

Procedure Committee

# Notices of motions

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## Terms of reference

The President informed the House that, according to the resolution appointing the Procedure Committee, on 5 March 2012 he had referred the following terms of reference to the Procedure Committee:

1. That the Procedure Committee inquire into and report on the procedures for giving, moving and publication of notices of motion, including:
  - (a) whether additional rules are necessary in respect of the nature and content of notices of motion,
  - (b) whether notices of motion should be subjected to word limits,
  - (c) whether there should be a limit on the number of notices of motion given each sitting day,
  - (d) parameters for the type of motions that will result in a letter of congratulations or condolence from the President, on behalf of the House,
  - (e) mechanisms for enhancing the accessibility of information on the parliamentary website in relation to members' parliamentary contributions,
  - (f) alternative mechanisms for members to raise matters of a community and constituency nature, including the Legislative Assembly's recently introduced category of and procedures for community recognition notices, or brief 90 second statements,
  - (g) other Australian parliaments' procedures for giving notices, the rules for content and the publication of motions and other parliamentary contributions on their web sites, and
  - (h) any other relevant matters.
2. That the Committee report by Friday 8 June 2012.

*LC Minutes*, 6 March 2012, p754

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## Committee Membership

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**The Hon Don Harwin MLC (LIB) (Chair)**  
President of the Legislative Council

**The Hon Jenny Gardiner MLC (NAT)**  
Deputy President

**The Revd the Hon Fred Nile MLC (CDP)**  
Assistant President

**The Hon Michael Gallacher MLC (LIB)**  
Leader of the Government

**The Hon Duncan Gay MLC (NAT)**  
Deputy Leader of the Government

**The Hon Luke Foley MLC (ALP)**  
Leader of the Opposition

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

**The Hon Dr Peter Phelps MLC (LIB)**  
Government Whip

**The Hon Amanda Fazio MLC (ALP)**  
Opposition Whip

**The Hon Sarah Mitchell MLC (NAT)**

**The Hon Robert Borsak MLC (SFP)**

**The Hon John Kaye MLC (GRN)**

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## Table of Contents

Chair's Foreword	vii
Chapter 1 Introduction	1
Establishment of the inquiry	1
Conduct of the inquiry	1
Structure of this report	1
Chapter 2 Background to notices of motions in the NSW Legislative Council	2
The increasing number and length of notices of motions	2
The changing nature of notices	2
Chapter 3 Summary of submissions	4
Chapter 4 Matters for consideration	6
Additional rules regarding the nature and content of notices	6
Limiting the length of motions	8
Limiting the number of notices given by members	9
Motions that result in a letter of congratulation or condolence from the President	10
Mechanisms for enhancing the accessibility of the work of members	11
Alternative mechanisms for members to raise matters of a community and constituency nature	13
Chapter 5 Conclusion	16
Appendix 1 Minutes of Proceedings	17

## Chair's Foreword

On 6 March 2012, I referred to the Procedure Committee an inquiry into notices of motions, with particular reference to additional rules regarding the nature and content of notices, whether the length or number of notices given by a member should be limited, the nature of motions that result in a letter of congratulations or condolence from the President, mechanisms for enhancing the accessibility of the work of members, and alternative mechanisms for members to raise matters of a community and constituency nature.

The reference arose from concerns arising from changing practices in the House, perhaps arising (at least in part) as unintended consequences of recent changes to procedures that have made it easier for motions to be agreed to under formal business – that is, without debate.

On behalf of the Committee, I subsequently distributed a briefing paper on the terms of reference to members of the Legislative Council, and invited members to make submissions based on the matters canvassed. The Committee received four responses, which are summarised in the following chapters.

This report provides an analysis of present practice in the Legislative Council and that operating in other jurisdictions as it applies to each of the terms of reference, and the differing views of those members who provided comment to the Committee.

Although the deliberations of the Committee and the comments made by members in their responses highlight the potential for change to improve the current practice for giving and moving notices in the Legislative Council, the Committee did not reach a consensus view on the matters referred.

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. In the absence of consensus on this occasion, the Committee has not made recommendations, but rather has outlined the issues and varying views of members so as to ensure that all members of the House are fully informed should any member bring proposals before the House for its deliberation and decision in the future.

I thank all members of the Committee for their contribution to this inquiry, as well as the staff of the Committee Secretariat for their valuable support.

The Hon Don Harwin MLC  
**President**





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# Chapter 1 Introduction

## Establishment of the inquiry

- 1.1 On 6 March 2012, the President referred to the Procedure Committee an inquiry into notices of motion. The terms of reference for the inquiry are set out on page (iv) of this report.

## Conduct of the inquiry

- 1.2 On 3 April 2012, the Chair, on behalf of the Committee, distributed a briefing paper to members of the Legislative Council which outlined present practice in the Legislative Council as it applies to each of the terms of reference, and those operating in other jurisdictions. Members were asked to make submissions based on matters canvassed therein.
- 1.3 Four submissions were received; these are discussed in detail in Chapters 3 and 4.

