



Legislative Assembly

MEMBERS' GUIDE TO COMMITTEES OF THE LEGISLATIVE ASSEMBLY



Members' Guide to the Committees of the Legislative Assembly

APRIL 2011

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Introduction

This guide is designed to assist committee members to understand the roles and responsibilities of the various committees administered by the Legislative Assembly of New South Wales.

It provides a succinct description of the powers of committees and relevant Standing Orders and meeting procedures. Information on logistical and administrative support of committees is contained in other committee publications.

This publication is current as at the commencement of the 55th Parliament. However, details may change and up to date information can be found on the Parliament's intranet, or by seeking the advice of committee staff. Procedural sources are included as appendices to this guide. On complex procedural issues, committee members may need to seek guidance from the Clerk or the Speaker, through the Clerk-Assistant (Committees) in the first instance.

Importantly, this guide only covers committees administered by the Legislative Assembly. On occasion, members of the Legislative Assembly may serve on joint select committees administered by the Legislative Council. Different administrative arrangements and Standing Orders apply to these committees.

Chapter One: Committees of the Legislative Assembly

Role of Committees

What are parliamentary committees? Parliamentary committees are groups of members appointed by the Parliament to undertake a particular task or function.

Parliamentary committees in New South Wales:

- examine legislative proposals, regulations or the operation of government policies and programs;
- bring Parliament to the people by providing a forum where interest groups and private citizens can express their views;
- provide Parliamentary accountability for a number of independent statutory offices including the Audit Office, the NSW Ombudsman and the Independent Commission Against Corruption; and
- report to the Parliament.

Types of committees The Legislative Assembly may appoint standing, select, statutory, domestic, legislation and estimates committees.

- *Standing committees* are established by resolution of either or both Houses to investigate and report on specific subject areas during the life of a Parliament (a four year term).
- *Statutory committees* are created under the authority of an Act of Parliament and operate in accordance with specific legislative provisions.
- *Select committees* are appointed by either or both Houses to investigate or report on specific matters.
- *Legislation committees* can consider a Bill on referral from the House following agreement in principle (the Assembly has not recently appointed such committees).
- *Estimates committees* may examine in detail the Government's appropriation bills and estimates of revenue and expenditure for the following year.
- *Domestic or House committees* consider internal House matters such as catering, the Library and procedural matters.

Joint committees are made up of members of both Houses of Parliament.

Why do committees matter? Committees focus attention on specific issues and encourage detailed deliberation. For instance, a committee may study an issue or inquire into a matter and report back to the House. This allows individual members to focus on a particular subject, study it in detail and deepen their understanding of complex policy areas.

Committees can increase members' understanding of the operations of government in New South Wales. By reporting its findings and recommendations, a committee can educate the public about various public policy issues.

Public engagement Committees provide mechanisms for public engagement in Parliamentary processes. Committees often call for submissions from the public. They hold public hearings and meetings that provide opportunities for interest groups, academics, experts and

individual citizens to inform the committee of their views on particular topics. Participation in committee inquiries and activities is an opportunity for the public to engage directly with members of Parliament.

Subject expertise

Committee membership provides an opportunity for members to become better informed on particular subject areas and different perspectives. Information made available through committee work can sometimes be helpful in addressing concerns raised by constituents.

Committees are small enough to allow effective working relationships to develop between members. While committees have rules and procedures, generally the atmosphere is less formal and adversarial than proceedings in the House.

What committees can achieve

Committees make recommendations to the House. They can identify problems with the operations of government or, in some cases, make proposals for policy change or administrative measures. Committee inquiries can lead to increased public awareness and informed public debate on an issue.

Committees administered by the Legislative Assembly may comment on Government policy relevant to their functions. However, a committee report or recommendation may not lead to direct change. It is a matter for the Government to determine whether or not to accept a committee recommendation. Any proposed legislation arising from a committee inquiry is then considered by the House.

Membership

The number of members making up a committee is determined either by a resolution of the House establishing the committee, the relevant statute or the Standing Orders.

