

Notes for the Guidance of Witnesses Appearing Before Parliamentary Committees

1. Parliamentary Privilege

Committee proceedings are recognised as proceedings of Parliament and are accorded the same protection as proceedings in the House. The *Parliamentary Evidence Act 1901* provides that a witness who has given evidence under oath or affirmation cannot be subject to legal action for any defamatory evidence given before the committee. However, statements made after formal evidence, outside the proceedings, or any documents not formally tabled by the committee, are not protected.

2. Opening Procedures and Calling of Witnesses

When you enter the meeting room, please introduce yourself to the committee.

When called to give evidence you will be asked by the committee chair to state your full name, address and in what capacity you appear before the committee, e.g. as an officer of an organisation or as a private individual.

Prior to your giving evidence, the committee clerk will administer the oath or you may affirm to tell the truth. If you require a holy book other than the Bible for the taking of an oath, or information concerning the taking of an oath or making an affirmation, please contact the secretariat before the hearing.

3. Documents Tendered

If you or your organisation has made a written submission, the chair will ask you whether you wish to include the submission as part of sworn evidence, enabling its public release. You may wish to advise the committee of any alterations or additions to the submission. The committee will then move to have the submission incorporated in the transcript of evidence. Additional documents tendered as evidence, such as diagrams, maps, videos, etc. may also be included in the committee records as exhibits.

Once a submission or additional material has been incorporated in a transcript of a public hearing it will be made publicly available. Submissions should not be released publicly before the committee has given authorisation. To do so is a contempt of Parliament.

4. Examination of Witnesses

Before inviting members of the committee to ask questions, the committee chair will give you the opportunity to make a short statement (usually about five minutes) in support of the submission. You will then be asked questions by members and the chair of the committee.

The questions are designed to clarify aspects of your submission and to seek information relevant to matters within the committee's terms of reference. Generally, hearings help the committee go beyond written submissions.

Witnesses should indicate if a question is outside his or her professional competence or if they consider it to be outside the committee's terms of reference. Witnesses are free to offer information if the committee has explored only partially an issue that deserves further attention.

At any stage of proceedings, a witness can request to give evidence in private (in camera) or seek leave of the committee to obtain legal advice on an issue.

5. In Camera Hearings

If the information you intend to provide or which you have been asked to provide is confidential, you may ask to give your evidence in camera. The committee will consider your request and if granted, the press and public will be excluded and the hearing will proceed in private. A chair or a member may also ask that the hearing be held in camera, particularly if the evidence reflects adversely on a third person not present, or if the matter is subject to legal proceedings (sub judice).

In camera evidence is treated as secret evidence

at the time that it is heard. However, depending on the nature of the evidence, the committee may wish to refer to it in its report. If the committee intends to release any in camera evidence it will consult the witness first. Although unlikely, the House may order also the production and publication of in camera evidence without consulting the witness.

6. Government Officials

Departmental officers are not required to answer questions which seek their opinions on the merits of government policy. However, they may be asked to describe past and present policy, the effects of changes in policy, and to discuss matters which public service advisers take into account when advising on policy. Officers may ask to refer questions asked of them to superior officers or to a Minister.

For further information, officers should consult the Premier's Memorandum to Ministers entitled "Provisions of Evidence and Information to Parliamentary Committees: (No. 92-36)".

7. Additional Material

If you cannot answer a question or provide information at the hearing, you may be asked to provide a written answer or additional material later.

8. Media Coverage

The media are usually permitted to attend hearings, except when evidence is taken in camera. Hearings may also be televised on the Parliament's in-house television system. If you have concerns about these arrangements or will require copies of the video footage of your evidence, please contact committee staff.

Giving Evidence before Committees

All hearings conducted by parliamentary committees are recorded by Hansard (parliamentary reporting staff). The following guidelines help Hansard record evidence accurately and clearly.

1. When more than one member of an organisation is called to give evidence, please bring a list with all their full names. This enables Hansard reporters to attribute statements accurately to the right witness.
2. At the commencement of an individual's or organisation's appearance before a committee, the committee chair will ask each witness to identify himself or herself and, if appearing on behalf of an organisation, to give his or her title and official or private address.
3. If many people from an organisation are appearing together before a committee and name plates have not been prepared, it helps Hansard reporters if the speaker gives his or her name before answering questions.
4. If you intend to submit supplementary written evidence to the committee during the course of the hearing, it would assist if extra unmarked copies were available for circulation to committee members. Secretariat staff can make copies if you advise them upon your arrival.
5. Generally, the public and witnesses may enter and exit the hearing room as they wish. However, sometimes committees ask witnesses not to sit in the public gallery until they have given their evidence. Within reason, witnesses may consult other people in the room while giving evidence.
6. The transcript of evidence given in a public hearing will be made public once it has been tabled in Parliament or authorised for release by resolution of the committee under the *Parliamentary Paper.c (Supplementary Provisions) Act*.
7. Witnesses are asked to clearly identify documents to which they refer when giving evidence, e.g.

"table one on page five of our submission indicates that ...".

8. Soon after the hearing, the committee staff will send you a copy of a proof transcript for correction of errors (but not content or style). It would be appreciated if witnesses could return the corrected transcript to committee staff as soon as possible. Evidence taken in camera must be corrected in the presence of a committee staff member at Parliament House.

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For more information on any aspect of committee hearings please contact:

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PARLIAMENT OF
NEW SOUTH WALES

LEGISLATIVE ASSEMBLY

**Information for
Witnesses before
Parliamentary Committees**



**Committees Office
Legislative Assembly
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