

Procedure Committee

**Young children
accompanying members
into the House**

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Terms of reference

1. That the Procedure Committee inquire into and report on:
 - (a) whether standing order 196(3) should be varied to allow a member with a child under the age of four years to bring that child into any part of the House reserved for members while the House is sitting, and
 - (b) alternative mechanisms to the existing processes under Chapter 19 of the standing orders for recording the votes of members in divisions.
2. That the committee report by the last sitting day in June 2016.¹

¹ *LC Minutes*, 23 February 2016, p 644.

Committee membership

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President of the Legislative Council

The Hon Trevor Khan MLC (NAT)
Deputy President

The Hon Revd Fred Nile MLC (CDP)
Assistant President

The Hon Duncan Gay MLC (LIB)
Leader of the Government

The Hon John Ajaka MLC (LIB)
Deputy Leader of the Government

The Hon Adam Searle MLC (ALP)
Leader of the Opposition

The Hon Natasha Maclaren-Jones MLC (LIB)
Government Whip

The Hon Robert Borsak MLC (SFF)

Dr Mehreen Faruqi MLC (G)

The Hon Courtney Houssos MLC² (ALP)

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The Hon Penny Sharpe MLC⁴ (ALP)

² Mrs Houssos substituted for Mr Secord for the duration of the inquiry

³ Mrs Mitchell substituted for Mr Franklin for the duration of the inquiry

⁴ Ms Sharpe substituted for Mr Moselmane for the duration of the inquiry

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Chair's foreword

In accordance with Westminster-principles, the floor of the chamber of the New South Wales Legislative Council is reserved for members and officers attending upon the House. This principle is codified in standing order 196(3) which states that no person other than a member, a Clerk-at-the-Table or an officer attending on the House may enter any part of the chamber reserved for members, while the House is sitting, apart from visiting dignitaries on special occasions. There is only one other exception to this general prohibition – standing order 196(3) does not apply to a member breastfeeding an infant.

On 23 February 2016, I referred to the Procedure Committee an inquiry into young children accompanying members into the House. The purpose of the reference was to examine whether there was a need and, if so, any means by which the current exemption from the prohibition of visitors on the floor of the chamber could be broadened, so as to ensure that members who happen to have responsibility for the care of young children are not unduly prevented from fully participating in the business of the House.

This report provides an analysis of the current practice in the Legislative Council and that operating in other jurisdictions, a number of which have also recently examined the feasibility of allowing young children to accompany members onto the floor of their respective Houses. At the time of publication of this report, only one House of Parliament – the Australian House of Representatives – has amended its standing orders to formally provide for young children to accompany members onto the floor of its chamber, although the Australian Senate is set to consider amending its standing orders in November this year.

The Procedure Committee is delegated the function of reviewing the practices and procedures of the House. The membership is reflective of the party representation in the House and includes the various office holders who together manage the business of the House, and recognises that the House places great weight on the committee's deliberations and recommendations. For this reason, the Procedure Committee has historically made recommendations only on a consensus view.

The inquiry highlighted a number of potential options for change to the current standing orders, a few of which attracted support from some but not all members of the committee. Ultimately, the committee agreed upon a recommendation to the House to adopt a sessional order that would provide the President with the discretion to have the vote of a member caring for a child and seated in the President's gallery counted in a division.

The inquiry found that it was the unpredictability of divisions in particular which was most likely to cause problems for members who happened to be caring for a child while the House is sitting. The Committee believes that a new sessional order should be trialled for the remainder of the current Parliament, and that its practical operation and effectiveness be reviewed.

I thank all members of the Committee for their contribution to the inquiry and their preparedness to reach a consensus position on this matter, as well as the staff of the committee secretariat for their support.

The Hon Don Harwin MLC
President

Summary of recommendations

Recommendation 1

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That for the remainder of the current session and any further session in the 56th Parliament, standing order 113 be varied by inserting after paragraph (3):

(4) Paragraph (3) does not apply, at the discretion of the President, to a member caring for a child and seated in the President's gallery when the question is put with the doors locked.

Chapter 1 Introduction

Establishment of the inquiry

- 1.1 The terms of reference for the inquiry were referred to the committee by the President on 23 February 2016. The terms of reference for the inquiry are reproduced on page iv of this report.

Conduct of the inquiry

- 1.2 The Chair, on behalf of the committee, invited all members of the Legislative Council and other relevant parties to make a submission to the inquiry.
- 1.3 Sixteen submissions were received. The full list of submissions is reproduced at Appendix 2.
- 1.4 A discussion paper was prepared by the secretariat for consideration of the committee during its deliberations.

Structure of this report

- 1.5 Chapter Two provides background to the requirements for admission to the House and the procedure for voting in divisions.
- 1.6 Chapter Three summarises the experience and practices of a number of other parliamentary jurisdictions regarding the admission of young children onto the floor of their chambers and the conduct and recording of divisions.
- 1.7 Chapter Four outlines the views expressed by members of the Legislative Council in submissions made to the inquiry.
- 1.8 Chapter Five provides an analysis of the options available to the House that were considered by the committee, and the committee's conclusion.

Chapter 2 Background

- 2.1 In keeping with Westminster principles and as codified in the standing orders, the floor of the chamber of the Legislative Council is reserved for members and officers attending upon the House.⁵
- 2.2 On the early evening of 26 August 2015, a division was called during consideration in committee-of-the-whole of the Rural Fires Amendment (Bush Fire Prevention) Bill 2015. At the time the division was called, the Honourable Courtney Houssos MLC was holding her 19-month-old daughter, while the arranged carer was absent in another part of the building.⁶
- 2.3 On attending the chamber, the standing orders prevented Mrs Houssos from entering the floor of the chamber with her child. While the Opposition and Government Whips did seek to arrange a pair at short notice, this was ultimately unnecessary as Mrs Houssos was able to arrange another carer to sit with her daughter in the President's gallery and was thus able to take part in the division.
- 2.4 Later that evening, the Opposition Whip, the Honourable Shaoquett Moselmane MLC, wrote to the President of the Legislative Council requesting that consideration be given to the possibility of the House, by way of resolution, authorising the entry of children of MLCs under the age of four onto the floor of the chamber.⁷
- 2.5 In that correspondence, Mr Moselmane, on behalf of Mrs Houssos, expressed the view that the provision of a pair would not adequately resolve the issue faced by members caring for a young child. Mr Moselmane noted that in Mrs Houssos' case, there 'are often particular pieces of legislation where she wants her name recorded voting "for" or "against".'⁸
- 2.6 As noted in paragraph 1.1, the committee subsequently received this reference from the President to examine whether standing order 196(3) should be varied to allow a member with a child under the age of four years to bring that child into any part of the House reserved for members.⁹ The committee was also directed to examine the current processes under the standing orders for recording the votes of members in divisions to determine whether there are alternative mechanisms whereby members can have their vote recorded notwithstanding their inability to be present on the floor of the chamber for a vote.

Standing orders governing the conduct and admission of visitors

- 2.7 Standing order 196(3), which the committee was asked to consider, falls within Chapter 31 of the standing orders which govern the conduct and admission of visitors. The application of these standing orders are summarised below.
- 2.8 Standing order 195 provides that distinguished visitors may be admitted to a seat on the floor of the House, by motion without notice.

⁵ With the exception of an infant being breastfed by a member.

⁶ Submission 2, Honourable Courtney Houssos MLC, p 1.

⁷ Correspondence from Honourable Shaoquett Moselmane MLC, Opposition Whip, NSW Legislative Council to the Honourable Don Harwin, President, NSW Legislative Council, 26 August 2016.

⁸ Correspondence from Honourable Shaoquett Moselmane MLC, Opposition Whip, 26 August 2016.