## Structure of this report

- 1.4 Chapter Two provides background to the procedures for giving, moving and publication of notices of motion in the Legislative Council.
- 1.5 Chapter Three provides a brief overview of the general direction of each of submission.
- 1.6 Chapter Four provides an analysis of the specific matters referred to the Committee for its consideration, including the differing views of those who made submissions on each of these issues.
- 1.7 Chapter Fives provides a conclusion.

## Chapter 2 Background to notices of motions in the NSW Legislative Council

### The increasing number and length of notices of motions

- 2.1 The number and length of notices of motion in the NSW Legislative Council has increased significantly in recent years.
- 2.2 During the 1980s, there were rarely more than 15 items of general business on the Notice Paper on any one sitting day. This increased to approximately 50 notices and orders of general business during the mid 1990s. Unless referring a matter to a committee or relating to a matter of privilege, most notices comprised no more than three or four short paragraphs, amounting to approximately 100 words.
- 2.3 By contrast, during 2012, an average of 13 new notices have been given each sitting day, and nearly 40 on one day. There are currently more than 140 notices and orders of general business on the Notice Paper. Notices currently given by members often comprise multiple paragraphs, lists of names, quotes and can amount to 800 words or more.

### The changing nature of notices

- 2.4 It is a fundamental premise of representative government that members have a right to raise issues in the House. Members are entitled to pursue a range of issues, particularly in a House of Review, and a motion is the means by which a member can seek to gain the formal agreement of the House to a matter they have proposed.
- 2.5 Traditionally the Council has not sought to place undue restrictions on the rights of members to bring matters before the House or to regulate the form in which motions should be drafted. As such, there are no restrictions as to content, length or number of notices of motions given by members.
- 2.6 However, perhaps due to the absence of strict rules, there has recently been a change in the nature, form and number of notices being given in the Council which raises certain issues:
- There is a tendency for notices to contain argument, imputations and debating points, virtually amounting to an undelivered speech which is then printed in the Notice Paper.
  - Notices are increasingly lengthy, dense and complex. There is a risk the House will agree to a motion containing facts and detail which are impossible to verify, and which could potentially reflect negatively on the standards and integrity of the House. This is especially the case when they are put as formal business, without debate.
  - There is a tendency for motions to relate to matters of a community and constituency nature rather than of State significance. In a House of Review in which the members represent the State as a whole, there may be a perception that this trend is trivialising the

importance of resolutions of the House or trifling with the time and processes of the House.

- 2.7** The propensity of members to bring on notices dealing with community and constituency issues by way of formal business has also increased, perhaps an unintended consequence of the provisions adopted by the House to make it easier for the House to deal with matters formally.

## Chapter 3 Summary of submissions

- 3.1 As noted in Chapter 1, the Committee distributed a briefing paper to members which outlined present practice in the Legislative Council as it applies to each of the terms of reference, and those operating in other jurisdictions. Members were asked to make submissions based on the matters canvassed therein.
- 3.2 The committee received four submissions from the following members:
- The Honourable Dr Peter Phelps MLC, Government Whip, on behalf of members of the Coalition
  - The Honourable Amanda Fazio MLC, Opposition Whip, on behalf of members of the Opposition
  - The Honourable Marie Ficarra MLC
  - Revd the Honourable Fred Nile MLC.
- 3.3 While the submissions reflect varying viewpoints in relation to particular issues, they reflect a careful consideration informed by their perception of their roles as members and the role of the Council as a whole. The following section provides a summary of these viewpoints, discussed in further detail in reference to particular issues in the following chapter.

### *The Honourable Dr Peter Phelps MLC*

- 3.4 The Coalition submitted that the absence of strict rules in relation to notices of motions in the Council ‘has been a workable *modus vivendi* only because members have previously worked within a set of self-enforced strictures’. This is no longer the case, and the problem is compounded by the balloting arrangements for the ordering of private members’ business which, it was argued, gives members the incentive to submit a notice of motion simply to deny a place in the order of precedence to a political opponent.
- 3.5 The Coalition argued in particular that members should bear in mind the purpose and powers of the Legislative Council prescribed by section 5 of the *Constitution Act 1902*, particularly the requirement for the legislature to ‘make laws for the peace, welfare and good government of New South Wales’. They argued that the tendency for some members to stray from this purpose, drifting instead into areas more the purview of the Commonwealth Government or Legislative Assembly members representing a local electorate, had given rise to the need for the present inquiry.

### *The Honourable Amanda Fazio MLC*

- 3.6 The submission of the Opposition was also informed by considerations of the role of the Council, but placed alternate emphasis on the vast constituency represented by Council members as State representatives, and the Council’s role in ensuring scrutiny and accountability. It was argued that many of the changes canvassed in the practice of other jurisdictions, particularly the NSW Legislative Assembly, would undermine the role of the Council as a House of Review. Many of the changes would further place the President in the

position of adjudicating the content of notices, a function that would constitute a departure from the traditional role of the President and ‘should not be adopted lightly as it would change the perception of the impartial role of the President’.

