



KNOW YOUR HOUSE: A SHORT GUIDE TO LEGISLATIVE COUNCIL PROCEDURE

May 2023



FOREWORD

The Parliament of New South Wales is Australia's first and oldest Parliament. The procedures and practices of the Legislative Council have been modified and reformed for over 200 years.

'Know your House' is a brief introductory guide to Legislative Council practice and procedure. It is intended to assist members who are looking to quickly access succinct and practical information about proceedings in the House. A number of practical 'how to' guides to certain procedures can be found in the appendices.

The Department of the Legislative Council has produced a variety of more detailed reference materials. These include:

- [New South Wales Legislative Council Practice](#) (2nd ed) which provides comprehensive information on the history, practice and procedures of the Council (copies are available from the Clerk's Office)
- the [Annotated Standing Orders](#) which describe how and why the standing orders have developed (copies are available from the Clerk's Office)
- the *Concise Guide to Rulings of the President and the Chair of Committees* (December 2022) which outlines significant rulings of the President and the Chair.

In a significant moment for the Legislative Council, the House agreed to and adopted new standing rules and orders at the end of the 57th Parliament. The standing orders of the House were formally amended following a review, a six-month trial of the proposed changes and an evaluation of the trial that led to some final adjustments. The standing orders were last reviewed and updated in 2003-2004.

I welcome your feedback on the information provided in this guide and more generally on the services and resources provided by the Department.

This document serves as an introductory guide to Council proceedings. If you have any questions, please do not hesitate to contact me on 9230 2773 or david.blunt@parliament.nsw.gov.au.

The Procedure Office can be contacted on 9230 2431 or LC.Procedure@parliament.nsw.gov.au.

David Blunt

Clerk of the Parliaments

May 2023

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INTRODUCTION TO THE LEGISLATIVE COUNCIL

The role of the Legislative Council

The role of the Legislative Council is to:

- represent the people
- scrutinise executive government as a 'House of Review'
- legislate.

Powers of the Legislative Council

The composition of the Council and its powers to make laws are established in the [Constitution Act 1902](#). The Constitution provides for the State's system of representative and responsible government.

The Council derives its immunities, rights and powers (collectively referred to as parliamentary privilege) from the common law principle of 'necessity', the statutory adoption in New South Wales of Article 9 of the Bill of Rights 1689 (Imperial), and various other statutes, notably the [Parliamentary Evidence Act 1901](#). Together these various provisions support:

- the immunities of the Houses and its members, including freedom of speech
- the rights of the House, such as the right to control its own proceedings, including through the adoption of standing and sessional orders
- the powers of the House, such as the power to conduct inquiries and the power to order the production of state papers.

Rules of the House

The work of Council members is subject to the following:

- the [Standing Rules and Orders](#) adopted by the House, which are the written rules of procedure that provide for the House's proceedings – this includes the passage of bills, rules of debate, the conduct of members, and appointment of committees
- [Sessional Orders](#) are temporary rules adopted by the House for a parliamentary session – these may augment or vary the standing orders, or be used to trial new procedures
- the [Concise Guide to Rulings of the President and the Chair of Committees](#), which are the rulings made by the President or the Chair of Committees interpreting and supplementing the standing orders. These rulings are guided by precedents and parliamentary tradition.

Complementing the above, various resolutions are adopted by the House on matters such as the code of conduct, the broadcast of House and committee proceedings, and the establishment of committees. For more detail see:

- [House – Rules, Resolutions, Officeholders and Ministerial representation](#) contains the rules and resolutions which complement the standing rules and orders, and information relating to officeholders and ministerial representation.
- [Committees – Sessional Orders, Resolutions and Membership](#) contains the establishing resolutions and membership for each of the current committees of the Legislative Council, and the committee-related rules and resolutions which complement the standing rules and orders.

Office holders

A number of office holders perform roles to ensure that the Council conducts its business in an orderly fashion.

President

The [President](#), elected by the House, is the Council’s independent and impartial representative. He or she is responsible for presiding over the House by maintaining order and applying and interpreting its practices and procedures.

The Deputy President and Chair of Committees

The [Deputy President and Chair of Committees](#), elected by the House, acts as President when the President is absent and exercises the same authority, and chairs the committee of the whole process where amendments to bills are debated.

Assistant President

The [Assistant President](#), also elected by the House, acts in the absence of the President and Deputy President.

Temporary Chairs

The [Temporary Chairs](#) are nominated by the President and take the Chair for short periods whenever required.

Clerk of the Legislative Council

The [Clerk](#) provides expert advice on parliamentary law, practice and procedure to Council members. The Clerk is also the administrative head of the Department of the Legislative Council.

Usher of the Black Rod

The [Usher of the Black Rod](#) is the most senior protocol and ceremonial position in the Council. When the Council is sitting, the Usher’s main responsibility in the Chamber is to help the President maintain order in the House. This includes removing members from the Chamber when ordered to do so by the President.

Party roles in the Legislative Council

Following an election, a number of party roles in the House are filled via election or appointment by the parties.

Leader and Deputy Leader of the Government

The primary responsibility of the Leader and Deputy Leader of the Government in the Legislative Council is promoting and defending the government's program in the House, including organising the order of government business. There are also certain rights and responsibilities under the standing orders associated with these positions.

Leader and Deputy Leader of the Opposition

Like the Leader and Deputy Leader of the Government, the Leader and Deputy Leader of the Opposition in the Legislative Council also have certain rights and responsibilities under the standing orders.

Government and Opposition Whips

The Government and Opposition Whips, appointed by their parties, liaise with their respective party colleagues and leaders regarding the business of the House and ensure the attendance of members for debates and votes.

THE PARLIAMENTARY CALENDAR

Parliaments and sessions

The time between general elections is known as a 'parliament'. A new parliament starts after each general election and lasts four years.

Within each Parliament there may be a number of 'sessions'. A session is the period between the meeting of Parliament and its subsequent prorogation, which brings a session to an end.

At the conclusion of each Parliament, the term of service of half of the members of the Council expires. 21 seats in the Council are then filled at the same time as the general election for the Legislative Assembly. Members of the Council are elected for two terms of the Assembly, that is eight years.