⁹ LC Minutes 23/2/2016, p644

- 2.9** Visitors may attend in the galleries during a sitting of the Legislative Council, unless otherwise ordered by the House (SO 196(1)).
- 2.10** The President only may admit visitors to the seating in the gallery on either side of the President's Chair (SO 196(2)). It is not uncommon for distinguished visitors to be seated in the President's gallery and members' attention drawn to their presence. Government and Opposition advisers are regularly permitted to sit in the President's gallery, most commonly during Question Time.
- 2.11** Standing order 196(3) provides that no person other than a member, a Clerk-at-the-Table or an officer attending on the House may enter any part of the chamber reserved for members while the House is sitting. The only exception to this general prohibition is provided by standing order 196(4) which authorises the presence of a breastfeeding infant. This modification to the traditional concept of a 'visitor' was made in common with a number of other parliaments following an incident in 2003 in the Victorian Legislative Assembly.
- 2.12** The Usher of the Black Rod, subject to any direction by the President, is responsible for removing any person who enters the floor of the chamber or causes a disturbance in or near the chamber (SO 196(5)). Standing order 197 also directs the Usher, on the order of the Chair, to remove any person, not being a member, who interrupts the business of the House, obstructs the approaches to the House or creates a disturbance within the precincts of the House.

Standing orders governing the recording of the votes of members in divisions

- 2.13** Chapter 19 of the standing orders govern the procedures for the conduct and recording of divisions. The committee was required to examine whether there are any alternative mechanisms to the existing processes for recording the votes of members in divisions that would accommodate members who are unable to enter the floor of the chamber but wish to have their vote recorded.
- 2.14** Commentary on the most pertinent standing orders within Chapter 19 is provided below.
- 2.15** Standing order 114(3) provides that once the division bells cease ringing, the Chair will direct the doors to the floor of the chamber to be locked. A member must not then enter or leave the chamber until after the division is concluded.
- 2.16** A member is not entitled to vote in a division unless the member is present in the chamber when the question is put with the doors locked (SO 113(3)). In the past, while not specifically stated in the standing orders, a member sitting in the gallery has not been taken to be present for the purposes of a division.¹⁰
- 2.17** When the doors are locked and members are in their places, the Chair restates the question, directs members voting aye to the right of the Chair and members voting no to the left of the chair, and appoints two tellers for each side (SO 114(5)).

¹⁰ Ruling: President Fazio, *Hansard*, NSW Legislative Council, 23 November 2010, p 2784.

- 2.18** Every member present when a question is being decided by division must remain and vote (SO 114(6)) and after they have taken their seats on the side of the chamber on which they intend to vote, members may not move from those seats once tellers have been appointed and until the result of the division has been declared. (SO 114(7)).
- 2.19** Standing Order 115(4) requires the Clerk to have the results of divisions in the House, which includes the name of each member voting with the ayes and the noes, recorded in the Minutes of Proceedings.
- 2.20** While the arrangement of pairs is a matter for the Whips of the major parties, standing order 115(5) requires that members paired during a division will be recorded by the tellers and printed in the Minutes of Proceedings and Hansard.

Chapter 3 **The experience in other parliamentary jurisdictions**

The issue of reflecting a modern, progressive society by encouraging a more representative parliament through a family friendly workplace that does not discriminate against mothers and parents with responsibility for the care of young children is one also faced by other parliaments. This chapter reviews what, if any, reforms parliaments from around Australia and selected Westminster-style parliaments have introduced to assist members caring for young children.

3.1 The Chair, on behalf of the committee, wrote to all Australian parliaments and a selection of other Westminster style overseas parliaments inviting them to make a submission to the inquiry. Submissions were received in order from the following parliaments:

- Tasmania House of Assembly
- National Assembly for Wales
- Legislative Assembly for the Australian Capital Territory
- Australian Senate
- New South Wales Legislative Assembly
- Legislative Assembly of the Northern Territory
- The Scottish Parliament
- Queensland Legislative Assembly
- Legislative Council of Victoria
- New Zealand House of Representatives
- Legislative Council of Western Australia
- Australian House of Representatives.

3.2 This chapter also draws on material from responses provided to two recent queries made through a forum of the Australian and New Zealand Association of Clerks-at-the-Table (ANZACATT). In August 2015, the New South Wales Legislative Council posted a query on the forum regarding exceptions to the prohibition of strangers on the floor of the House. In January 2016 the Legislative Assembly for the Australian Capital Territory inquired whether other jurisdictions had proxy voting arrangements in order to assist members who are nursing an infant.

3.3 The following sections draw upon the information contained in the submissions to the inquiry and provided in response to the ANZACATT queries.

Australian Senate

3.4 Standing order 175(3) of the Australian Senate allows members to breastfeed an infant in the chamber.

3.5 In 2009, the Senate's Procedure Committee considered an extension of the exemption provided to breastfeeding mothers to include '...at the discretion of the President, a senator caring for an infant briefly, provided the business of the Senate is not disrupted.' The proposed change was not supported, with a majority of the committee considering that such a change 'would create an undesirable inroad on the principle that the floor of the Senate is reserved for senators and officers in immediate attendance on the Senate, and would create uncertainty as to the scope of the proposed exemption.'¹¹

3.6 The submission from the President of the Senate advised that the Senate Procedure Committee was set to re-examine the broadening of the breastfeeding exemption to include 'a senator caring for an infant' and to examine whether proxy voting arrangements should be implemented to accommodate senators nursing infants at the time of a division. However, in his submission, the President of the Senate observed that the Constitution is likely to prevent the adoption of proxy voting arrangements:

It is reasonably certain that the requirement in section 23 of the Constitution that "each senator shall have one vote" rules out the possibility of proxy voting in the Senate.¹²

3.7 In its October 2016 report the Senate Procedure Committee advised that it came to the view that the proposed amendment considered in 2009 but not supported at that time contained the necessary qualifications to provide a degree of flexibility while recognising the essential character of the Senate as a forum for national debate and legislative deliberation. The Committee recommended that paragraph (3) of Senate standing order 175 be amended in the following terms with immediate effect:

Paragraph (2) does not apply in respect of a senator breastfeeding an infant or, at the discretion of the President, a senator caring for an infant briefly, provided the business of the Senate is not disrupted.¹³

Australian House of Representatives

3.8 In 2007, the House of Representatives Standing Committee on Procedure, in acknowledgement of the increasing numbers of women members and the challenges they faced in caring for young children at the same time as undertaking their parliamentary duties, recommended that the House adopt a resolution of continuing effect that allowed nursing mothers to vote in divisions by proxy.¹⁴

3.9 The House of Representatives subsequently adopted this resolution in February 2008. Reportedly, there has been significant use made of the provision since that time without any negative feedback.¹⁵

¹¹ Senate Procedure Committee, 3rd Report of 2009, August 2009, p4.

¹² Submission 6, Australian Senate, p2.

¹³ Senate Procedure Committee, 1st Report of 2016, October 2016, p2.

¹⁴ With the exception of a division on the third reading of a bill which proposes an alteration to the Constitution.

¹⁵ Submission 15, House of Representatives, p1.