- 3.7** The Opposition disagreed with the suggestion that there had been any significant change to the content of notices recently brought before the House. The submission compared Notice Papers since the 1980s and argued that the nature and frequency of notices had evolved steadily during that time, rather than signifying any particular departure in trend or practice. The Opposition selected a random Notice Paper from 2006 and noted the publication of several notices that contained imputations, were lengthy or complex, or related to constituency matters.
- 3.8** On this basis, the Opposition argued that ‘no cogent argument exists for changing [the current position] other than to limit the rights of individual members to raise matters that they consider to be important and worthy of debate.’ Instead, the issue could be addressed by streamlining the procedures for giving and moving motions. These proposals are discussed further below.

***The Honourable Marie Ficarra MLC***

- 3.9** The Honourable Marie Ficarra MLC also discussed the role of members of the Legislative Council in her consideration of the issues. Ms Ficarra stressed that

[members] represent the whole state and are routinely asked to visit communities from all over New South Wales, attend functions and take up issues on behalf of communities or constituents. Furthermore, Ministers and Parliamentary Secretaries that sit in the Legislative Council indeed have added responsibilities in serving people from across the state, attending functions and raising issues on behalf of the community and should not be constrained from raising issues as they think appropriate through the notice of motion process.

- 3.10** For this reason, while Ms Ficarra supported change to several particular procedures, she was not supportive of more substantive changes to the current system.

***Revd the Honourable Fred Nile MLC***

- 3.11** Revd Nile’s submission placed a strong focus on facilitating information relating to the work of members. Revd Nile was supportive of many of the options canvassed in the paper distributed to members, and broadly supportive of significant change to the rules regarding form and content. Revd Nile also supported new mechanisms for enhancing accessibility to the work of members via social media and other electronic resources.

## Chapter 4 Matters for consideration

4.1 The terms of reference required the Committee to examine the procedures for giving, moving and publication of notices of motions and include six specific matters for the committee's consideration:

- additional rules regarding the nature and content of notices,
- limiting the length of notices,
- limiting the number of notices given by members,
- motions that result in a letter of congratulations or condolence from the President,
- mechanisms for enhancing the accessibility of the work of members, and
- alternative mechanisms for members to raise matters of a community and constituency nature.

4.2 The discussion below reflects the matters canvassed with members in relation to each issue in the Committee's briefing paper, and the observations made in response by members in their submissions.

### Additional rules regarding the nature and content of notices

4.3 The giving of notices in the Legislative Council is covered by standing order 71. Notices are given during formalities at the commencement of each sitting. Most other Houses similarly provide for a call for notices during formalities or at an alternative time specifically allocated in the routine of business.<sup>1</sup>

4.4 Standing order 71 does not impose any specific rules on the nature or content of notices. There have, however, been several occasions on which the President has ordered that a notice be substantially amended, and in one case the President has ordered that a notice be removed from the Notice Paper.<sup>2</sup> The majority of notices are processed by the Procedure Office before being given in the House, however this role is generally limited to correcting grammatical and typographical errors.

4.5 By contrast, several other jurisdictions have prescribed rules for the form and content of notices. For example:

- In the New Zealand House of Representatives a notice may only include such material as may be necessary to identify the facts or matter to which the motion relates, and must not contain statements of facts or names of persons unless strictly necessary to render the notice intelligible.<sup>3</sup> McGee notes that these limitations are 'a reminder that the

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<sup>1</sup> With the exception of the House of Representatives and ACT Legislative Assembly, where members lodge notices with the Clerk at any time during the sitting. In the NZ House of Representatives, members submit notices to the Clerk before the House sits.

<sup>2</sup> See *NSW Legislative Council Practice*, 2008, pp 278-9.

<sup>3</sup> NZ House of Representatives standing order 98.

proper place to argue the case for the motion is in the subsequent debate, not in the motion itself.<sup>4</sup>

- In the Senate a notice must consist of a clear and succinct proposed resolution or order relating to matters within the competency of the Senate, and must not contain statements, quotations or other matter not strictly necessary to make the proposed resolution or order intelligible. The President may delete extraneous matter from notices and may require a senator giving a notice contrary to the standing orders to reframe the notice.<sup>5</sup>
- All Houses make some reference to the requirement for notices to broadly conform with the standing orders, including the general rules for debate. Many Houses use this provision to edit notices containing argument and debating points. Australian House of Representatives practice is that notices must not contain argument and unnecessary statements.<sup>6</sup> The NSW Legislative Assembly specifically provides that a notice may not contain argument.<sup>7</sup>
- Many jurisdictions empower the Presiding Officer to instruct the Clerk to divide a notice containing matters not relevant to each other into two or more notices.<sup>8</sup>

While the House may consider more stringent restrictions on the nature and content of notices, this would place an additional responsibility on the Clerk in the first instance, and ultimately the President, to interpret and apply such restrictions.