Sitting days and times

The House normally meets Tuesday to Thursday. Meeting times for the House in the 57th Parliament were as follows:

Tuesday	2.30 pm
Wednesday	10.00 am
Thursday	10.00 am

On rare occasions the House may sit on a Monday or Friday.

There are two distinct sitting periods each year: the autumn (or budget) sitting period, from February to June, and the spring sitting period, from August to November.

The House does not normally sit during school holidays.

The hard adjournment

Under standing order 34, the President will interrupt business at 10.00 pm for the hard adjournment if a motion has not been moved for an earlier adjournment of the House.

The hard adjournment brings an end to business in the House but allows for an adjournment debate for 30 minutes (see 'Adjournment debate' for more information). The hard adjournment at 10.00 pm was introduced to address the very late sitting nights experienced during previous parliaments and the consequent impacts on fatigue for members and staff.

WHAT HAPPENS ON A SITTING DAY?

Business in the Council follows an established pattern. A sitting day commences with the meeting of the House. Routine business is then dealt with before the House proceeds to items on the [Notice Paper](#). An hour of every sitting day is reserved for questions without notice. A sitting day concludes with an adjournment debate.

Meeting of the House

Electronic bells are located in all rooms and corridors in Parliament House. There are two distinct bells, one to summon members to the Chamber for a meeting or to indicate that the House has adjourned, and another to summon members for a division or quorum.

15 minutes before the time fixed for the meeting of the House, the bells are rung for one minute. The bells are rung again for two minutes prior to the fixed time for the commencement of proceedings.

Members attend the Chamber and rise when the Usher of the Black Rod announces the President to the House. The President then takes the Chair and reads the prayers. The President also acknowledges the Gadigal clan of the Eora nation at the beginning of each sitting day.

Routine of business

Standing order 41 sets out the order in which categories of business are proceeded with on a sitting day. Standing order 41 deals with the items of business which occur on most sitting days but does not cover all items of business that may arise.

Based on the relevant standing orders, together with precedents from the House, the routine or order of business each sitting day after prayers are read is as follows:

- messages from the Governor
- messages from the Legislative Assembly
- reports tabled by the President
- formal business (standing order 44)
- presentation of papers
- presentation of petitions
- giving of notices of motions
- postponements
- ministerial statements
- ministerial replies to matters raised on the motion for adjournment
- urgency motions (standing order 207).

Some of the more common items of routine business are detailed below.

Messages from the Governor

The President reports receipt of all messages received from the Governor. These include assents to bills, matters regarding the administration of the State, and the convening of joint sittings for the filling of casual vacancies in the House or Senate.

Messages from the Legislative Assembly

The President reports receipt of all messages from the Assembly. The most common messages from the Assembly relate to [bills](#) – either responding to a bill which originated in the Council, presenting a bill passed by the Assembly for concurrence or responding to Council amendments to a bill. Other common messages relate to the membership of joint committees.

Formal business

Standing order 44 allows members to move items on the [Notice Paper](#) (mostly private members' motions) and the question on the motion is put without debate.

Tabling of papers and other documents

Following formal business, the President asks whether there are any [papers to be tabled](#). The President, ministers and the Clerk routinely table a range of documents and on tabling, these documents are considered public unless otherwise ordered. Committee chairs can also table [inquiry reports](#) when the House is sitting.

Private members sometimes seek to table documents but may only do so with the 'leave of the House', that is, with the unanimous consent of all members present (standing order 45). Papers tabled by private members are only made public on a motion agreed to "that the document be printed".

Ministerial statements

Under standing order 50 ministerial statements can be used to notify the House of policy announcements, inform members of significant events, to note changes to Ministries, to announce the Government's intention to propose changes to business of the House or to correct remarks made in the House. The Leader of the Opposition, or a member nominated by the leader, is entitled to respond to a ministerial statement.

Postponements

Under standing order 47 there are two ways by which members may postpone items. First, the President offers members the opportunity to postpone items of business listed for the sitting day. Subsequently, the Clerk will read to the House any postponements of which he has received prior written notification.

For further information about **petitions** and **urgency motions** please refer to 'Other mechanisms to bring issues before the House'. Further information **about notices of motions** can be found below and at 'What are notices of motions and how do I give a notice?'

At the conclusion of routine business, the House proceeds to items on the Notice Paper.

The Notice Paper

The majority of business before the House is initiated by a motion. A motion is a formal proposal made to the House that it take action of some kind or agree to a statement. There are two main categories of notices: government business notices and general (or private members') business notices. Notices of motions and the giving of notices is discussed in further detail at 'What are notices of motions and how do I give a notice?'

Each sitting day the [Notice Paper](#) sets out the agenda for the day's business (standing order 41). It includes all business which could be considered by the House that sitting day as well as business for future consideration (the Notice Paper is used to guide members through the consideration of business).

The arrangement of business on the Notice Paper reflects the precedence of business in the House and appears under the following headings (although the order in which they appear changes according to the precedence of business on a particular day):

- matters concerning the privileges of the House (standing order 81)
- business of the House – notices of motions and orders of the day (which is business that has already been before the House but has not concluded) (standing order 42)
- matters of public importance (standing order 206)
- government business – notices of motions and orders of the day
- private members' business – notices of motions and orders of the day
- committee reports – orders of the day

- notices and orders set down for a particular day in the future
- contingent notices of motions.

Government business – Tuesday and Thursday

Government business is usually debated on Tuesdays and Thursdays. Government business includes all matters initiated by the Government, which mainly consists of legislation. For further detail on bills and the legislative process please refer to ‘Legislation’.

Private members’ business – Wednesday

Wednesdays are typically reserved for private members’ business. On this day private members propose legislation, and through notices of motion, present alternatives to government policies and discuss the concerns of their constituents.

The House has used various systems to determine which items of private members’ business are to be brought forward for debate. For further detail please refer to ‘How is the order of private members’ business decided?’.

Question Time – questions without notice

An hour of every sitting day is reserved for [questions without notice](#). Question time commences at 4.00 pm on Tuesday and at 12.00 pm on Wednesday and Thursday. Questions are limited to one minute, while answers are limited to three minutes. A minister may seek leave to extend the time for an answer by one minute.