- 3.10** In November 2015, the Standing Committee on Procedure published its report entitled ‘Provisions for a more family friendly Chamber’. The committee’s report noted that there had been occasions where men and women members had needed to bring their children into the chamber, and, while technically a breach of the standing orders, these events had been treated with pragmatism and goodwill.¹⁶
- 3.11** However, the report also noted that there had been occasions in the House and other parliaments where the presence of a member’s child on the floor of the House was challenged. The report further noted that the current standing order prohibiting visitors on the floor of the House creates uncertainty for a member having no option but to bring their baby into the chamber, and potentially places the Speaker in a difficult position when a member does so, particularly if another member subsequently raises an objection.
- 3.12** In its report, the Standing Committee on Procedure recommended the continuing use of the proxy voting provision for nursing mothers. The report also recommended that the standing orders be amended to enable members to bring small children into the chamber.¹⁷
- 3.13** The standing order was so amended in March 2016 to provide that ‘A visitor does not include an infant being cared for by a Member’.¹⁸
- 3.14** The submission from the House of Representatives explained that the standing order is not age-specific in terms of the infant, or gender-specific in terms of the member, nor does it require that the member be feeding the infant or that the admission be confined to the conduct of divisions.¹⁹

Legislative Council of Victoria

- 3.15** The standing orders of the Legislative Council of Victoria provide that a stranger can only be admitted to the floor of the chamber either by the leave of the Council or by the President.
- 3.16** The President of the Legislative Council of Victoria advised that the House has not dealt with an issue of a member wishing to be on the floor of the chamber with a young child, nor has the more general matter of accompanying persons come before its Procedure Committee.²⁰

Legislative Council of Western Australia

- 3.17** The Legislative Council of Western Australia advised that it had been following with interest recent developments in other jurisdictions, most notably the recent amendment to the House of Representatives standing order 257.²¹

¹⁶ House of Representatives Standing Committee on Procedure, *Provisions for a more family friendly Chamber*, November 2015, p4.

¹⁷ Standing Order 257 – Admission of Senators and visitors.

¹⁸ House of Representatives Standing Committee on Procedure, *Provisions for a more family friendly Chamber*, November 2015, p6.

¹⁹ Submission 15, p2.

²⁰ Submission 11, Legislative Council of Victoria, p1.

²¹ Submission 14, Legislative Council of Western Australia, p1.

- 3.18** While no instance of members requiring or requesting that they be allowed to bring an infant in their care onto the floor of the chamber has arisen to date, the Council's Procedure and Privileges Committee is reviewing the relevant standing orders in anticipation of this issue being raised at some time in the future.
- 3.19** Under the Council's standing order 97, only the President may admit strangers onto the floor of the Council, and when a division is called or as otherwise ordered by the President, strangers shall withdraw.
- 3.20** The President advised that, in his view, specific allowances for members to bring infants or children into a chamber were undesirable:
- In my view, the adoption of Standing Orders that expressly widen the scope for the admittance of strangers into the House has the potential to lead to interruptions to the business and proceedings of the House, and erode the exclusive right to enter the House that is preserved for the duly elected Members.²²
- 3.21** A more desirable approach, in the view of the President, is clarification of the presiding officer's authority in relation to the admittance of strangers:
- To my mind, this is a more desirable outcome than the adoption of a specific Standing Order to prescribe for these circumstances and grant a Member an entitlement to bring a stranger into the Chamber as of right and as a consequence erode the discretion of the member presiding. The presiding officers can then make an assessment of circumstances at the time.²³
- 3.22** The Legislative Council of Western Australia has not to date had reason to consider the need for proxy voting. However, the President advised that it appeared that proxy voting arrangements would be contrary to section 14 of the *Constitution Acts Amendment Act 1899* (WA) which provides that "all questions which arise in the Legislative Council shall be decided by a majority of votes of the members present."²⁴

Legislative Council of South Australia

- 3.23** Standing order 445 of the Legislative Council of South Australia provides that the President alone shall have the privilege of admitting strangers, not being members of the House of Assembly or the Commonwealth parliament, to the body of the Council Chamber, either within or without the Bar, while the House is sitting.

New South Wales Legislative Assembly

- 3.24** Standing Order 261 of the Legislative Assembly prohibits a member from bringing a visitor into any part of the building exclusively set aside for the use of members. This has been technically breached on occasions, but, as the Speaker outlined, has not disrupted the business of the House:

²² Submission 14, p2.

²³ Submission 14, p2.

²⁴ Submission 14, pp2-3.

...there have been a number of occasions when Members of the Legislative Assembly have brought their babies/toddlers into the Chamber. No point of order was taken, as these occurrences were one-off, and usually in the course of a division, or a valedictory speech. Members exhibited good judgment in ensuring that the infant or child did not disturb proceedings, and with the exception of one member, no special attention was drawn to the child's presence either by other members or the media.²⁵

- 3.25** The Speaker further noted the desirability of members organising child care for infants on sitting days, as the chamber and quality child care are not mutually compatible:

As Speaker, I have enjoyed welcoming babies and their parents, but most parents have to give consideration to long-term care arrangements for infants on sitting days, as common sense dictates that the Chamber, similar to a court of law, is not an area conducive to quality child care.²⁶

Legislative Assembly of Queensland

- 3.26** Standing orders 284-286 of the Legislative Assembly of Queensland provide that no member shall bring a stranger onto the floor of the chamber when the House is sitting, and that if any member takes notice that a stranger is on the floor of the chamber, the Speaker shall immediately order their withdrawal.
- 3.27** Section 19 of the *Parliament of Queensland Act* allows a member to name a proxy if he or she is in a state of ill health. This provision was used extensively after its initial introduction in 1922 but since that time has only been used twice in the mid-1980s.
- 3.28** The submission from the Speaker of the Legislative Assembly noted that despite there being, over recent times, a number of members who either were nursing mothers or had care of small children, there had been no requests for permission to bring their children onto the floor of the House. As such, there had been no catalyst for consideration of a change to the House's Standing Orders to allow members to bring a child onto the floor of the chamber or to have their vote recorded when the care of a child prevents the member from attending the chamber during a division.²⁷
- 3.29** The Speaker did note that the Queensland Parliament has onsite accommodation for Ministers and regional members. Members with very small children have been given access to accommodation even though they would normally not be eligible for that accommodation.
- 3.30** Further to this, rooms closer to the chamber have been made available for members with small children or nursing mothers.

Tasmanian House of Assembly

- 3.31** The Tasmanian House of Assembly has no exemption to the general prohibition on strangers being admitted to the floor of the House nor does it allow voting by proxy. The Speaker alone has the privilege of admitting strangers to the body of the House.

²⁵ Submission 7, New South Wales Legislative Assembly, p1.

²⁶ Submission 7, p1.

²⁷ Submission 10, Legislative Assembly of Queensland, p1.

- 3.32** Like a number of other parliaments, the Assembly has not had to deal with a member seeking to bring an infant or young child into its chamber. In her submission, the Speaker advised that she would not, without the direction of the House, interpret the current standing order that provides her with the privilege of admitting strangers in such a way as to enable her to admit young people onto the floor of the House.²⁸

Legislative Assembly of the Australian Capital Territory

- 3.33** Standing order 210 of the Legislative Assembly of the ACT provides that while the Assembly is sitting, no stranger, other than a nursing infant being breastfed may be present in any part of the chamber allocated to Members of the Assembly.²⁹ While this breastfeeding provision has been in place since 2003, it was not used until 2015.
- 3.34** In April 2015, the Standing Committee on Administration and Procedure tabled its report entitled ‘Family Friendly Workplace’, which, *inter alia*, considered options and flexibility for breastfeeding women. The inquiry was prompted by a request from a member who argued that the current exemption for nursing mothers was ‘less than ideal’, and who supported breastfeeding women having the option to vote either by proxy or in the chamber accompanied by their baby.³⁰ The report recommended that the Whips of the parties represented in the Assembly develop a set of protocols/guidelines for the operation of pairs to encourage and support members who are nursing mothers or who have carer responsibilities.³¹
- 3.35** The report also found that the introduction of proxy voting is precluded by section 18(2) of the *Australian Capital Territory (Self-Government) Act 1988* which provides that questions will be decided ‘by a majority of the votes of the members present and voting’.³²

Legislative Assembly of the Northern Territory

- 3.36** The standing orders of the Legislative Assembly of the Northern Territory do not include a breastfeeding provision. The inclusion of such a provision was considered by its Standing Orders Committee in 2003, but that Committee found that it was not required:

The Committee was of the opinion that, as the relevant Northern Territory Legislative Assembly Standing Order is similar in wording to the Victorian Legislative Assembly Standing Order it was available for the Speaker at any time to rule that if a Member was required to be in the chamber it was in order for the Member, if necessary, to bring an infant into the chamber to be breastfed.³³

²⁸ Submission 3, Tasmanian House of Assembly, p1.

