General receive from the State Solicitor's Office support or not support the making of a payment?
- (2) Did the advice he receive identify failings for which the state was responsible, with reference to the Court of Appeal judgement in *Gibson v State of Western Australia* [2017] WASCA 141; and, if so, precisely what were those failings?
- (3) To the extent that the miscarriage of justice resulted from Mr Gibson's blameless plea of guilty on the basis of legal advice, is the state proposing to recover any of the \$1.5 million from his legal representatives; and, if not, why not?
- (4) Why will the government not pay compensation to other accused who are acquitted on appeal, having been convicted after pleas of not guilty, and so suffered a miscarriage of justice for which they are blameless?

Hon SUE ELLERY replied:

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

- (1)–(3) Answering this question would require the disclosure of matter that is subject to legal professional privilege and, accordingly, I am unable to provide the requested information. I am cognisant of my obligations under section 82 of the Financial Management Act and will provide any notice required by that section to Parliament and to the Auditor General in accordance with the legislative requirements.
- (4) Ex gratia payments are discretionary payments made in exceptional circumstances on the prerogative of the executive following the receipt of advice from the State Solicitor's Office and need to be determined on the particular circumstances of the matter at hand.