Almost all questions asked by members are to ministers relating to public affairs with which the minister is officially connected, proceedings pending in the House, or any matter of administration for which the minister is responsible.

Supplementary questions may be asked – one by the original questioner and a second by another non-government member from a different party – but they are subject to stricter rules. The asking of a supplementary question must not exceed one minute and the answering of each supplementary question must not exceed two minutes.

Ministers are responsible for answering questions regarding their own portfolios and those of portfolios held by ministers in the Assembly for which they have been allocated responsibility. The list of Assembly ministers represented in the Council is found in [House – Rules, Resolutions, Officeholders and Ministerial representation](#). If a question is referred to a minister in the other place, the minister in the Legislative Council must provide the answer to the House within 15 business days.

In question time the President typically grants the Leader of the Opposition the first question and then alternates the call between government, opposition and crossbench members.

Although it happens rarely, questions may also be put to:

- parliamentary secretaries relating to public affairs with which they are officially connected, public affairs connected with the portfolio of the minister to whom the

parliamentary secretary is connected, proceedings pending in the House, or any matter of administration for which the parliamentary secretary is responsible

- members relating to any bill, motion, or other business on the Notice Paper of which the member has charge
- committee chairs relating to the activities of that committee, provided the question does not attempt to interfere with the committee's work or anticipate its report.

Under standing order 66, at the discretion of the President at the conclusion of questions without notice, supplementary questions may be put by members to elucidate answers given that day during questions.

Written questions – questions on notice

In addition to asking questions during question time, whether or not the House is sitting members can also submit [written questions on notice](#) to ministers with the Clerk. This occurs via email or other electronic lodgement by 4.00 pm, for publication in the next Questions & Answers paper. The [Questions & Answers paper](#) is published on Parliament's [website](#) at the conclusion of each business day. The responsible minister is required to provide an answer within 15 business days. Once the answer is received it is published in the [Questions & Answers paper](#). Alternatively, members can track questions and answers using the [Q&A tracking function](#) on the Parliament's website.

Debate on committee reports and government responses

The motion to 'take note' of a committee report is moved on the tabling of a report by the committee chair, or when the Clerk announces receipt of a report tabled out of session. Take note debates provide the House with the opportunity to discuss the inquiry, the report's recommendations and the [Government's response](#). Debate on [committee reports and government responses](#) typically takes place on Tuesdays at 5.30 pm until 6.30 pm, according to the order published in the [Notice Paper](#) or a determination of the Business Committee.

A government response to a committee report can be debated concurrently with the debate on the report or a motion may be moved without notice, "That the House take note of the government response".

Adjournment debate

A sitting day almost always concludes with an adjournment debate. The adjournment of the House may be moved at any time by a minister or a parliamentary secretary, or the House may hit the 10.00 pm hard adjournment. Debate on the adjournment motion lasts 30 minutes, during which time members may speak on almost any matter for up to five minutes. The Government Whip generally prepares a list showing the order of speakers in the adjournment debate, which alternates between opposition, crossbench and government members.

RECORDS OF THE HOUSE

The following publications and records will help members follow the events and outcomes of a sitting day.

Minutes of proceedings

The [Minutes of proceedings](#) are the official procedural record of a sitting day, published on the Parliament's website soon after the House rises.

Running Record

The [Running Record](#) is a real-time online record of the Council's proceedings. It is updated throughout the sitting day and shows the progress of legislation, debates and votes on motions and other business. It also contains links to bills, the tabled papers database and notices of motions given that day. It is a guide only and is not the official record of proceedings.

Hansard

[Hansard](#) is the written record of debates in Parliament. It is not a strictly verbatim transcript. Repetitions and redundancies are omitted, obvious mistakes are corrected, and interjections omitted unless responded to by the principal speaker. A proof copy of Hansard is published progressively during a sitting day with a final corrected copy published later.

Questions and answers paper

The [Questions and Answers paper](#) records all questions on notice submitted by members, along with answers received from ministers. It is published at the end of each business day.

House in Review

[House in Review](#) is a blog that provides regular updates on the activities of the Council. It includes information on committee activities and the business considered on sitting days. Members can subscribe [here](#).

Daily Program

The [Daily Program](#) briefly sets out the order of business for the next sitting day. It is prepared at the conclusion of a sitting day and published on the Parliament's website ahead of the next sitting day. The Daily Program is the earliest available source from which members of the public can learn which items of business are likely to be called on the next sitting day.

WHAT ARE NOTICES OF MOTIONS AND HOW DO I GIVE A NOTICE?

Notices of motions are advice of motions to be moved or bills to be introduced on a future sitting day. A member who wishes to initiate discussion by the House of a substantive motion is required to give the House notice of the matter on a previous sitting day, unless the member has leave of the House or as otherwise provided in the standing orders. This allows members time to prepare for debate on the motion. The President calls for notices of motions during formalities. Once notice is given the motion will appear on the Notice Paper the following sitting day.

Giving notices of motions

To give a notice of motion a member will need to:

- draft the content using the [template](#) provided by the Procedure Office and email the motion to LC.Procedure@parliament.nsw.gov.au so that it can be checked for compliance with the standing orders
- be in the Chamber shortly before the commencement of the sitting day to collect your notice from the Clerks
- seek the call from the President at the appropriate time, read your notice aloud, sign it and hand to the Clerks for inclusion in the Notice Paper.

A private member's motion will most likely be brought before the House in one of the following two ways – either as formal business, or on private members' day. To have an item considered as formal business you must submit a signed form to the Clerks by 4.00 pm, or one hour after the conclusion of formalities, whichever is later, on the previous sitting day. Please see 'Formal business' for more information.

For further information on the allocation of business on private members' day please see 'How is the order of private members' business decided?'

Detailed information about certain types of procedural notices (such as disallowances) can be found in the 'How to' guides at [Appendix 1](#).

Amending motions

Notices of motions are not considered to be the property of the House until they are moved. Until moved a member may withdraw the notice, change the date for bringing on the motion, or seek leave to amend the motion before moving it.