### *Members' comments*

- 4.6** The Coalition argued that rules for the nature and content of notices should inherently reflect the role and purview of the NSW Legislative Council – that is, motions should not substantially trespass on those matters which are reserved for the Commonwealth Parliament, particularly the powers reserved under section 51 of the Constitution Act (Cth), unless there is a clear and proximate link with matters over which the State Government has control.
- 4.7** Both the Coalition and Revd Nile were supportive of additional rules for the nature and content of notices. The Coalition particularly noted the procedures of the NZ Parliament discussed above; Revd Nile made particular note of the approach of the Senate. The Coalition recommended that members refrain from including statements of disputable facts or names of persons unless strictly necessary to render the notice intelligible, and argued that motions should be a statement of principles, priorities or policies. They further argued that lists of names and assertions would be best saved for debate on the motion or the adjournment debate, whereas matters of a constituency nature should more appropriately be undertaken by members of the Legislative Assembly or the elected representatives of local government.

<sup>4</sup> D.McGee, *Parliamentary Practice in New Zealand*, 3<sup>rd</sup> edn, 2005, p 172.

<sup>5</sup> Senate SO 76.

<sup>6</sup> I Harris (Ed), *House of Representatives Practice*, 5<sup>th</sup> edn, 2005, p292

<sup>7</sup> NSW Legislative Assembly SO 137.

<sup>8</sup> Senate, Australian House of Representatives, ACT Legislative Assembly, South Australian Legislative Council, Northern Territory Legislative Assembly, Western Australian Legislative Council, Tasmanian Legislative Council.

- 4.8 The Coalition recommended that these rules, if adopted, would be enforced by the President, acting on the advice of the Clerk of the Parliaments.
- 4.9 Ms Ficarra recommended that restrictions on content, particularly argument, matters of policy and negative reflection, should be born in mind by members seeking to move items as formal business (without debate), but opposed any restriction on members' ability to raise issues in the House.
- 4.10 In contrast, the Opposition was strongly opposed to additional rules regarding the nature and content of notices. The Opposition argued that the suggestion that notices be confined to State matters was flawed as the purview of Council members spans all of New South Wales, and 'there is no matter more fundamentally important than the constituents and community groups that members represent'.

### Limiting the length of motions

- 4.11 The NSW Legislative Council does not impose word limits on notices of motion. By contrast, many other jurisdictions do:
- In the UK House of Commons and Queensland Legislative Assembly, motions should generally not exceed 250 words in length.<sup>9</sup>
  - Successive Speakers of the NSW Legislative Assembly have ruled that members need to be mindful of the length of notices, ruling several out of order on the basis of length alone.<sup>10</sup>
  - The Victorian Legislative Council, Victorian Legislative Assembly and Northern Territory Legislative Assembly in practice all apply the same 250 word limit to notices. The Northern Territory has issued guidelines to this effect and the Victorian Houses rely on rulings.
  - While the ACT Legislative Assembly does not impose an exact word limit, the standing orders authorise the Speaker to amend notices that are 'too long'. Where this occurs, the member lodging the notice is notified of the revision.

While provisions to limit the number of words of a notice are common in other Parliaments, the imposition of strict word limits to all notices could be problematic. Not all matters can be expressed in a short and concise notice of motion. References to committees, complex privilege matters and orders for papers may require lengthy and structured notices of motions.

### *Members' comments*

- 4.12 The Coalition supported the introduction of a word limit of 250 words, similar to that operating in other jurisdictions. However, in recognition of the complexity of particular matters that come before the consideration of the House, the Coalition recommended that committee references and motions for the production of documents under standing order 52 be exempted from this

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<sup>9</sup> *Erskine May*, 24<sup>th</sup> edn, p 398.

<sup>10</sup> See, for example, rulings of Speakers Hancock, Torbay and Aquilina in annotated SO 76 of the NSW Legislative Assembly.



restriction. In other instances, the word limit should not be extended except by leave of the House.

- 4.13** Revd Nile made a similar recommendation, but proposed that the exemption also be extended to matters of privilege.
- 4.14** The Opposition opposed the introduction of a word limit, stating that it has long been the practice of members to place lengthy notices on the Notice Paper. To limit the length of notices now may infringe the rights of members to raise matters of importance, particularly if the matters raised are complex.
- 4.15** Ms Ficarra opposed a word limit for similar reasons as to those of the Opposition.

### **Limiting the number of notices given by members**

- 4.16** The NSW Legislative Council does not limit the number of notices that may be given by members on any one sitting day.
- 4.17** Amongst other jurisdictions, only the Western Australian Legislative Council directly limits the number of notices that may be given, allowing two notices per member per day, excluding motions for the disallowance of statutory instruments. The Victorian Legislative Assembly limits the number of general business notices that may be given orally,<sup>11</sup> however there is no limitation placed on the number that may be given in writing. Several other Parliaments also have the provision for notice to be given in writing.<sup>12</sup> Providing for written notices has the benefit of curbing time taken from other business of the House by the reading of lengthy notices, but also limits members' ability to draw attention to business they intend to bring before the House.
- 4.18** Several parliaments also indirectly impose limits on the number of notices given each day by regulating the time allocated in the routine of business for the call for notices.<sup>13</sup> For example, in the NSW Legislative Assembly, the time for giving general business notices of motions may not exceed 10 minutes, however the Speaker has discretion to grant an extension.