²⁹ The Standing Orders also allow an accredited Auslan interpreter to be on the floor of the House while the Assembly is sitting.

³⁰ Legislative Assembly of the Australian Capital Territory Standing Committee on Administration and Procedure, Report No. 8 *Family Friendly Workplace*, April 2016, p6.

³¹ *Family Friendly Workplace*, p9.

³² *Family Friendly Workplace* p10.

³³ Legislative Assembly of the Northern Territory, 12th Assembly Standing Orders Committee, *Final Report on Proposed Reform of the Standing Orders to Permit Proxy Voting or Breastfeeding in the Chamber*, April 2016.

- 3.37** In 2015 the Assembly's Standing Orders Committee received a reference to give consideration to proxy voting for breastfeeding mothers in order to allow voting in a division while otherwise engaged in duties as a new mother.
- 3.38** The report of the committee, which was tabled in April 2016, recommended the adoption of two new standing orders. The first new standing order provides for proxy voting for members who are nursing an infant, with a member being required to pre-register and to provide a hard copy form to the Clerk at the Table. The second explicitly provides the Speaker the authority to exercise discretion in the case of nursing parents with young infants on the floor of the chamber:

Except with the permission of the Speaker, who may exercise discretion in the case of nursing parents with young infants, only Members are permitted on the floor of the Chamber during meetings of the Assembly...³⁴

Victorian Legislative Assembly

- 3.39** Similar to its upper house counterpart, the standing orders of the Victorian Legislative Assembly provide the presiding officer with the privilege of admitting a stranger onto the floor of the chamber.
- 3.40** The Assembly also provides an exemption from the general prohibition on strangers on the floor of the House to a member breastfeeding an infant. It was a well-publicised incident in that House in 2003 which led to the adoption of a breastfeeding exemption by it and in a number of other jurisdictions.
- 3.41** In 2009, the Assembly's Standing Orders Committee recommended that members with childcare responsibilities be allowed to sit in the lower public galleries with their children during divisions and have their vote counted. However, the recommendation was not adopted by the House.

South Australia House of Assembly

- 3.42** Standing order 71 of the South Australia House of Assembly provides that no member may bring any stranger into any part of the House appropriated to the members of the House while the House is sitting. There is no provision within the standing orders to provide for breastfeeding children or infants being admitted to the floor of the chamber.
- 3.43** However, standing order 174 of the Assembly provides that in order to vote in a division, a member must be present in the House or its galleries when the question is put. Members with small children and nursing infants have on occasions cast their votes in divisions while seated in the galleries.

³⁴ *Final Report on Proposed Reform of the Standing Orders to Permit Proxy Voting or Breastfeeding in the Chamber*, April 2016, p7.

Western Australia Legislative Assembly

- 3.44** Standing order 40 of the Western Australia Legislative Assembly provides that ‘only the Speaker may admit strangers onto the floor of the Chamber’.
- 3.45** The Assembly does not have any provisions for proxy voting in the House. However, there is capacity to set up legislation committees which run parallel to the House in which proxy voting is possible.

New Zealand Parliament

- 3.46** The standing orders of the New Zealand Parliament do not provide any exceptions to the prohibition on strangers on the floor of the chamber.
- 3.47** Unlike in Australia, in the New Zealand Parliament divisions are rare and well notified in advance. Most votes in the House follow the party vote procedure which allows a party leader or whip to cast the party’s votes orally in the chamber. Party votes are cast en bloc and include the votes of all members who are present anywhere in the parliamentary precinct along with proxy votes for members who are absent from the precinct. Each party’s proxy votes are limited to 25 per cent of the party’s membership.
- 3.48** During a sitting in 2013, a member was required to be present on the parliamentary precinct so that her party could cast its full party vote, as the party’s proxy allocation had already been exhausted. During the sitting, the member brought her five-month old infant into the chamber. No objection was raised, and the member left the chamber with her infant when the infant began to cry.³⁵
- 3.49** This incident led to an amendment to the standing orders whereby members who are absent from the parliamentary precincts due to a family cause, which includes care for an infant or child, do not have their proxy vote included in their party’s 25 per cent proxy vote limit.³⁶

National Assembly for Wales

- 3.50** The standing orders of the National Assembly for Wales do not specifically include any prohibition on non-members attending plenary sessions. However, as specific provision is made for the attendance by the Secretary of State for Wales and the Counsel General, it is held that by implication, all other persons are excluded.³⁷
- 3.51** Notwithstanding the above, there was an occasion in 2005 when a member brought her baby into the chamber and neither the Presiding Officer nor other members commented. The presence of children in the chamber is not an issue that has been raised since then.
- 3.52** In the Assembly, it is a requirement that members are present inside the chamber to take part in voting.³⁸

³⁵ Submission 12, New Zealand Parliament, p1.

³⁶ Submission 12, p2.

³⁷ Submission 4, National Assembly of Wales, p1.

³⁸ Submission 4, p2.

The Scottish Parliament

- 3.53** Rule 15.3 of the standing orders of the Scottish Parliament set out the circumstances in which non-members may gain access to the Debating Chamber during parliamentary proceedings, one of which is ‘a person authorised to do so by the Presiding Officer’.
- 3.54** Therefore, the decision on whether or not to permit a member to bring a child into the chamber during a meeting of the Parliament is a matter for the Presiding Officer. In her submission, the Presiding Officer advised that although several members have had young children while serving as an MSP, she was not aware of an occasion where a member had asked to bring his or her child into the chamber.³⁹
- 3.55** Although it is not current practice for children to be present in the chamber during parliamentary proceedings, the Scottish Parliamentary Corporate Body has provided facilities, including a crèche, for children to be present on the parliamentary campus.

Comment

- 3.56** The committee notes that while a number of parliaments, including the Legislative Council, exempt members breastfeeding an infant from the prohibition of visitors entering the floor of the chamber, that the Australian House of Representatives is the only House to formally provide within its standing orders for young children to accompany members onto the floor of the chamber.⁴⁰ Similarly, the South Australian House of Assembly is the only House that allows for its members to vote in a division while seated in the chamber galleries.

³⁹ Submission 9, Scottish Parliament, p1.

⁴⁰ The Australian Senate has not yet considered the recommendation of its Procedure Committee to amend its standing orders.

Chapter 4 Members' views on the need for change

- 4.1 This chapter reviews the submissions and correspondence from members of the New South Wales Legislative Council in response to the Committee's inquiry.
- 4.2 As noted in Chapter 1, the Chair wrote to all members of the Legislative Council to invite submissions to the inquiry. Submissions were received from the following members of the Australian Labor Party and The Greens:
- The Honourable Courtney Houssos MLC,
 - The Honourable Penny Sharpe MLC
 - Dr Mehreen Faruqi MLC
 - Mr David Shoebridge MLC.
- 4.3 All of the submissions were in favour of change to the standing orders that would provide more flexibility and would better support members in balancing their family and work responsibilities.