Once a motion has been moved and is before the House for debate, other members may propose amendments to the motion to either modify it so that it is more acceptable to the majority or to present an alternate proposition. At the conclusion of debate the questions on any amendments proposed are put first, followed by the original motion as amended, or as moved.

HOW IS THE ORDER OF PRIVATE MEMBERS' BUSINESS DECIDED?

There is usually a large volume of private members' business on the Notice Paper and the House does not have enough time to debate all of these items on any given Wednesday. Accordingly, the primary way that the order of private members' business on Wednesdays is decided is by the Business Committee (commonly referred to as the Whips' meeting), which was developed during the 56th Parliament.

Whips' meeting

During the 56th Parliament, the Government Whip initiated an informal process whereby government, opposition and crossbench members met the evening before private members' day to discuss which items of private members business should be considered the following day.

This practice has since been formalised under standing order 191, which appoints a Business Committee which determines the order of items of private members' business and debate on committee reports and government responses to be taken when such business has precedence.

The Clerk publishes the committee's determinations on the Parliament's website and in the Notice Paper for the next sitting day.

OTHER MECHANISMS TO BRING ISSUES BEFORE THE HOUSE

There are a variety of matters a member can seek to have debated in the House. A member can introduce a bill, ask a question with or without notice, contribute to a committee take-note debate, or speak on almost any matter during the adjournment debate.

This section details some of the other procedural mechanisms available to members to raise a matter in the House. A series of 'How to' guides that provide further detail on these mechanisms are provided at [Appendix 1](#).

Petitions

[Petitions](#) are a written or electronic request for the House to take action on a particular issue (see standing orders 70 to 74). Members of the public cannot present petitions to the Council directly. Only members can present petitions on their behalf. By convention members take the view that they should present any petition forwarded to them (regardless of any disagreement they may have with its content) in order to represent the petitioners.

Disallowing regulations

Under the [Interpretation Act 1987](#), written notice of the making of a statutory rule must be tabled within 14 sitting days after it is published in the [Government Gazette](#) or on the [NSW Legislation website](#) (section 40). Members then have 15 sitting days in which to give notice of a motion to disallow the statutory rule (section 41).

A [Disallowable Instruments](#) paper is published on Tuesdays during sitting weeks and on the first Tuesday of every month when the House is not sitting. It lists most statutory rules or instruments that can be disallowed, the date tabled and the last sitting day before notice of disallowance must be given.

Disallowance motions are given precedence on the Notice Paper as Business of the House for six sitting days (standing order 82). Once the six sitting days have passed, the matter is removed from the Notice Paper as Business of the House and is listed as private members' business.

Matters of public importance and urgency motions

Standing order 206 provides an opportunity for a matter of public importance to be debated by the House without having to express an opinion in favour or against the motion.

A member must give notice of a motion for a matter of public importance to be debated by the House. When the matter is called on, the House first decides whether the matter should proceed and if agreed, debate ensues. At the conclusion of debate the matter lapses.

A member may move an urgency motion without notice to enable the House to discuss urgent matters suddenly arising (standing order 207). To initiate an urgency motion a short simple statement must be submitted in writing to the President before the commencement of the sitting. The President will inform the House and if it is agreed that the matter is urgent, debate will ensue. As with matters of public importance, there is no question put on the motion at the end of the debate.

The mechanisms for debating matters of public importance and urgency motions are very similar. Nevertheless, each procedure inherently serves a different purpose. Matters of public importance provide members with prior notice, or warning, ensuring that members have an opportunity to prepare for debate. In contrast, urgency motions may be brought on suddenly, without prior notice.

ORDERS FOR PAPERS

The Legislative Council has an established power to order the production of state papers. This includes papers from government departments, statutory bodies and ministerial offices. The basis of this power is the common law principle that the Houses of Parliament possess such inherent powers as are reasonably necessary for their effective functioning. (Click [here](#) to see a short YouTube video about orders for papers.)

Standing order 52 outlines the process by which the House can order state papers. Documents returned in response to an order for papers may be subject to a claim of privilege, in which case they are available to be viewed by members of the Legislative Council only. All other documents are public upon tabling.

[Public returns](#) are managed by the Procedure Office and can be accessed by anyone. Privileged returns are managed by the Clerk's office and can only be viewed by members of the Legislative Council.

The Procedure Office can assist members in drafting orders for papers, to ensure that the motion complies with the standing orders, specifies the exact documents required and is addressed to the correct department or agency.

For appointments to view returns to orders please contact the [Procedure Office](#) (public returns) or the [Clerk's Office](#) (privileged returns).

Disputed claims of privilege and the independent arbiter

Any member can dispute a claim of privilege over documents by detailing in writing to the Clerk the specific documents over which the claim is disputed and the reasons for disputing the claim. An independent arbiter is appointed by the President to review and evaluate the validity of the claim of privilege. The arbiter's report is made available to members. The House may resolve to make the report public and subsequently order that some or all of the documents over which privilege was claimed be made public. The House will take the advice of the arbiter into consideration in this process, however the ultimate authority as to whether documents should be made public rests with the House.

In instances where the arbiter's report is received more than three weeks before the next sitting of the House, the Clerk is to refer the report to the Privileges Committee for consideration. The Privileges Committee is authorised to undertake the role usually performed by the House in deciding whether the arbiter's report and any documents that are the subject of the dispute are to be published. On the next sitting day, the committee reports to the House what action, if any, it has taken (standing order 54).

ANNUAL BUDGET PROCESSES

Each autumn, the Treasurer introduces the appropriation bills and makes a speech setting out the estimated revenues and expenditures of the Government. The appropriation bills are subsequently received from the Assembly and considered by the Council.

The budget ‘take-note’ debate

At the same time as the budget estimates and related papers are tabled in the Assembly, a minister in the Council tables the budget papers and moves that the House take note of the papers. Debate is then adjourned to allow members time to read the budget papers. The Chair allows considerable latitude in debate which typically takes several weeks or months to conclude.

Budget estimates

Each year, the House refers the [‘Budget Estimates’](#) and related papers to the Portfolio Committees for public inquiry and report. The Budget Estimates hearings, which ministers attend voluntarily, are held in public and involve detailed questioning on the decisions, actions and advice of ministers and public servants. (Click [here](#) to see examples of previous Budget Estimates hearings.)