### ***Members' comments***

- 4.19** The Coalition supported the introduction of a limit of two notices per member per day, exempting notices relating to committee references, orders for papers under standing order 52 or to the disallowance of statutory rules and instruments. This limit was also recommended by Revd Nile.
- 4.20** The Coalition did not support indirectly limiting the number of notices given each day by regulating the time allocated in the routine of business for the call for notices, but commented

<sup>11</sup> A maximum of 10 general business oral notices may be given each sitting day, five from government backbenchers collectively and five from non-government members collectively. Non-government notices are apportioned between members on a pro-rata basis according to representation in the House.

<sup>12</sup> ACT Legislative Assembly, NZ House of Representatives, Australian House of Representatives, Senate, Queensland Legislative Assembly and NSW Legislative Assembly.

<sup>13</sup> The Victorian Legislative Council allocates 15 minutes for the giving of notices each day. In the South Australian Legislative Council, the combined time for questions without notice and the giving of notices may not exceed one hour. In Queensland half an hour is set aside for all formalities, with notices being given directly prior to Question Time.

favourably on the current provision under standing order 71 for members to read only a summary of the intent of lengthy notices.

- 4.21** Ms Ficarra opposed any restriction on the number of notices given, arguing that such a restriction would prevent Legislative Council members, who represent a state-wide electorate, from adequately highlighting complex community issues and the valuable work of constituents.
- 4.22** The Opposition strongly opposed any limitation to the number of notices that a member may give, on the basis that this may fuel the community perception that members “do nothing”. The Opposition was also concerned that such a restriction would gag members of the cross bench, as the views of smaller parties would be lost in the volume of notices able to be given by parties with a larger representation in the House. The Opposition instead recommended that procedures for notices of motions could best be streamlined by enabling members to give multiple notices in list form to reduce the time taken by the call for notices.
- 4.23** Both the Opposition and Ms Ficarra also recommended that members be permitted to submit notices in writing, similar to the procedure for questions on notice.
- 4.24** The Opposition suggested that the option for motions to be grouped in list form be extended to items moved as formal business. They argued that any member could object to individual motions, as is now the case, and the remainder could be formally moved and carried by each member. Ms Ficarra was also supportive of this procedure.
- 4.25** The Opposition further suggested that non-contentious motions listed on the Notice Paper in the name of multiple members and requested to be considered as formal business could be dealt with in block “by exception” – that is, a list of items would be announced to the House by the President. If no member objected, the motions would be voted on together. If members objected, non-contentious motions would be put to a vote as a whole, and the question on the remaining notices would be put individually.

### **Motions that result in a letter of congratulation or condolence from the President**

- 4.26** There has recently been an increase in the number of notices of motions being given by members, and motions agreed to by the House, which seek further acknowledgement of the resolution of the House by way of a letter from the President. These motions are usually of a congratulatory or condolence nature.
- 4.27** Under current practice in the NSW Legislative Council, resolutions relating to a matter of State or national significance or which express the appreciation or condolences of the House have been communicated to the relevant persons or family members in writing, signed by the President.
- 4.28** The practice of other parliaments varies:
- In the Victorian Parliament the respective standing orders governing condolence motions require the Presiding Officer to send a message of sympathy from the House to the relatives of the deceased. The Victorian Houses are the only Houses to specifically address this issue by standing order.

- Most jurisdictions send letters of acknowledgement as a matter of practice, in a similar manner to the NSW Legislative Council, the matter being determined on a case by case basis. Condolence motions regarding former members or persons of state significance generally result in a letter from the Presiding Officer and in some cases a bound Hansard transcript and DVD of proceedings. Some Houses extend the practice to condolence motions regarding other eminent persons, to motions of congratulations and even to general motions.
- Conversely, the Speaker of the Tasmanian Legislative Assembly only transmits the terms of a resolution passed if the resolution contains a specific order to do so.

**4.29** The Office of Presiding Officer brings with it considerable gravitas. While it is appropriate for the Presiding Officer to acknowledge matters of State significance or of particular significance to the House, it may diminish the status of the Office and the importance of the correspondence by extending this to matters of a more general nature. Criteria such as those adopted by the Victorian Parliament for condolence motions may clarify for members and the Presiding Officer the types of resolutions which would most appropriately result in a letter of acknowledgement.