Standing Orders provide that the Speaker, Deputy Speaker and Assistant Speaker shall not be chosen to serve on committees except with their consent. By convention, Ministers do not serve on committees. Some statutes preclude Ministers and Parliamentary Secretaries from serving on certain committees.

Members are appointed to and discharged from committees by resolution of the House. In the case of certain statutory committees provision is made for members to resign in writing to the Speaker. Members may also be discharged if they are no longer eligible to serve on a committee because they have been appointed to another office.

Conflict of interest

Under the Standing Orders, a member should not participate in a matter under inquiry if personally interested or if they have a direct pecuniary interest in the matter, not held in common with other citizens of the State.

If a member considers that they may have a potential or actual conflict of interest, they should seek advice from the Clerk-Assistant (Committees).

Effective committees

Effective committee membership requires members to devote time and effort to learning about the issues under inquiry.

All members can make their committees more effective by:

- checking that proposed meeting times are convenient, so they can attend meetings and a quorum can be maintained;
- familiarising themselves with material before attending meetings;
- participating fully in committee discussions; and
- abiding by the rulings of the Chair during committee proceedings.

Members should provide early notice if they are unable to attend a meeting.

Role of Chairs

Chairs play a leadership role in committee proceedings, similar to the role performed by the Speaker in the House. They are responsible for ensuring that committees adhere to their terms of reference and the Standing Orders.

Committee procedures, established by Standing Orders and resolutions of the House, provide for a Chair to:

- question witnesses first before opening questioning up to other members;
- resolve gridlocked decisions by virtue of having both a casting and a deliberative vote (unless the terms of reference provide otherwise);
- present the Chair's draft report for the committee's consideration;
- when the report is agreed to, table it in the House on behalf of the committee;
- speak first, and for a longer period, in the take note debate on committee reports; and
- answer questions in the House relating to committee affairs.

Under the standard procedural motions for committees, Chairs are also the primary spokesperson for the committee.

In performing their role, Chairs rely on the support of committee members. To maintain this support Chairs:

- consult members about committee work programs;
- consult members about hearing dates and potential witnesses;
- provide adequate notice of meetings;
- ensure early distribution of relevant material to committee members; and
- foster a non-partisan environment that allows discussion of diverse points of view before making decisions as a committee.

Chairs are not confined in their role to keeping order or ruling on procedural issues. Their right to take part in committee proceedings is no less than that of other committee members. The Chair is a participant in the business transacted at a meeting, and may play an active part in deliberations and discussions.

The Chair also provides guidance to the Committee Director responsible for managing support for the committee's meetings and inquiries.

Chair's procedural authority

The Chair's procedural authority is fairly exclusive. At all meetings, and especially when hearing evidence, the Chair is responsible for maintaining order and decorum. The Chair may also make rulings on the admissibility of questions, particularly if they are not relevant to the committee's terms of reference. The Standing Orders which apply to debates can serve as a model for committee operations.

However, the Speaker's advice should be sought on complex procedural matters, through the Clerk and Clerk-Assistant (Committees). Also the Speaker may intervene on procedural matters that hold departmental significance or relate to practice across all committees.

While most decisions on committee operations are left to the Chairs and committees themselves, the Speaker has authority for and oversight of committee operations, administration and expenditure. This is particularly so in relation to approvals for expenditure and adherence to Legislative Assembly policies. This is done through the Clerk and Clerk-Assistant (Committees). The Speaker is also the authority for the employment of staff to service committees.

Salary of office

All committee Chairs and the members of the Public Accounts Committee are entitled to certain remuneration for their role, as specified in determinations issued by the Parliamentary Remuneration Tribunal.

Committee procedure

Committees are governed by certain statutes, Standing Orders, and parliamentary practice and procedure. Unless otherwise provided for in statute, committee procedure is governed by the Standing Orders of the House in which the motion appointing the committee originated.

The Standing Orders of the Legislative Assembly that apply to committees are included in Appendix One.