There are normally two full rounds of budget estimates each financial year, together with a third optional supplementary round.

PARLIAMENTARY PRIVILEGE

Parliamentary privilege refers to the immunity from the general law, and the powers and rights of parliament and its members necessary for parliament to undertake its constitutional role. The most recognisable immunity is freedom of speech in debate, which is articulated in Article 9 of the *Bill of Rights 1689 (Imperial)*.

A breach of privilege occurs whenever any of the rights or immunities of the House and its members are disregarded or attacked by any individual or authority.

Parliamentary privilege is a complicated area of the law. Members are encouraged to read chapter 3 in [New South Wales Legislative Council Practice](#) or seek advice from the Clerk or the Procedure Office.

Raising matters of privilege

Under the standing orders, a member wishing to raise a matter of privilege in the House can write to the President who will determine whether it should have precedence of other business. Subject to the President’s determination, a notice of a motion to refer the matter to the [Privileges Committee](#) is given precedence of all other business on the day for which notice is given. If agreed to, the Privileges Committee will inquire into and report on the matter. If the President does not give the matter precedence, the member can give a notice of motion regarding the matter in the usual way.

Citizen's right of reply

A consequence of members' freedom of speech is that private citizens who are referred to by members in parliamentary proceedings have no right of legal redress if they take issue with any statements made about them. The citizen's right of reply procedure provides a mechanism for citizens to raise their concerns about such comments in a submission which, subject to the President's approval, is considered by the Privileges Committee (standing orders 208 and 209).

The committee will recommend whether a response by the person who made the submission is incorporated in Hansard.

WHAT ARE THE RULES OF DEBATE AND HOW DO I PARTICIPATE?

Even the most contentious debates in the Council tend to be conducted in a free and civil manner. To ensure this, rules of debate and decorum have been developed to ensure that all members may speak freely and be heard even if in the minority (standing orders 86 to 105).

The Chair exercises discretion to intervene in debate and will normally only intervene if a member's right to speak or be heard is being infringed, if a breach of order has been committed, or if called on to decide a point of order.

To contribute to a debate in the House members must 'seek the call' by standing up and addressing the President with the words 'Mr/Madam President' to indicate that they want to speak. The President typically rotates the call between government, opposition and crossbench members.

Key rules of debate are outlined below:

- **remarks must be made through the Chair** and not to other members or people in the public gallery
- remarks must be **relevant** to the question before the House and not anticipate other items on the Notice Paper
- members may only **speak once** on any question before the House (exceptions apply where the member who moved the motion is speaking in reply, or during debate on amendments to bills in committee of the whole)
- members may **not interrupt** another member speaking except to raise a point of order
- a **point of order** may be made to draw the Chair's attention to what a member believes is a breach of the standing orders or other practice

- members should adhere to the **sub judice convention for matters before the courts** (the principal of comity provides that parliament should not presume to come to a decision on a matter for which the courts are responsible)
- members may make a **personal explanation** to explain, not debate, any matter raised during debate that reflects on them in a personal way, provided there is no objection
- if a member has already spoken on a question they **may only speak a second time to explain a matter on which they have been misquoted or misunderstood**, and not introduce any new matter.

Time limits apply to many items debated in the Council. A list of the time limits from the last session can be found at [Appendix 2](#).

Voting and divisions

Debate on a motion concludes with the President putting the question “That the motion be agreed to” and asking members to verbally indicate “Aye” or “No”. The President then declares the question resolved in favour of the Ayes or Noes. If the President’s declaration is not challenged, the outcome of the vote has been determined “on the voices”.

Members may call for a division if they disagree with the President’s declaration or if they want their vote to be recorded (standing orders 116 to 123).

On the calling of a division the bells are rung for five minutes and members take a position on either the right of the Chair (ayes) or the left of the Chair (noes). The votes are then tallied and the Chair declares the result of the division to the House.

The names of members voting in a division are recorded in the minutes and in Hansard. In the case of an equality of votes, the Chair must give a casting vote. The Chair may give reasons for the casting vote which are recorded in the minutes.

DECORUM, CUSTOMS AND CIVILITY

There are established rules and customs regarding the conduct of members and decorum in the Chamber. Some are contained in standing orders while others are reflected in [rulings of the Chair](#).

Customs of the House include:

- members bow their head to the Chair as a gesture of respect when entering or leaving the Chamber
- members stand when the Usher of the Black Rod announces the President at the start of a sitting day, and remain standing until after the prayers have been read and while the President makes the acknowledgement of country

- it is discourteous for a member to leave the Chamber immediately after finishing a speech as, in the 'cut and thrust' of debate, it is usual for the next speaker to comment on the speech of the preceding member, leading to the tradition for the member who has spoken to remain in the Chamber for a reasonable time
- the expression 'Hear, hear' is permitted as a sign of support, but not the clapping of hands
- the Legislative Assembly is usually referred to as 'the other place' rather than by its name
- members refer to members by their correct title
- costumes, clothing with slogans, badges (of a certain size), signs or props are not permitted as the basis of parliamentary debate is that of oral argument.

The choice of appropriate dress is left to the good judgement of members and their sense of the dignity of the House.

Disorderly and offensive words

The standing orders seek to ensure that members exercise their privilege of free speech with good sense and good taste so as to maintain courtesy of language towards other members in debate. Personal reflections and offensive language are not permitted (standing order 96).

The Chair will intervene where offensive or disorderly words are used. An aggrieved member may also take a point of order and direct the attention of the Chair to the words to which they object. The Chair will then determine whether or not the words complained of are offensive or disorderly and whether they should be withdrawn.

LEGISLATION

A [bill](#) is a draft legislative proposal. A bill can enact a new principal Act or can amend an existing Act. Most bills are introduced by ministers (or parliamentary secretaries) as part of the Government's legislative program. Private members can also introduce bills.

The [Parliamentary Counsel's Office](#) (PCO) is responsible for drafting government bills. PCO also drafts private members' bills, although this service is subject to a time limitation for each non-government member and is only available if resources are not required by the Government.

PCO also drafts explanatory notes, amendments to bills, regulations and other statutory instruments, and notices of motions for introducing bills.