### *Members' comments*

- 4.30** The Coalition submitted that the President should not be called on to acknowledge matters of a general nature or of a peculiar interest. Instead, only matters of State significance or of particular and proximate interest to the House should be formally acknowledged. The Coalition recommended that specific criteria be established for letters of congratulation or condolence by the President, perhaps by way of announced policy from the President.
- 4.31** Revd Nile similarly supported correspondence from the President being restricted to condolence motions and matters of State significance rather than individuals known by only a limited number of persons or a limited geographical area. Revd Nile also recommended that motions contain a specific order that the President forward the resolution.
- 4.32** The Opposition submitted that Presidents can send such letters of their own volition, without relying on a resolution of the House, and should continue to do so. It was argued that, as very few notices fall into these categories, the current obligations on the President do not appear onerous.

## **Mechanisms for enhancing the accessibility of the work of members**

- 4.33** In 2011 the Parliament launched a new website which has made access to information concerning members and their activities easier.
- 4.34** The website provides a range of ways for searching information regarding the work of the House and of individual members. Hansard can be searched by date, by member and by bill name. The questions and answers database can be searched by entering a member's name, a keyword or a phrase. As well as parliamentary positions and general biographical information, members' profile pages also provide links<sup>14</sup> to questions asked and answered and to the Hansard

<sup>14</sup> Available at the member's request.

transcript of all contributions made in the House. Motions agreed to as formal business have recently been linked to members' profiles; previously this was restricted to motions debated only.

- 4.35** These features are common on the websites of other jurisdictions, although in some cases the NSW website surpasses the capabilities of other jurisdictions' websites. However, there are a number of other mechanisms that could be considered for enhancing the accessibility of information on members' activities.

### ***Social media***

- 4.36** At present, the Senate, House of Representatives, Western Australian Parliament, Queensland Parliament and Tasmanian Parliament have a presence on Twitter. With the exception of the WA Legislative Assembly, these parliaments also have Facebook pages. However, it is noted that these Twitter feeds and Facebook pages do not generally deal with the activities of individual members.

- 4.37** RSS feed subscriptions<sup>15</sup> are currently available in the NSW Parliament. They are also available in Victoria, South Australia, Western Australia, the ACT and New Zealand. These feeds provide regular notification of things such as bills introduced, committee activities, general announcements and library papers. Once again, however, RSS feeds by their nature do not lend themselves well to providing updates on the contributions of individual members.

### ***Video broadcasts and YouTube***

- 4.38** All parliaments (including NSW) provide a webcast feed of chamber proceedings directly from their websites. Some parliaments, including the ACT Legislative Assembly and Federal Parliament also provide video Hansard of proceedings. Trials of video Hansard conducted in the NSW Parliament highlighted the need for significant technical and structural modifications to the procedures for filming and recording of proceedings which are currently being pursued.

- 4.39** In addition, the Victorian Parliament has produced a series of informative videos featuring members and office holders which are accessible on YouTube via links from the Parliament's website.

- 4.40** The Department of the Legislative Council is currently examining, with the Legislative Assembly and the Department of Parliament Services, how information videos on the Parliament's website, and links to YouTube, could be used to further enhance the accessibility of information relating to parliamentary business and individual members' contributions.

### ***Publication of notices of motions***

- 4.41** Recently, several members have expressed interest in having a link from their member profile page to individual notices given by them.

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<sup>15</sup> An RSS feed publishes updated information, typically in real-time, enabling subscribers to be alerted to what is new on a website, or part of a website, without having to visit the website itself. RSS feeds are typically viewed through RSS readers or some web browsers.

- 4.42 The NSW Legislative Assembly has implemented a web-based database from which the Business Paper is generated and to which a member profile page can be linked. The Assembly's database does not have the capacity to generate the Legislative Council Notice paper as it is currently formulated.
- 4.43 The Queensland Legislative Assembly, Australian House of Representatives and Senate publish the text of notices given both on the Notice Paper and in Hansard. While the benefit of publishing notices in Hansard is that the text can be directly linked to members' profile pages, the risk is that members of the public may not distinguish between a notice, which has not been moved nor agreed to by the House, and a motion that has been subject to a vote of the House.

### *Members' comments*

- 4.44 Members made extensive comments in regard to mechanisms for enhancing the accessibility of the work of members.
- 4.45 Both the Coalition and Ms Ficarra commented favourably on the new practice of motions passed as formal business being tagged in Hansard and linked to members' profiles. Revd Nile argued for the further expansion of information on members' profiles, including extension of the Hansard database by continuing work presently underway to scan hard copy debates printed prior to the electronic system. Debates are currently available from 1973 onwards.
- 4.46 The Coalition, Ms Ficarra and Revd Nile opposed any proposal to link notices of motions to members' profiles.
- 4.47 Revd Nile supported the establishment of a Legislative Council Twitter feed and Facebook page, the use of YouTube and video Hansard. However, the Coalition submitted that
- ...the time and effort required for an institution, particularly a government institution, to do social media well is disproportionate to the highly intangible benefits which may flow through from such an operation.
- 4.48 While the Coalition supported RSS feeds and the streaming of video proceedings, they could not see the rationale for video Hansard, particularly given present budgetary constraints.