Parliamentary privilege

Committee proceedings attract the protection of parliamentary privilege in the same way as proceedings in the House. This means that members and witnesses participating in committee proceedings have freedom of speech. No action can be brought against a them in respect of any submission or statement made in the course of such proceedings. However, parliamentary privilege does not apply to any re-publication or repetition of a statement or submission made outside of committee proceedings.

Evidence, documents and proceedings should not be published without the authorisation of the committee. To do so may impede the work of the committee and have the potential to constitute a contempt of Parliament.

Practice and convention

Information on relevant Legislative Assembly practice and convention is available in *Legislative Assembly Practice, Procedure and Privilege*. Where there is no rule or precedent applicable to a particular situation, the current edition of *House of Representatives Practice* may be consulted. In some circumstances, it may be necessary to refer to English precedent as set out in the latest edition of *Erskine May's Parliamentary Practice*.

Committee powers

It is a role of the Houses to scrutinise the Executive. Parliament possesses inherent investigatory powers which assist in fulfilling this role.

Committee powers derive from common law and statute. These powers provide committees with the authority and capacity to carry out their functions. A committee has the power and authority delegated to it by the House or Houses. The powers of a committee cannot exceed the powers of the House.

Some committees are appointed in accordance with a statute and others by resolution of the House. The statutes establishing statutory committees may define the committee's powers or limitations on its jurisdiction. Where the statutes are silent, the Standing Orders apply.

Some committees have a 'self-referencing' power whereby they can determine the terms of reference for particular inquiries.

Additional information resources are at Appendix Three.

Relevant statutes

- Article 9 of the *Bill of Rights 1689* (UK) – adopted in New South Wales by the *Imperial Acts Application Act 1969*; guarantees the privilege of freedom of speech for witnesses and members participating in committee proceedings;
- *Constitution Act 1902* – ratifies the Parliament's right to manage its own affairs, setting out the mechanism by which Standing Orders are given force;
- *Parliamentary Evidence Act 1901* – provides a code for the summoning, attendance and examination of witnesses by committees;
- *Parliamentary Papers (Supplementary Provisions) Act 1975* – authorises committees to publish material; and
- *Defamation Act 2005* – confers a defence of absolute privilege against an action for defamation in respect of parliamentary proceedings.

Chapter Two: Committee functions and activities

Some committees conduct wide-ranging public inquiries into relevant issues. Others are restricted by the initiating resolution or their terms of reference to much narrower investigations or specific factual inquiries. In addressing their terms of reference or fulfilling their statutory functions, committees typically deliberate in private and conduct hearings in public. Committees report to Parliament on their findings and recommendations.

Calling the first meeting

In most cases, the first committee meeting is called by the Clerk of the Legislative Assembly unless the resolution in the House specifies otherwise.

The Clerk will normally negotiate a suitable time for members and circulate the notice together with an agenda in advance of the meeting.

Business of the first meeting

If the Chair is not appointed by the House, one of the primary tasks that the committee performs at its first meeting is to elect a Chair and Deputy Chair.

The committee then considers and adopts standard procedural motions, which are the common basis for how committees administered by the Legislative Assembly operate. Matters covered in these motions include arrangements for contacting witnesses and publishing information about the committee. They serve as a guide and a committee may elect to amend them.

The motions are included at Appendix Two.

Announcement in the House

The House is to be advised of the election of the Chair, of any inquiries referred to the committee by a Minister, and of any inquiries self-referred, at the time provided in the routine of business.

Information provided to previous committees with similar roles

Standing Orders provide that committees may consider and make use of evidence and records of similar committees appointed during a previous session of the same, or of a previous, Parliament. However, committees are not bound by the earlier decisions of similar committees.

Meetings

Deliberative meetings

Only committee members and committee staff attend deliberative meetings, unless the attendance of other persons has been authorised by the committee. During these meetings committees conduct their administrative and deliberative functions, including the adoption of minutes, scheduling of meetings, deciding on courses of inquiry, selection of witnesses and the consideration of draft reports.

Committees record their determinations as resolutions or matters of agreement. Minutes are formal records of decisions. General discussions occurring within deliberative meetings are not recorded or minuted except in general terms.