Bills may be initiated either in the Legislative Council (a 'Council bill') or in the Legislative Assembly (an 'Assembly bill'). Most government bills are introduced in the Assembly where there are a greater number of ministers. 'Money bills' must originate in the Assembly according to [section 5 of the Constitution Act 1902](#).

Stages in the passage of a Council bill

There are several steps in the passage of a Council bill which are outlined below.

Notice of motion for leave to introduce the bill

Bills are initiated in the same way as any other motion – notice must first be given (standing order 140). Notices of motions for leave to introduce a bill are drafted by PCO.

Introduction and first reading

At a subsequent sitting, if the motion for leave to bring in the bill is agreed to, the minister or member presents the bill and moves that it be read a first time and published (standing order 142). The bill then becomes available to members and to the public on the [bills webpage](#). At this point the minister or member delivers the second reading speech which outlines the general principles of the bill. Debate is usually adjourned for five calendar days, to provide members time to review the bill and prepare their contribution to the debate.

On a government bill being read a first time and published, the minister must table a statement of public interest (SPI) which addresses the need, objectives, options, analysis, pathway and consultation for the policy change. If an SPI is not tabled after the first reading and publishing, a motion may be moved without notice that the bill not proceed until the SPI is tabled or that the bill be referred to a standing or select committee for inquiry and report (standing order 143).

SPIs, once tabled, are uploaded on the [bill's webpage](#).

Selection of Bills Committee

The Selection of Bills Committee meets every Tuesday sitting day to consider all bills introduced into both Houses of Parliament since its previous meeting, and whether any bill should be referred to a standing committee for inquiry and report. A proforma document for bill referrals is available to committee members. At its meeting, the committee resolves to recommend whether to refer each bill or not.

During formal business on Tuesday, the Chair (Government Whip) tables the committee's report and moves a motion in accordance with the recommendations made by the committee for the House to consider.

Second reading debate

The second reading debate provides members with the opportunity to speak on the bill and discuss its merits or relevant policy issues (standing order 148). Once all contributions have concluded, the minister or member will speak again in reply, responding to concerns raised by other members before the question on the second reading is put. If the House disagrees, the bill is defeated. If the second reading is agreed to, the House can either consider amendments to the bill in committee of the whole, or proceed directly to the third reading.

Committee of the whole

If there are amendments to the bill the House will resolve into committee of the whole to consider the legislation in detail and proposed amendments (standing order 150). Amendments are drafted by PCO and must be provided to the Clerk for circulation to members prior to consideration in committee of the whole. Proposed amendments are also published on the [bill's webpage](#). The Chair of Committees (Deputy President) presides over this stage, inviting members to move and speak to amendments. If any amendments are agreed to, PCO prepares a 'second print' of the bill that reflects the changes made to the bill.

Third reading

Once a bill has passed the second reading and committee of the whole stage, the minister or member will move that the bill be now read a third time (standing order 156). If agreed to, the bill has passed all stages and the bill is sent, by message, to the Assembly for concurrence. Having considered the bill, the Assembly will return it to the Council with or without amendments. A bill and amendments proposed can be transmitted between the Houses a number of times before agreement is reached.

Assent

After a bill has passed both Houses it is forwarded to the Governor for assent. The Governor considers the opinion of the Solicitor General on the constitutionality of the bill, and once satisfied, signs the bill into law.

Stages in the passage of an Assembly bill

Bills initiated in the Legislative Assembly are forwarded to the Council for concurrence. The President reports receipt of the bill to the House and then calls on the minister to move that it be read a first time and published. The minister can proceed immediately with the bill or move that the next stage be set down for a later hour or the next sitting day.

A bill received from the Assembly progresses through the House in the same way as one introduced in the Council, this includes an SPI needing to be tabled after the first reading (standing orders 142 and 143).

The Council has adopted procedures to expedite the progress of a bill received from the Assembly to allow it to proceed through all its stages during any one sitting of the House. The rationale for expediting a bill received from the Assembly is that it has already been made public and members have had an opportunity to consider the bill during its passage through the Assembly.

Cognate bills

Standing order 147 provides for the simultaneous consideration of more than one bill. These bills are usually related and are known as cognate bills. Members can request that the question on the second reading of cognate bills be put separately, allowing them to move amendments to the second reading motion, or to support one bill and oppose another.

Cut-off date for government bills

Under standing order 145, in order to avoid a backlog of bills for consideration at the end of a sitting period, any bill introduced in the Council or received from the Assembly within the last two sitting weeks of the budget and spring sittings, unless declared urgent, is set down for the first sitting day in the next sitting period.

Urgent Council bills

A minister can move that a bill be considered urgent so long as it has already been circulated (standing order 146). The question on urgency is put immediately without debate, and if agreed to, the bill can pass all remaining stages immediately.

APPENDIX 1: 'HOW TO' GUIDES

How do I submit questions on notice?

Questions are a valuable way to obtain information from the Government about matters of public policy and the delivery of services and programs. While question time provides a conduit for getting information from the Government, you can also lodge written 'questions on notice', particularly when seeking detailed information.

When you want to submit a question on notice, please follow these steps.

1. Prepare your question in line with the standing orders – for any assistance please contact the Procedure Office.
2. Questions must be provided to the Clerk by 4.00 pm each day via email to councilqa@parliament.nsw.gov.au.
3. Where necessary the Procedure Office will make minor edits to ensure compliance with the standing orders. Should substantial edits be required, the Procedure Office will contact you to discuss.
4. Review the next [Questions and Answers](#) paper or the [Q&A tracking function](#) on the Parliament's website for your question.
5. 15 business days after your question has been lodged, review the Questions and Answers paper or the Q&A tracking function for the answer.

How do I introduce or amend a law?

While most bills considered by the House are initiated by the Government, members can seek to introduce new laws or amend existing laws through a private members' bill. A private members' bill follows the same stages as a government bill, namely the introduction, second reading, committee of the whole, and the third reading.

To initiate a bill you must do the following.