### **Alternative mechanisms for members to raise matters of a community and constituency nature**

- 4.49 Currently members have opportunities to raise matters of a community or constituency nature through the giving and moving of notices of motion, and through the adjournment debate. However, the opportunities available to members through both mechanisms to bring matters before the House are limited.
- 4.50 There are a number of additional mechanisms that the Council could consider to allow members to raise matters of a community and constituency nature:
- Short topical statements: These statements take various forms, and allow members to raise broad-ranging issues. The Australian House of Representatives, Western Australian Legislative Assembly and both Victorian Houses make provision for 90-second

statements of a general nature for set periods.<sup>16</sup> The House of Representatives additionally provides for members to make three-minute constituency statements as the first item of business on any day that the Main Committee meets.<sup>17</sup> By conducting these procedures in the Main Committee time is not taken from government business. Other Houses make provision for slightly longer statements of five<sup>18</sup> and 10 minutes<sup>19</sup>, proceeding for between 20 and 40 minutes.

- Debates on a general motion, such as adjournment debate or grievance debate: Like the NSW Legislative Council, most jurisdictions make provision for an adjournment debate, the length and frequency of contributions varying.<sup>20</sup> Several jurisdictions<sup>21</sup> make provision for debate on the motion "That grievances be noted" or, in New Zealand, "That the House take note of miscellaneous business", also covering broad ranging topics. The total time allocated for debate ranges from approximately 30 minutes to two hours, with contributions ranging from five to fifteen minutes in length. Grievance debates do not typically take place every sitting day.

**4.51** While several jurisdictions make a number of these mechanisms available to members, most offer only one. In addition, while these mechanisms might provide additional opportunities for debate, they do not result in a resolution of the House and may not satisfy the objective of having the House decide on a matter a member has proposed. For many members, such a vote is likely to be a key factor in their decision to raise an issue by way of a motion rather than another mechanism.

### *Community recognition notices*

**4.52** In February 2012, the NSW Legislative Assembly made provision for that House to deal with certain types of general business notices of motions formally, the question being put without amendment or debate.

**4.53** The procedure is similar to the Legislative Council's formal business procedure under standing order 44. However, the Assembly procedure varies by limiting the scope and content of notices that may be dealt with under the new provision. The sessional order specifies that the motions, termed 'community recognition notices', must not contain: (a) matters of policy, (b) requests for the Government or the House, or any other body to take some form of action or not, or (c) criticisms or negative reflections on any person, including Members, Office Holders, the Government, the Opposition or a third party.<sup>22</sup> The new procedure has been

<sup>16</sup> In the Australian House of Representatives, 15 minutes is set aside on Mondays, Wednesdays and Thursday for 90-second statements by members. The call is alternated between government and non-government members, and members can also use the opportunity to present petitions. The Victorian Legislative Council limits 90 second statements to one per member each sitting week, however members may assign their entitlement to other members provided that no individual member is called more than one each day. The standing orders make provision to prevent one party being allocated more than 50 per cent of statements in a given week.

<sup>17</sup> These statements proceed for 30 minutes irrespective of suspensions for divisions in the House.

<sup>18</sup> Tasmanian Legislative Council (for 20 minutes), NSW Legislative Assembly (given precedence at particular times each sitting day, and up to 47 statements may be made over any sitting week).

<sup>19</sup> Western Australian Legislative Council (for 40 minutes prior to adjournment on Tuesdays, Wednesdays and Thursdays).

<sup>20</sup> Senate, Australian House of Representatives, ACT Legislative Assembly, South Australian House of Assembly (only if adjournment moved before 5.30 pm), Northern Territory Legislative Assembly, Queensland Legislative Assembly, Victorian Legislative Assembly and Legislative Council and Tasmanian Legislative Assembly.

<sup>21</sup> Australian House of Representatives, South Australian House of Assembly, Western Australian Legislative Assembly and Victorian Legislative Assembly.

<sup>22</sup> LA Votes and Proceedings, 14 February 2012, p 522

popular, with 65 notices received for review in one day, but has also resulted in a significant workload for the Table Office which is responsible for ensuring compliance with the rules.<sup>23</sup>

- 4.54** The new procedure was reviewed in March 2012. The LA Standing Orders and Procedure Committee noted that while the new procedure had been welcomed by members, a maximum number of notices able to be lodged by individual members was required to bring the practice into line with current limits on questions on notice and general business notices<sup>24</sup>. The House subsequently passed an amended sessional order restricting the lodgement of community recognition notices to nine per week (in total – a limit was not applied to individual members).
- 4.55** The stringent rules placed on community recognition notices severely restrict the breadth of issues raised and members' ability to express their views. While the procedure of placing motions *in globo* is efficient in that it enables multiple items to be disposed of on one question from the Chair and reduces the time taken for consideration of formal business, individual motions might be overlooked amongst the whole, potentially minimising their impact. It is also significant that although members have the option of voting against the question, they cannot vote against individual motions.