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| <i>Moving motions</i> | Each motion in a committee meeting needs a mover but not a seconder, although the seconding of a motion indicates broader support among committee members for the proposal under consideration. |
| <i>Divisions</i> | A question arising at a committee meeting is to be determined by a majority of the votes of the members present and voting. Although a division can be held on any question before a committee, the Standing Orders do not stipulate how a division is to be conducted. |
| <i>Dissent</i> | If a division is not called on a question, a committee member may request that their dissent from the decision be recorded in the minutes. |
| <i>Publication of minutes</i> | Minutes are confirmed at the next meeting and signed by the Chair. Publication of committee minutes may be done by resolution of the committee under the authority of s.4 of the <i>Parliamentary Papers (Supplementary Provisions) Act 1975</i> . Relevant extracts of minutes are tabled with the committee's report to the House. |
| <i>Proceedings by electronic means</i> | Committees are authorised to conduct proceedings by electronic communication, such as video or telephone conferencing, without the need for members or witnesses to be present in one place, provided that: <ul style="list-style-type: none"> • when deliberating committee members constituting a quorum are able to speak and hear each other contemporaneously; and • when a witness is giving evidence, committee members constituting a quorum are able to hear the witness contemporaneously and put questions to the witness in each other's hearing. |

Planning the work of the committee

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| <i>Activities depend on terms of reference</i> | The types of activities undertaken by each committee are dependent upon its terms of reference. Some committees conduct wide-ranging inquiries over several months. Other committees oversight the operations of a particular body such as the NSW Ombudsman, the Police Integrity Commission or the Health Care Complaints Commission. Statutory oversight committees monitor and review the way in which such bodies exercise their functions, and may conduct inquiries subject to the limits of their jurisdiction. Select committees may be tasked with investigating a particular issue by a specific reporting date. Legislation committees examine a particular Bill. The Legislation Review Committee scrutinises all Bills and regulations that are before the House and prepares a digest each sitting week, which comments upon any trespasses on individual rights and liberties. |
| <i>Developing work plans</i> | The Chair, in conjunction with committee staff, will list proposals for committee activities, along with a work plan as an agenda item for discussion. Considerations usually include: <ul style="list-style-type: none"> • the scope of the committee's terms of reference; • the depth of inquiry given the competing statutory functions of a committee, for example, scheduled meetings with independent offices; • any reporting date set by the House; |

- realistic due dates for public submissions;
- members' availability for meetings and hearings, given sitting schedules and the need for flexibility; and
- the need to work within available resources.

The inquiry process

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| <i>Calling for submissions</i> | <p>Committees often start an inquiry by calling for submissions from the public and relevant organisations on the inquiry's terms of reference. The committee uses submissions to inform its deliberations.</p> <p>Methods of consultation used by committees include:</p> <ul style="list-style-type: none"> • calls for public submissions; • communication strategies; • surveys, informal meetings; • round tables and forums; • meetings with committees from other jurisdictions. |
| <i>Taking evidence</i> | <p>Committees hold public hearings as part of an inquiry. Witnesses may be invited to give evidence if they made a submission to the inquiry, or if the committee considers they have expert knowledge of the relevant subject area. Hearings are usually held in public but may in some circumstances be held in private (<i>'in camera'</i>) with only committee members, staff and witnesses in attendance. Evidence taken <i>in camera</i> is confidential to the committee.</p> |
| <i>Round tables</i> | <p>Committees may convene round table discussions with key stakeholders as a less formal way of gathering information.</p> |
| <i>Other means of gathering information</i> | <p>Committees may use other means of gathering information, such as attending conferences or seminars. They can also organise public forums where members of the public express their views directly to committee members. Alternatively, briefings may be held with experts in a particular field or by consulting with non-government or community groups.</p> |
| <i>Visits of inspection</i> | <p>Committees can inform themselves about relevant issues by undertaking visits of inspection to appropriate sites.</p> |
| <i>Reporting</i> | <p>The most visible product of the work of committees are their reports to the House or Houses. A report contains a summary of the evidence and other information collected during the committee's consideration of an issue and the results of its deliberations. Once tabled, reports are publicly available on the committee's web page.</p> |

Committee reports

Under Standing Orders, committees are empowered to report upon their deliberations and to present minutes, evidence or other documents to the House.