The Honourable Courtney Houssos MLC

- 4.4 In her submission, Mrs Houssos strongly advocated amending standing order 196 to allow members with children under the age of four years to bring children into the House, but only for the purposes of attending divisions. Mrs Houssos indicated that she did not advocate young children being able to accompany members onto the floor of the House in other circumstances for two reasons. Firstly, she was conscious that the business of the House could be interrupted by the presence of children in the chamber and, secondly, she was concerned that other members should never be put in the position of finding themselves having to care for children brought into the chamber by another member.⁴¹
- 4.5 Mrs Houssos was of the view that if standing order 196 was amended in line with her suggestion it would not lead to children being present in the chamber on a regular basis. In support of her contention she cited the November 2015 report of the House of Representatives Standing Committee on Procedure, which noted that members of that House had expressed the view that members would be reluctant to bring their infant into the chamber except in situations where there was no other practical options available for their infant's care.⁴²
- 4.6 Mrs Houssos acknowledged that some other legislatures, including the Australian House of Representatives, allow parents caring for young children to vote via proxy, and noted that it would be a practical option in instances where taking a young child on to the floor of House would cause undue disruption. Mrs Houssos suggested that members with young children in their care could be given the option of either voting by proxy through their Whip, or attending the chamber to vote in company with their child.⁴³

⁴¹ Submission 2, The Honourable Courtney Houssos, MLC, p2.

⁴² Submission 2, p3.

⁴³ Submission 2, p2.

- 4.7 Mrs Houssos noted that the NSW Legislative Council is the nation's oldest Parliamentary chamber, but has been a leader on issues such as breastfeeding mothers. Mrs Houssos argued that allowing young people into the chamber would:

send a clear message and set a standard for workplaces across not only New South Wales, but also Australia.⁴⁴

The Honourable Penny Sharpe MLC

- 4.8 Ms Sharpe supported a variance to the standing order to allow a member to bring a child under four years onto the floor of the House. Ms Sharpe related her direct experience of being called for divisions while taking care of one of her children, which had been dealt with in either of two ways. The first was when her party Whip was able to obtain a short term pair for the division, or when this was not possible Ms Sharpe took a seat on the floor of the House while her child sat close to her but in the gallery separated by the bar of the House.⁴⁵
- 4.9 Ms Sharpe observed that the reality of a modern Parliament means that there will invariably be occasions when young children are in the care of members when the Parliament is sitting. Ms Sharpe noted that just as the Council updated its standing orders to accommodate breastfeeding mothers, it now needs to be flexible enough to accommodate the needs of young children in the care of a member, particularly on those occasions when a member is required for a division and has no option but to bring his or her child into the chamber.

Dr Mehreen Faruqi MLC

- 4.10 Dr Faruqi expressed her support for the proposal to allow a member to bring children under the age of four into the House and for investigation into alternative mechanisms for recording votes in divisions in line with a commitment to family friendly measures and workplace flexibility.⁴⁶

Mr David Shoebridge MLC

- 4.11 Mr Shoebridge supported a change to the standing orders that would allow a member caring for a young child to bring that child into the chamber when necessary. Mr Shoebridge was of the opinion that if such a change was made it was unlikely that members would make use of it on a regular basis:

It's hard to deliver a speech or enter into the debate with a two year old at your side. But the flexibility to be there for a vote or to make a (almost certainly) brief contribution, with your child at your side if needed, would be a welcome step forward.⁴⁷

⁴⁴ Submission 2, p3.

⁴⁵ Submission 1, The Honourable Penny Sharpe MLC, p1.

⁴⁶ Submission 13, Dr Mehreen Faruqi MLC, p1.

⁴⁷ Submission 16, Mr David Shoebridge MLC, p1.

- 4.12 Mr Shoebridge also suggested that any change to the wording of the standing orders should refer to a ‘member with the care of a child’, as he was of the view that this would ensure that any new provision was not limited to natural parents only, but also to foster parents and those with shared care arrangements.⁴⁸

Correspondence from members

- 4.13 The committee also received correspondence regarding the matters being investigated in the inquiry from the Honourable Adam Searle MLC, Leader of the Opposition in the Legislative Council.
- 4.14 In that correspondence, Mr Searle noted that Mrs Houssos and Ms Sharpe had made submissions to the inquiry and advised that those submissions reflected the views of the New South Wales Labor Opposition with respect to the issues being considered by the Committee.⁴⁹

Comment

- 4.15 While all of the four submissions to the inquiry supported a change to the standing orders that would provide members with the flexibility to bring a young child in their care onto the floor of the House, there was some variance on whether this exemption should apply to any proceedings in the House or be restricted to divisions only. The issue of whether any further exemption to the general prohibition of visitors entering the floor of the chamber should be made, and, if so, what the appropriate scope of any such exemption would be is examined in Chapter 5.

⁴⁸ Submission 16, p1.

⁴⁹ Correspondence from the Honourable Adam Searle MLC, Leader of the Opposition in the Legislative Council to the Chair, 10 May 2016

Chapter 5 Options considered by the committee

The terms of reference required the committee to examine whether the standing orders could be varied to allow a member with a child under the age of four years to bring that child into the chamber and whether the standing orders relating to how members vote and have their votes recorded in divisions could be varied to accommodate the needs of members who are responsible for the care of a young child at the time a division is called.

This chapter examines the options that could be available to the House.

- 5.1** The committee is mindful that in considering the options available it needs to find a balance between the need for the Parliament to seek to create a workplace that encourages a representative membership by supporting members to balance their work and family responsibilities, and the need for the Parliament to preserve the principle that the floor of the chamber is reserved for members in the task of representing the interests of the people of the State who elected them, and that order is maintained so that they are not disrupted in undertaking this task.
- 5.2** In order to encourage a representative House, no member should be unduly deterred or prevented from fully participating in the proceedings of the House because they are responsible for the care of a young child. Conversely, no member should be inhibited or prevented from fully participating in proceedings because of the presence of a child or children of other members in the chamber.
- 5.3** The committee notes, as outlined in Chapter 3, that a number of other parliaments have also considered these or very similar issues and have arrived at varying conclusions. To date, only one House, the Australian House of Representatives, has taken the step to allow young children to accompany members onto the floor of the chamber.⁵⁰

Allowing young children in the care of a member onto the floor of the chamber

- 5.4** The terms of reference required the committee to examine whether standing order 196(3) could be varied in such a way as to ensure that members with the responsibility for the care of a child under the age of four are not restricted from participating in the proceedings of the House.
- 5.5** After examining the submissions to the inquiry, the committee considered the following options:
1. Make no change to standing order 196(3) and enforce the current prohibition on strangers entering the floor of the chamber.
 2. Make no change to standing order 196(3) but allow members to technically breach the standing order on those occasions when they have no option but to bring a child in their care onto the floor of the chamber, while relying on other members choosing not to 'see' the presence of a visitor and raise objection.
 3. Vary standing order 196(3) or (4), to allow a member to bring a child in their care onto the floor of the chamber during divisions only.

⁵⁰ The Australian Senate has not yet considered the recommendation of its Procedure Committee to amend its standing orders.

4. Vary standing order 113(3) to provide the President with the discretion to have the vote of a member caring for a child and seated in the President's gallery counted in a division.
5. Vary standing order 196(3) as outlined in the terms of reference to allow a member with a child under the age of four years to bring that child into any part of the House reserved for members while the House is sitting.
6. Vary standing order 196(3) akin to the recent amendment to standing order 257 of the House of Representatives, so that the exemption for children is not age-specific and is clear that the child only has to be in the care of the member.
7. Vary standing order 196(3) to provide the President with a discretion to authorise a member to bring a child onto the floor of the chamber, provided the business of the House is not disrupted.

