

RESPONDING TO QUESTIONS ON NOTICE



Purpose

This note is intended to provide directorates with guidance on how Ministers should be briefed in the event that a directorate considers a Question on Notice or Question taken on Notice (collectively 'QONs') in the Legislative Assembly may require a diversion of resources that would significantly impact upon the directorate's ability to deliver its core outputs.

The default position in all circumstances shall continue to be that any QON requires preparation of a full response for consideration by the relevant Minister within standard timeframes. QONs support core principles of good governance such as accountability and transparency and are a fundamental mechanism for elected Members of the Legislative Assembly (MLA) to question members of the Executive government about administration of the Territory.

In exceptional circumstances, directorates, in the course of preparing a response, may identify that completing the response within normal timeframes would require such a re-allocation of the directorate's resources that delivery of core outputs for the community would be significantly impacted. In those circumstances, directorates should follow these guidelines to advise the relevant Minister and seek a direction on the Minister's preference for responding to the QON.

Processing for briefing Ministers

Initial assessment

In the event that a directorate believes preparation of a response for a QON or QONs will require resources to be reallocated from normal operations to such an extent that delivery of services could be impacted, the directorate should notify the Minister of the potential implications. This would normally only occur when the directorate anticipates more than one full time equivalent position for one week (i.e. approximately 38 hours) would be required to

answer the question. Note that this is the recommended threshold for directorates to engage with their Minister but is *not* a threshold at which directorates should cease to prepare a response. That decision will be made by the relevant Minister taking into account the public interest in providing the answer as well as the diversion of resources that may be required.

If possible, the directorate should provide the Minister with an indication of the extent to which services may be impacted. For example:

- Preparing a response within the nominal timeframe will require resources to be diverted from *Project X*. It is estimated this will delay completion of *Project X* will be delayed by two weeks; or
- Preparing a response within the nominal timeframe will require resources to be diverted from *Service X* for two weeks. The directorate estimates service delivery levels will need to be reduced by 10% during this period; or
- Preparing a response within the nominal timeframe will require resources to be diverted from *Service X* for two weeks. In order to maintain normal service levels, the directorate will incur additional costs of \$x.
- The directorate should also include a cost estimate based on the estimated time it will take to prepare a response using the standard QON costing tool circulated to all directorates.

Directorates are not to advise or make a decision on whether the potential impacts are considered a reasonable or acceptable diversion of resources. However, the directorate may identify options for the Minister in the event the Minister considers the diversion of resources is unreasonable. Common options that Ministers may wish to consider are outlined below:

Prepare a response per standard procedures

The default option to be adopted unless the relevant Minister explicitly states otherwise is for the directorate to prepare a response within a timeframe allowing the Minister to provide their response to the relevant MLA within 30 calendar days.

All directorates are also required to include the actual cost of preparing the response to the QON in the response. This is to transparently communicate the level of resourcing needed to respond to each QON.

Directorates should use the standard QON costing tool circulated to directorates. The costing tool allows directorates to calculate a cost based on the time spent by officers at each classification level. For consistency, directorates should capture time spent by officers in preparing the response, managers and executives in clearing the response and Ministerial Liaison Officers coordinating and processing the response.

Each QON cost should be provided and considered separately. That is, costed QONs should not be packaged or aggregated with other QONs regardless of whether they fall due at the same time or deal with similar topics.

Prepare a response to the QON, but outside of standard timeframes

The Minister may maintain a commitment to responding to the QON but decide the response will be provided outside of the nominal timeframe of 30 calendar days so as to minimise impacts on the directorate's outputs.

A Minister may determine this to be the most appropriate course of action when the diversion of resources results from:

- An individual QON that is especially large and/or complex; or
- An especially large volume of QONs on related topics are received at the same time.

With regard to the latter situation, the Minister may require additional advice from the directorate on which specific QONs need to be delayed and the additional amount of time required to complete each in order to minimise impacts to other activities.

Directorates and Ministers should be aware that under Legislative Assembly Standing Order 118A, if a response is not provided within 30 days, MLAs may ask the Minister for an explanation as to why the question has not been answered and move a motion in the Assembly without notice if the explanation is considered unsatisfactory.¹ Directorates are therefore encouraged to prepare correspondence for the Minister to send to the relevant MLA notifying them of the expected delays to affected QONs.

Minister may decide not to answer the question

In certain circumstances a Minister may decide that, due to the costs or impacts that would be incurred, the QON should be partially answered or not answered at all.

In this case the directorate is still required to prepare an official response for the Minister to provide the MLA and Clerk of the Assembly; however, the response will provide the reason the MLA's question has not been answered.

The response should endeavour to respond to the QON to the extent possible, such as providing a partial or generalised answer addressing the substantive question. The response should also outline any alternative offers to address the MLA's questions, such as a verbal briefing on the subject in question.

A suggested form of response for use in these situations is:

"I have been advised by my directorate that the information sought is not in an easily retrievable form, and that to collect and assemble the information sought solely for the purpose of answering the question would

¹ Standing orders of the 9th Legislative Assembly

require a considerable diversion of resources.

In this instance, I do not believe that it would be appropriate to divert resources from other

priority activities for the purposes of answering the Member's question. However, I offer the member a verbal briefing to discuss their questions."