1. Liaise with [Parliamentary Counsel's Office](#) (PCO) to draft your bill.
2. Attend the Chamber on the day you wish to give notice of your intention to introduce the bill. PCO will provide the notice for you to read out in the House.
3. Confirm with PCO when the bill is ready for presentation. Before introducing the bill, you will need to obtain a certificate of readiness from PCO. When you are satisfied with the Bill, contact the drafter and request the certificate and the tabling copies.
4. Attend the Whip's meeting (or be represented by a party colleague) to negotiate a private members' day on which you can introduce your bill.
5. Bring the tabling copies to the Chamber on the appointed day and wait for the Clerk to read the order of the day.

6. Introduce the bill following the loq (procedural script) provided by the Clerks and give your second reading speech, after which debate will be adjourned for five calendar days.
7. Via the Whip's meeting seek a private members' day on which debate on your bill can be resumed.

Petitioning the House for action!

A petition is a written request for the House to take action on a particular issue.

A petition must:

- be addressed to the President and members of the Legislative Council
- relate to a matter over which the House has jurisdiction
- contain a request for action
- be signed by the petitioners with their names
- additional signatures may be attached, provided the request of the petition is stated on each page.

In addition to paper petitions, members can table electronic petitions (ePetitions).

An ePetition must:

- contain a request expressed in no more than 250 words
- be supported by at least five people before it is open to the public for signatures, with all signatories being residents of New South Wales
- be supported by a member
- be open for signatures for a period of one, three or 12 weeks.

A video about how to create and submit an ePetition to the Legislative Council is found [here](#).

If you are preparing a petition, or advising a community group about one, please ensure that the text and request for action is clear and concise, and check the wording with the Procedure Office if you are unsure.

When you are ready to present a petition to the House please follow these steps.

1. Sign the first page of the petition.
2. Include an accurate count of the signatures.
3. Provide the petition to the Procedure Office leaving sufficient time for a loq to be prepared before the House sits.
4. Attend the Chamber on the day you wish to present the petition and collect the petition from Chamber Support staff.
5. During formalities when petitions are called, seek the call and read out the loq.

Details of your petition will be forwarded to the minister responsible for the relevant portfolio. If the petition has more than 500 signatures, standing order 74 dictates that the minister must provide a response within 35 calendar days. Once received, the Procedure Office will provide you with a copy of the Government's response, and the Clerk will table it in the House and publish it on Parliament's website.

A petition template can be found [here](#).

Raising topical matters of public importance

Matters of public importance are debated by the House without any question being put to a vote, and without the moving of a motion that the House is of a particular opinion or will take a particular action.

The process for initiating a matter of public importance debate is as follows.

1. Request that the Procedure Office draft a notice of motion for the matter of public importance by emailing: LC.Procedure@parliament.nsw.gov.au.
2. Attend the Chamber on the day you wish to give the notice of motion, collect the notice from the Clerks and give the notice at the appropriate time.
3. Make sure you are in the House on the following sitting day as matters of public importance will take precedence of other business.
4. Move the motion and speak in support of it, for not more than 10 minutes. One speaker from the Government will respond.
5. The House will then decide whether the matter of public importance should be debated forthwith. If the matter proceeds debate will commence – subject to a total time limit of one hour and 30 minutes.
6. As there is no question before the House, at the conclusion of the debate the matter lapses and the House proceeds to the next item on the Notice Paper.
7. Only one matter of public importance may be dealt with on any sitting day.
8. Matters of public importance are only debated on government business days.

Moving an urgency motion

An urgency motion is a mechanism for a member to initiate debate on an urgent matter without prior notice. At the conclusion of debate the motion will lapse, with no question being put to the House.

To initiate an urgency motion you will need to take the following steps.

1. Request that the Procedure Office check the wording of the urgent matter to ensure it complies with standing orders and practice.

2. Provide a short written statement detailing the urgent matter to the President prior to the commencement of the sitting.
3. Make sure you are in the Chamber on the sitting day as your urgency motion will be called on at the conclusion of formal business.
4. The President will announce that the motion has been received, and will put the question on urgency. You will be called on to make a statement, up to 10 minutes, in support of your motion, and a minister will respond.
5. The House will then decide whether the matter is urgent and will be debated forthwith. If the matter proceeds debate will commence.
6. At the conclusion of the debate the matter lapses and the House proceeds to the next item on the Notice Paper.
7. Only one urgency motion may be dealt with on any sitting day.

So you want the House to disallow a regulation?

An important role for members is to scrutinise legislation. This is not just the bills that come before the House but also delegated legislation. This is legislation made not directly by an act of the Parliament but rather by the Executive Government (to which the Parliament has delegated powers to make certain regulations and rules). Certain statutory rules are subject to the disallowance by either House of Parliament.

Written notice of the making of a statutory rule must be tabled within 14 sitting days after it is published in the [Government Gazette](#) or on the [NSW Legislation website](#).

A [Disallowable Instruments](#) paper is published on Tuesdays during sitting weeks and on the first Tuesday of every month when the House is not sitting. It lists most statutory rules or instruments that can be disallowed, the date tabled and the last sitting day before notice of disallowance must be given.

Members may give notice of a motion to disallow a statutory rule either before the written notice is tabled or within 15 sitting days after it is tabled.

If you would like the House to disallow a regulation or rule you will need to take the following steps.

1. Refer to the [Government Gazette](#), a weekly publication, to see what regulation and rules have been made.
2. Refer to the [Disallowable Instruments paper](#) to see the last day for giving notice of disallowance.
3. Request that the Procedure Office draft a disallowance notice of motion by emailing: LC.Procedure@parliament.nsw.gov.au.

4. Make sure that you give the disallowance notice of motion within 15 sitting days after the regulation has been tabled.
5. Attend the Chamber on the day you wish to give the disallowance notice of motion (all notices may be collected from the Clerks before the House commences sitting), and give the notice at the appropriate time.
6. The day after a disallowance notice of motion is given it is accorded precedence over other business and becomes 'Business of the House'. You need to:
 - be present in the House to move the disallowance motion when it comes on for debate – as the mover, you will be speaking at the commencement of the debate and again in reply to members' contributions, or
 - alternatively, you can postpone the item by advising the Procedure Office of the date to which you would like to postpone. A loq will be prepared and provided to you, or at your request, the Clerk will announce the postponement to the House.
7. Note that after six sitting days, if has not otherwise been moved, your disallowance motion will no longer take precedence as Business of the House and will be treated as private members' business.