Option 1: Make no change

- 5.6** The committee received evidence from members that they have experienced uncertainty and difficulty in fully participating in the proceedings of the House while they have been responsible for the care of their child.
- 5.7** The committee also notes that other parliaments have recently made or recommended changes, albeit of varying scope, to their own procedures to better accommodate the needs of members with responsibility for the care of a child.
- 5.8** Nevertheless, the committee notes that many Westminster parliaments, including the majority of parliaments that made submission to the inquiry still enforce a prohibition on visitors being admitted to the floor of the House.

Option 2: Choose not to see

- 5.9** A number of parliaments report instances where members have brought children onto the floor of a chamber and, despite being a technical breach of the standing orders, the matters have passed without any objection being raised. The committee notes that some Houses are content to rely on the good judgment of their members and to allow these technical breaches to continue.
- 5.10** However, the committee believes that it would be inconsistent for a House to continue with, or commence to adopt, this practice if an objection is raised or it has been noted that members have denied themselves access to the floor of the chamber in order to comply with the standing orders. Once such an incident has occurred, it would appear that a decision to either vary the standing orders or to continue to apply them as written must be made.

Option 3: Exemption for divisions only

- 5.11** As outlined in the submissions to the inquiry, members with the care of children seek to make arrangements to ensure that they are not placed in the position of having to choose between their parliamentary duties and their responsibilities as a parent.

- 5.12 While members can make reasonable plans relating to the times they particularly need to be in the chamber for matters such as second reading speeches, it is the unpredictability and urgency of divisions that will most likely catch out members who are caring for a child.
- 5.13 In recognition of this, the Australian House of Representatives has since 2007 allowed nursing mothers to vote in divisions by proxy. The Legislative Assembly of the Northern Territory this year adopted a new standing order to provide nursing mothers with an option to vote by proxy in divisions.
- 5.14 In their submissions to the inquiry, both the Honourable Courtney Houssos MLC and the Honourable Penny Sharpe MLC advocated for a change to the standing orders that would assist members with the care of a child during divisions. Mrs Houssos in particular argued that any further exemption to the current prohibition should be restricted to divisions only in order to minimise any possible disruption in the House.

Option 4: Vary standing order 113 (3) to provide the President with the discretion to have the vote of a member caring for a child and seated in the President's gallery counted in a division

- 5.15 An alternative to option 3 is to provide the President with the discretion to have the vote of a member caring for a child and seated in the President's gallery counted in a division.
- 5.16 In the South Australian House of Assembly, as provided for under its standing orders, members with small children and nursing infants have on occasions cast their votes in divisions while seated in the galleries. In 2009, the Victorian Legislative Assembly's Standing Orders Committee recommended that members with childcare responsibilities be allowed to sit in the lower public galleries with their children during divisions and have their vote counted.⁵¹
- 5.17 In her submission to the committee, Ms Sharpe related how on occasion, when it had not been possible to arrange a short-term pair, she was forced to take a seat on the floor of the chamber while her child sat close to her but in the gallery separated by the bar of the House.
- 5.18 In her submission, the Mrs Houssos argued for option 3, however, Mrs Houssos also advocated for a practical option that would allow members to have their vote counted in a division while not being present on the floor of the chamber, for those occasions when taking a child onto the floor of the House would cause undue disruption.

Option 5: Vary standing order 196 (3) to allow a member with a child under the age of four years to bring that child into any part of the House reserved for members while the House is sitting

- 5.19 This is the option put forward in the terms of reference for the inquiry.
- 5.20 The Honourable Penny Sharpe MLC, Dr Mehreen Faruqi MLC and Mr David Shoebridge MLC all expressed support for this option in their submissions to the inquiry. In his submission, Mr Shoebridge recommended that any change to the wording of the standing order should refer to a 'member with the care of a child' rather than a 'member with a child' to ensure that any new provision was not limited to natural parents only.

⁵¹ However, the recommendation was not taken up by the House.

- 5.21 The committee acknowledges that if the standing orders were to be varied to provide that a member with the care of a child is exempted from the prohibition on visitors on the floor of the House, there is an argument that the exemption should not include any age or other qualification that would be in one sense arbitrary and could be discriminatory and which in practice would be impossible to police.

Option 6: Vary standing order 196 (3) to allow a child in the care of a member to enter any part of the House reserved for members while the House is sitting

- 5.22 As discussed with respect to option 5, the setting of an age or paternity restriction on any exemption has the potential to cause difficulties in terms of its application and enforcement. In order to overcome this, an exemption could be provided to ‘a child in the care of a member’.
- 5.23 In March 2016, the Australian House of Representatives amended its standing order 257 to provide that, ‘a visitor does not include an infant being cared for by a Member’.
- 5.24 Option 6 is the broadest proposed change to the current prohibition of visitors on the floor of the chamber.

Option 7: Provide the Presiding Officer with the discretion to admit a child in the care of a member onto the floor of the Chamber

- 5.25 Option 7 was identified as an alternative to options 5 and 6, in that rather than providing members with the right to bring children onto the floor of the chamber it provides a mechanism by which to regulate the admission of children.
- 5.26 Unlike the case in a number of other Parliaments⁵², the standing orders of the New South Wales Legislative Council no longer expressly provide the President with the privilege of being able to admit visitors onto the floor of the House.⁵³
- 5.27 Standing order 196 (3) could be varied to read as follows: ‘Except with the permission of the President, who may exercise discretion in the case of a child in the care of a member, no person other than a member, a Clerk-at-the-Table or an officer attending on the House may enter any part of the chamber reserved for members, while the House is sitting.’
- 5.28 The Legislative Assembly of the Northern Territory recently adopted a new standing order that explicitly provides the Speaker the authority to exercise discretion in the case of nursing parents with young infants when admitting visitors onto the floor of the House. In October 2016, the Australian Senate Procedure Committee recommended that the standing orders be amended to provide the President with the discretion to allow a senator caring for an infant to bring that infant onto the floor of the House briefly, provided that the business of the Senate is not disrupted.

⁵² For example, Legislative Council of Victoria, Legislative Council of Western Australia, Legislative Council of South Australia, Tasmanian House of Assembly, Legislative Assembly of the Northern Territory.

⁵³ Standing Order 149 of 1856 provided that only the President could admit strangers ‘to the body of the Council Chamber’. However, in 1895 this provision was replaced by standing order 23 which stated that only the President could admit strangers ‘to the space at the back of the President’s Chair and the bar’.

Committee comment

- 5.29** In considering the above options, the committee acknowledges the view expressed in some submissions, that members would seek to bring children into the chamber only on rare occasions when all other care options have been exhausted. The committee accepts this premise, but is concerned that any change to the standing orders must not inadvertently introduce too broad a scope for the introduction of visitors without any accompanying means by which to apply moderation, when required.
- 5.30** The prime privilege of members in the House is the ability to be heard,⁵⁴ and any action, whether deliberate or not, that breaches this privilege must be discouraged. In considering these options, the committee is aware of the need to ensure that the presence of a child or children would not disrupt proceedings and impact upon the ability of other members to participate in proceedings.
- 5.31** The committee agrees that if any option is to be endorsed it should be worded so as to encompass a child in the care of a member and not to be restricted by definition to the natural children of a member.
- 5.32** The committee concurs that neither option 2 nor 7 are appropriate, as they place too much onus on the discretion of the President, who would invariably find himself or herself placed in a difficult position when there was conflict between members.
- 5.33** The majority of the committee also takes the view that options 5 and 6 are too broad in their scope for consideration at this time, particularly as they would leave the Presiding Officer in a difficult position with respect to maintaining order in the circumstances where a child or children admitted under the standing orders did prove to be disruptive.
- 5.34** The committee operates on a consensus basis. To that end, after examining all the options open to it, the committee finds option 4 to be the one that all members of the committee are able to support.
- 5.35** The committee concludes that option 4 should be implemented by way of sessional order for the remainder of this Parliament.