### ***Members' comments***

- 4.56** While Revd Nile supported provision for short topical statements of two minutes, in addition to the adjournment debate, the Coalition argued against short topical statements and grievance debates as they would likely take up valuable time and 'more often than not, provide a great deal of heat but very little illumination'.
- 4.57** Only Revd Mr Nile supported the introduction of a system for community recognition notices similar to that operating in the Legislative Assembly. The Coalition submitted that such a practice may overlap with the work of the lower House.
- 4.58** The Opposition further observed that while such alternate mechanisms exist in the Legislative Assembly,

...it would be erroneous to believe that they are appropriate for introduction in the Legislative Council. The nature of work undertaken by members of both Houses varies greatly and cannot be compared. The use of notices of motions to achieve these ends is working well in the Legislative Council.

<sup>23</sup> LA Votes and Proceedings, 4 April 2012, p 744

<sup>24</sup> LA Standing Orders and Procedure Committee, Report No. 2/55, *Amendments to Standing and Sessional Orders*, April 2012, p v, 14.

## Chapter 5 Conclusion

- 5.1** Both the deliberations of the Committee and the comments made by members in their submissions highlight the potential for change to improve on the current practice for giving and potentially moving notices in the Legislative Council. While members place differing emphasis on particular aspects of the procedure, all those who made submissions see potential for procedures to be either simplified or enhanced in some way.
- 5.2** While members often raised similar concerns in regard to some issues, neither the submissions made nor the Committee itself reached a consensus view on the six areas referred to the Committee for consideration and report.
- 5.3** The Procedure Committee, comprising a membership that is reflective of both the party representation in the House and the various office holders who together manage the business of the House, has historically made recommendations on a consensus view. This has been particularly important as many of the recommendations made by the Committee relate to significant changes in procedure, and the House places great weight on the Committee's deliberations and recommendations.
- 5.4** For this reason, the Committee has not made any recommendations, rather outlining the issues and varying views of members so as to ensure that all members of the House are fully informed should any member bring proposals before the House for its deliberation and decision.



# Appendix 1 Minutes of Proceedings

## Minutes No. 5

Monday 2 April 2012

President's Dining Room, Parliament House, 6.30 pm

### 1. Members present

Mr Harwin (Chair)

Mr Borsak

Mr Gallacher

Miss Gardiner

Mr Gay

Dr Kaye

Mrs Mitchell

Dr Phelps

Mr Searle

In attendance: David Blunt, Susan Want, Jenelle Moore, Stephen Frappell, John Young.

### 2. Apologies

Ms Fazio, Mr Foley, Revd Mr Nile.

### 3. \*\*\*

### 4. Inquiry into notices of motions

The Chair tabled a discussion paper entitled "Inquiry into notices of motions", as previously circulated.

The Committee deliberated.

Resolved, on motion of Mr Gay:

1. That the discussion paper be circulated to members of the Legislative Council in the name of the Procedure Committee to invite discussion and comment.
2. That submissions to the inquiry be received by Friday 4 May 2012.

### 5. Adjournment

The Committee adjourned at 6.40 pm.

David Blunt

Clerk to the Committee

\*\*\*\*\*

**Minutes No. 6**

Wednesday 20 June 2012

President's Dining Room, Parliament House, 10.05 am

**1. Members present**

Mr Harwin (Chair)

Mr Borsak

Mr Foley

Miss Gardiner

Mr Gay

Dr Kaye

Mrs Mitchell

Dr Phelps

Mr Searle

In attendance: David Blunt, Stephen Frappell, Jenelle Moore.

**2. Apologies**

Ms Fazio, Mr Gallacher, Revd Mr Nile.

**3. Confirmation of previous Minutes no. 5**

Resolved, on motion of Dr Kaye: That Minutes no. 5 be confirmed.

**4. Correspondence**

The Chair noted the following items of correspondence:

***Sent***

Letter dated 3 April 2012 from the Chair to all members attaching a discussion paper and inviting submissions to the Committee's inquiry into notices of motions.

***Received***

Letter dated 1 May 2012 from the Honourable Marie Ficarra MLC in response to the Chair's invitation inviting comments on the inquiry into notices of motions.

Letter dated 17 May 2012 from Revd the Honourable Fred Nile MLC in response to the Chair's invitation inviting comments on the inquiry into notices of motions.

Email dated 22 May 2012 from the Honourable Amanda Fazio MLC, on behalf of the Opposition, in response to the Chair's invitation inviting comments on the inquiry into notices of motions.

Email dated 12 June 2012 from the Honourable Dr Peter Phelps MLC, on behalf of the Coalition, in response to the Chair's invitation inviting comments on the inquiry into notices of motions.

**6. Inquiry into notices of motions**

The Chair tabled his draft report entitled 'Notices of Motions', as previously circulated.

The Committee deliberated.

Resolved, on the motion of Mr Gay: That the committee authorise the publication of correspondence tabled this day.

Resolved, on the motion of Mr Gay, that the draft report be the report of the Committee and presented to the House, together with correspondence relating to the inquiry.

**7. \*\*\***

**8. Adjournment**

The Committee adjourned at 10.17 am, *sine die*.

David Blunt

**Clerk to the Committee**