APPENDIX 2: TIME LIMITS FOR COMMON DEBATES

Adjournment	Debate 30 minutes Speakers 5 minutes
Committee report and government responses	Chair/Mover 15 minutes Speakers 10 minutes Chair/Mover in reply 10 minutes
Government bills	<i>Second and third reading</i> No debate time limit Minister/Lead Opposition/first crossbench 40 minutes Speakers 20 minutes Minister in reply 20 minutes <i>Committee of the Whole</i> All other speakers 15 minutes
Private members' bill	<i>Leave to bring in bill</i> Debate 60 minutes Speakers 10 minutes Debate interrupted 10 minutes before end of debate time Mover 10 minutes in reply <i>Second and third readings</i> No debate time limit Mover 30 minutes Speakers 20 minutes Mover 20 minutes in reply
Private members' motions	Debate 30 minutes Mover 5 minutes Speakers 3 minutes Debate interrupted after 30 minutes Mover 3 minutes in reply
Private members' long form motions	Debate 120 minutes Mover 20 minutes Speakers 15 minutes Debate interrupted after 120 minutes Mover 5 minutes in reply

Disallowance	Debate 90 minutes Mover/Minister 15 minutes Speakers 10 minutes Debate interrupted after 90 minutes Mover 10 minutes in reply
Matter of public importance	<i>Question of urgency</i> Mover/Minister 10 minutes <i>Debate</i> Debate 90 minutes Mover/Minister/Lead Opposition* 15 minutes Speakers 10 minutes Debate interrupted after 90 minutes Mover 10 minutes in reply <i>*Only when motion moved by a Government member</i>
Urgency motion	<i>Question of urgency</i> Mover/Minister 10 minutes <i>Debate</i> No debate time limit Mover/Minister/Lead Opposition* 15 minutes Speakers 10 minutes Mover in reply 10 minutes <i>*Only when motion moved by a Government member</i>
Ministerial statement	Minister – no time limit Opposition – equal time to respond
Members' statements	Debate 30 minutes Speakers 3 minutes
Suspension of standing orders	Debate 30 minutes Speakers 5 minutes Mover/Minister only: 5 minutes
Question time	Question 1 minute Answer 3 minutes Answer to supplementary 2 minutes
Take note of answers to questions	Debate 30 minutes Speakers 3 minutes

APPENDIX 3: ADVICE ABOUT THE COMMENCEMENT OF A NEW PARLIAMENT

After a general election an opening of Parliament is held. It is an event that formally marks the beginning of a new session of Parliament. Openings are held in the Council Chamber.

There are two types of openings. The first is an official opening where the Governor addresses both Houses of Parliament and outlines the Government's legislative program. The second is a Commission opening where the Governor appoints commissioners, usually senior ministers, to open the Parliament on the Governor's behalf. The openings of the 56th and 57th Parliaments combined elements of both types of openings.

An outline of proceedings is detailed below.

- A **proclamation** from the Governor convening Parliament to meet is read to the House by the Clerk.
- The **Commissioners** direct the Usher of the Black Rod to request the attendance of Assembly members to the Council Chamber to hear the reading of the Commission opening Parliament. Assembly members withdraw after the commission is read.
- The 21 newly elected Council members take the **pledge of loyalty or oath of allegiance** and sign the roll of the House.
- The **President and Deputy President are elected** in accordance with [section 22G of the Constitution Act 1902](#).
- The respective party leaders **announce leadership positions**, cabinet and ministerial representation in the Council and parliamentary secretary positions.
- The House adjourns and the **President and all members are presented to the Governor**.
- Members attend a **reception in the Governor's honour** in the Strangers' Dining Room.
- Council members and official guests assemble in the Chamber. The Governor then directs the Usher of the Black Rod to summon Assembly members to the Council to hear the **Governor's speech on the opening of Parliament**. The speech outlines the Government's broad legislative and policy program for the coming session. The opening concludes.
- The House **usually adjourns without a question time or adjournment debate** on the first sitting day.

Address in-reply debate

Following the opening speech of the Governor, the House adopts a motion for an address-in-reply. Debate on the motion is traditionally wide-ranging and may extend over many sitting days. Once debate has concluded the President, members and Council Officers formally present the reply to the Governor at Government House.

First speeches

Most members make their first speech within a few weeks of entering Parliament. It is a time-honoured custom that members making their first speech are heard in silence without interjection or interruption. Members are also granted wider-than-usual latitude in debate. Members, however, should not strain the tradition by being unduly provocative.

The Chamber is typically well-attended during a first speech with a member's family, friends and supporters present. It is practice for members to make their first speech from the opposite side of the Chamber to the side where they would normally sit, so that they are facing their political colleagues.

APPENDIX 4: STATUTES AFFECTING THE ROLE AND FUNCTIONS OF THE LEGISLATIVE COUNCIL

- Constitution Act 1902
- Parliamentary Evidence Act 1901
- Parliamentary Electorates and Elections Act 1912
- Imperial Acts Application Act 1969
- Parliamentary Papers (Supplementary Provisions Act) 1975
- Election Funding, Expenditure and Disclosures Act 1981
- Government Sector Finance Act 2018
- Government Sector Employment Act 2013
- Interpretation Act 1987
- Legislation Review Act 1987
- Independent Commission Against Corruption Act 1988
- Parliamentary Remuneration Act 1989
- Subordinate Legislation Act 1989
- Public Interest Disclosures Act 1994
- Parliamentary Precincts Act 1997
- Defamation Act 2005
- Local Government Amendment (Members of Parliament) Act 2012
- Members of Parliament Staff Act 2013.

The above legislation and all New South Wales acts, regulations, planning instruments and other statutory instruments are published online at www.legislation.nsw.gov.au. This site is maintained by the Parliamentary Counsel's Office.



LEGISLATIVE COUNCIL

Parliament of New South Wales
Macquarie Street
SYDNEY NSW 2000
www.parliament.nsw.gov.au
Ph (02) 9230 2111