Recommendation 1

That for the remainder of the current session and any further session in the 56th Parliament, standing order 113 be varied by inserting after paragraph (3):

- (4) Paragraph (3) does not apply, at the discretion of the President, to a member caring for a child and seated in the President's gallery when the question is put with the doors locked.
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⁵⁴ Rulings: President Primrose, *Hansard*, 24 June 2009, p16631; 24 September 2009, p 18093.

Alternative mechanisms for recording the votes of members in divisions

- 5.36** In her submission to the inquiry, the Honourable Courtney Houssos MLC argued that offering a pair to a member with the care of a child is not a satisfactory resolution in all circumstances. Mrs Houssos said that members caring for a child should also be given the opportunity to have their vote recorded for matters of State significance or which touch on issues of particular personal interest.
- 5.37** Mrs Houssos suggested that members with young children in their care should be given the choice of either attending the chamber to vote in company with their child or voting by proxy through their Whip.
- 5.38** However, the committee notes that section 22I of the *Constitution Act 1902* provides that: ‘All questions arising in the Legislative Council shall be decided by a majority of votes of the Members present...’
- 5.39** The committee also notes that a number of other parliaments have taken the view that they are precluded from introducing proxy voting because of similar provisions within their respective Constitution Acts.⁵⁵
- 5.40** The committee therefore concludes that the use of proxy votes in divisions in the New South Wales Legislative Council is precluded by the requirement that members be present in the chamber in order to cast a vote, and could only be contemplated if the *Constitution Act 1902* was amended.

⁵⁵ For example: Australian Senate, Legislative Council of Western Australia, Legislative Assembly of Victoria, Legislative Assembly of the Australian Capital Territory.

Appendix 1 List of submissions

No	Author
1	Hon Penny Sharpe MLC, NSW Legislative Council
2	Hon Courtney Houssos MLC, NSW Legislative Council
3	Hon Elise Archer MP, Speaker House of Assembly Tasmania
4	Dame Rosemary Butler AM, Presiding Officer National Assembly for Wales
5	Vicky Dunne MLA, Speaker ACT Legislative Assembly
6	Senator the Hon Stephen Parry, President of the Senate Parliament of Australia
7	Hon Shelley Hancock MP, Speaker NSW Legislative Assembly
8	Hon Kezia Purick MLA, Speaker Legislative Assembly NT
9	Rt Hon Tricia Marwick MSP, The Presiding Officer The Scottish Parliament
10	The Hon Peter Wellington, Speaker Legislative Assembly QLD
11	Hon Bruce Atkinson MLC, President of the Legislative Council Victoria
12	Rt Hon David Carter, Speaker House of Representatives NZ
13	Dr Mehreen Faruqi MLC, NSW Legislative Council
14	Hon Barry House MLC, President Legislative Council WA
15	Mr David Elder, Clerk of the House of Representatives
16	Mr David Shoebridge MLC, NSW Legislative Council

Appendix 2 Minutes

Minutes No. 1

Thursday 17 March 2016

President's Dining Room, 1.05 pm

1. Members present

Mr Harwin (Chair)
Mr Gay
Mr Khan
Mrs Maclaren Jones
Mrs Mitchell

2. Substitutions

The Chair noted the following substitutions:
Mrs Mitchell for Mr Franklin for the duration of the inquiry.
Mrs Maclaren-Jones for Dr Phelps for this meeting.

3. Apologies

Mr Ajaka
Dr Kaye

4. Conduct of committee proceedings

Resolved, on the motion of Mrs Maclaren-Jones: That unless the committee decides otherwise, the following procedures are to apply for the life of the committee:

1. submissions to inquiries are to be published, subject to the committee clerk checking for confidentiality and adverse mention and, where those issues arise, bringing them to the attention of the committee for consideration,
2. media statements on behalf of the committee be made only by the Chair.

5. Inquiry into young children accompanying members into the House

The Chair tabled:

- The terms of reference for the inquiry.
- Correspondence dated 26 August 2015 from the Opposition Whip to the President of the Legislative Council.

Resolved, on the motion of Mr Khan:

1. That the Chair write to all members of the Legislative Council and other relevant parties seeking submissions on the inquiry terms of reference by Friday 13 May 2016.
2. That the committee secretariat prepare a discussion paper on the terms of reference for the next meeting of the Committee.

6. Adjournment

The Committee adjourned at 1.08 pm *sine die*.

David Blunt
Clerk to the Committee

Minutes No. 2

Wednesday 1 June 2016

President's Dining Room, 1.57 pm

1. Members present

Mr Harwin (Chair)
 Mr Borsak (after item 6)
 Dr Faruqi (after item 6)
 Mr Gay (until item 3)
 Mrs Houssos (*Mr Secord*)
 Mr Khan
 Mrs Maclaren Jones
 Mrs Mitchell
 Mr Searle
 Ms Sharpe (*Mr Moselmane*)

2. Apologies

Mr Borsak (for items 1-6)
 Dr Faruqi (for items 1-6)
 Mr Gay (for item 3 onwards)

3. Membership

The Chair noted that Mrs Maclaren-Jones had replaced Dr Phelps and Dr Faruqi had replaced Dr Kaye as members of the Committee.

4. Substitutions

The Chair noted the following substitutions:
 Mrs Houssos for Mr Secord for the duration of the inquiry.
 Ms Sharpe for Mr Moselmane for the duration of the inquiry.

5. Previous minutes

Minutes no.1 confirmed on the motion of Mr Khan.

6. Correspondence

The committee noted the following items of correspondence:

Sent:

- Letters dated 22 March 2016 to Presiding Officers of various Parliaments from the Chair inviting to make a submission to the inquiry:
 - The Hon. Shelley Hancock MP, Speaker of the Legislative Assembly, Parliament of New South Wales.
 - The Hon. Tony Smith MP, Speaker of the House of Representatives, Parliament of Australia.
 - The Senator the Hon. Stephen Parry, President of the Senate, Parliament of Australia.
 - The Hon. Peter Wellington MP, Speaker of the Legislative Assembly, Parliament of Queensland.
 - The Hon. Telmo Languiller MP, Speaker of the Legislative Assembly, Parliament of Victoria.
 - The Hon. Bruce Atkinson MLC, President of the Legislative Council, Parliament of Victoria.
 - The Hon. Michael Atkinson MP, Speaker, House of Assembly, Parliament of South Australia.
 - The Hon. Russell Wortley MLC, President of the Legislative Council, Parliament of South Australia.
 - The Hon. Elise Archer MP, Speaker of the House of Assembly, Parliament of Tasmania.
 - The Hon. James Wilkinson MLC, President of the Legislative Council, Parliament of Tasmania.
 - The Hon. Michael Sutherland MLA, Speaker of the Legislative Assembly, Parliament of Western Australia.
 - The Hon. Barry House MLC, President of the Legislative Council, Parliament of Western Australia.
 - The Hon. Kezia Purick MLA, Speaker of the Legislative Assembly, Parliament of Northern Territory.
 - Ms Vicky Dunne MLA, Speaker of the Legislative Assembly, Parliament of Australian Capital Territory.

- The Rt. Hon. David Carter MP, Speaker of the House of Representatives, Parliament of New Zealand.
- The Rt. Hon. John Bercow MP, Speaker of the House of Commons, Parliament of the United Kingdom.
- The Rt. Hon. the Baroness D’Souza CMG, Speaker of the House of Lords, Parliament of the United Kingdom.
- The Rt. Hon. Tricia Marwick MSP, Presiding Officer, The Scottish Parliament.
- Dame Rosemary Butler DBE AM, The Presiding Officer, The National Assembly for Wales.
- Email dated 8 April to Clerks of Australian Parliaments from the Clerk of the Parliaments inviting to make a submission to the inquiry.
- Letters dated 6 April 2016 to Legislative Council members from the Chair to invite their submissions to the inquiry.

Received:

- Email dated 10 May 2016 from the Leader of the Opposition in the Legislative Council to the President of the Legislative Council.
- Email dated 1 June 2016 from the Leader of the Opposition in the Legislative Council to the President of the Legislative Council regarding substitute members.

7. Inquiry into young children accompanying members into the House

7.1 Submissions

The committee noted that the following submissions had been received and published by the committee clerk under the authority of the resolution of the committee:

1. Hon Penny Sharpe MLC
2. Hon Courtney Houssos MLC
3. Hon Elise Archer MP, Speaker, Tasmania House of Assembly
4. Dame Rosemary Butler AM, Presiding Officer, National Assembly for Wales
5. Vicki Dunne MLA, Speaker, Legislative Assembly for the Australian Capital Territory
6. Senator the Hon Stephen Parry, President of the Senate, Parliament of Australia
7. Hon Shelley Hancock MP, Speaker of the NSW Legislative Assembly
8. Hon Kezia Purick MLA, Speaker, Legislative Assembly of the Northern Territory
9. Rt Hon Tricia Marwick MSP, The Presiding Officer, The Scottish Parliament
10. Hon Peter Wellington MP, Speaker of the Legislative Assembly, Queensland Parliament
11. Hon Bruce Atkinson MLC, President, Legislative Council of Victoria
12. Rt Hon David Carter, Speaker of the House of Representatives of New Zealand
13. Dr Mehreen Faruqi MLC
14. Hon Barry House MLC, President, Legislative Council, Parliament of Western Australia
15. David Elder, Clerk of the House, House of Representatives, Parliament of Australia
16. Mr David Shoebridge MLC.

7.2 Discussion paper

The committee commenced consideration of the discussion paper which had been prepared by the secretariat and distributed previously.

1. The committee adjourned at 2.25 pm and reconvened at 4.40 pm on Thursday 2 June 2016.
2. Mr Borsak and Dr Faruqi joined the meeting.
3. The committee continued its deliberations.

Resolved, on the motion of Mr Borsak: That the Chair’s draft report, based on the committee’s deliberations on the discussion paper, be prepared for consideration by the committee at its next meeting.

8. Adjournment

The Committee adjourned at 5.10 pm (2 June 2016) until Wednesday 22 June 2016 at 1.00 pm in the President's Dining Room.

David Blunt
Clerk to the Committee

Minutes No. 3

Wednesday 22 June 2016
President's Dining Room, 1.03 pm

1. Members present

Mr Harwin (Chair)
Mr Borsak
Dr Faruqi
Mr Gay
Mrs Houssos
Mr Khan
Mrs Maclaren-Jones
Mrs Mitchell
Revd Mr Nile
Mr Searle
Ms Sharpe.

2. Apologies

Mr Gay.

3. Previous minutes

Minutes no. 2 confirmed on the motion of Revd Mr Nile.

4. Inquiry into young children accompanying members into the House

Resolved, on the motion of Mrs Maclaren-Jones: That the reporting date for the inquiry into young children accompanying members into the House be extended until 25 August 2016.

5. Adjournment

The Committee adjourned at 1.10 pm *sine die*.

David Blunt
Clerk to the Committee

Minutes No. 4

Wednesday 24 August 2016
President's Dining Room, 1.32 pm

1. Members present

Mr Harwin (Chair)
Mr Borsak
Dr Faruqi
Mr Gay
Mrs Houssos
Mr Khan

Mrs Maclaren Jones
Mrs Mitchell
Revd Mr Nile
Mr Searle
Ms Sharpe

2. Previous minutes

Minutes no.3 confirmed on the motion of Mrs Maclaren-Jones.

3. Inquiry into young children accompanying members into the House

Resolved, on the motion of Mrs Maclaren-Jones: That the reporting date for the inquiry into young children accompanying members into the House be extended until 20 October 2016.

4. Adjournment

The Committee adjourned at 1.40 pm *sine die*.

David Blunt

Clerk to the Committee

Minutes No. 5

Wednesday 19 October 2016

President's Dining Room, 1.00 pm

1. Members present

Mr Harwin (Chair)
Ms Barham
Mr Gay
Mrs Houssos
Mr Khan
Mrs Maclaren Jones
Mrs Mitchell
Mr Searle
Ms Voltz

2. Apologies

Mr Borsak

3. Substitutions

The Chair noted the following substitutions:
Ms Barham for Dr Faruqi
Ms Voltz for Ms Sharpe

4. Previous minutes

Minutes no.4 confirmed on the motion of Mrs Houssos.

5. Inquiry into young children accompanying members into the House

The Chair submitted his draft report entitled, 'Young children accompanying members into the House' which, having been previously circulated, was taken as being read.

Chapter 1 read.

Resolved, on the motion of Mrs Houssos: That Chapter 1 be adopted.

Chapter 2 read.

Resolved, on the motion of Mr Searle: That Chapter 2 be adopted.

Chapter 3 read.

Resolved, on the motion of Mrs Houssos: That paragraph 3.28 be amended by omitting all words appearing after 'The Speaker did note' and inserting instead:

'the Queensland Parliament has onsite accommodation for Ministers and regional members. Members with very small children have been given access to accommodation even though they would normally not be eligible for that accommodation.

Further to this, rooms closer to the chamber have been made available for members with small children or nursing mothers.'

Resolved, on the motion of Mrs Houssos: That paragraph 3.53 be amended by inserting the words 'including a creche' immediately after the words 'facilities for children'.

The Chair circulated amendments prepared by the secretariat to reflect in the report the release of the October 2016 report by the Australian Senate Procedure Committee on the presence of infants in the chamber.

Resolved, on the motion of Mr Searle: That the amendments prepared by the secretariat be incorporated into the report.

Resolved, on the motion of Mrs Mitchell: That Chapter 3, as amended, be adopted.

Chapter 4 read.

Resolved, on the motion of Mrs Houssos: That paragraph 4.6 be amended by omitting the word 'should' and inserting instead 'could'.

Resolved, on the motion of Mrs Houssos: That the following new paragraph be inserted after paragraph 4.6:

'Mrs Houssos noted that the NSW Legislative Council is the nation's oldest Parliamentary chamber, but has been a leader on issues such as breastfeeding mothers. Mrs Houssos argued that allowing young children into the chamber would:

send a clear message and set a standard for workplaces across not only New South Wales, but also Australia.'

Resolved, on the motion of Mrs Houssos: That Chapter 4, as amended, be adopted.

Chapter 5 read.

Ms Barham moved: That paragraph 5.33 be omitted.

Question put and negatived.

The committee deliberated.

The Chair sought an indication of the level of the committee's relative support for options 6, 5 and 4:

Option 6 – indicative support of Ms Barham.

Option 5 – indicative support of Ms Barham.

Option 4 – indicative support of all members present.

The committee deliberated.

Resolved, on the motion of Mr Gay: That the secretariat prepare draft report paragraphs and report recommendation giving effect to the committee's support for option 4, and that these be circulated to the committee for approval.

Resolved, on the motion of Mr Searle: That Chapter 5, as amended, be adopted.

Resolved, on the motion of Mr Searle:

That the draft report, as amended, be the report of the committee and that the committee present the report to the House.

That the submissions, minutes of proceedings and correspondence relating to the inquiry be tabled in the House with the report.

That the report be tabled on Thursday 20 October 2016.

6. Adjournment

The Committee adjourned at 1.50 pm *sine die*.

David Blunt
Clerk to the Committee