After collecting evidence through research, submissions, public hearings, briefings and visits of inspection, the committee will finalise its inquiry by reporting to the House on its findings and recommendations.

Contents of reports

The primary aim of the report is to inform Parliament of a committee's inquiry and to make recommendations. A report may include the following:

- the Chair's foreword;
- the names of the committee members;
- the resolution of Parliament establishing the committee or the terms of reference for the inquiry;
- the methods by which public participation was sought, whether by advertisement or directly contacting key stakeholders;
- the minutes of all committee meetings in which the inquiry was considered (these can be edited for publication to include information directly relevant to the inquiry and exclude other unrelated matters that may have been considered at a meeting);
- a list of all submissions received; and
- a list of all witnesses and the organisations or departments they represented.

Reports are confidential documents and are circulated to committee members only. Members should keep draft reports secure and be particularly careful with copies of draft reports on sensitive or contentious issues.

Preparing and considering the Chair's draft report

Under the Standing Orders, committee staff prepare draft reports under the direction of the Chair for consideration by the committee. Time permitting, a committee may deliberate upon possible directions for a draft report. Committees consider draft reports in deliberative meetings.

The Standing Orders provide for reports to be considered paragraph by paragraph unless the committee resolves otherwise. Members may move amendments to the draft at any stage of the consideration of the report.

The report may then be adopted with or without amendments. Once adopted the report is signed by the Chair.

Dissent from reports

There is no provision for dissenting reports under Legislative Assembly Standing Orders. Members express their dissent by proposing and debating amendments to the draft report.

Proposed and adopted amendments, along with any divisions on amendments or recommendations, are minuted for the public record. Members can propose a motion that their 'dissent be noted' in the minutes or may vote against a motion to adopt the report. The wording of each proposed amendment is included in the committee's minutes.

Tabling

The Chair or another member of the committee tables the report in the House together with the minutes, evidence and other documents. Reports from joint committees are tabled in both Houses, usually by the Chair in one House and the most senior Government member or Deputy Chair in the other House.

The member tabling the report moves that it be printed. This is done without debate. The report is then published and posted on the committee's webpage.

If the House is not sitting, the report and associated documents are tabled with the Clerk. Upon receipt, the report is deemed to be tabled and ordered to be printed. It can be publicly released and is reported to the House on the next sitting day. Joint committee reports are tabled with the Clerks of both Houses outside sitting times.

Timing

Unless a reporting date is included in the inquiry terms of reference, the timing of tabling is at the committee's discretion. If a committee considers that it is unable to meet a reporting deadline, it resolves to seek an extension in the House or, in the case of a Ministerial referral, notifies the relevant Minister. Advice should be sought from the Clerk-Assistant (Committees) concerning such situations.

After an inquiry

Consideration in the House

Committee reports are considered and debated in the House on a motion to 'take note' of the report. Any member of the House can speak to a committee report. Joint committee reports are debated in both Houses.

Standing Orders provide that reports from committees are debated in the order in which they are presented. Debate on committee reports occurs on sitting Fridays and may be adjourned. If the order of the day is called on to debate the report at the subsequent sitting Friday and the debate does not proceed, the question to take note of the report is put.

The member tabling the report may speak for up to 10 minutes and any other member may speak for up to five minutes. The question 'That the House take note of the report' is put after 30 minutes.

Government responses to committee reports

Upon tabling, a copy of the report is referred by the Clerk to the relevant Minister(s) who must respond within six months as to what action, if any, the Government proposes to take in relation each recommendation contained in the report.

Receipt of the response is announced by the Clerk in the House and recorded in the Votes and Proceedings. The response is posted on the committee's webpage adjacent to the report.

Chapter Three: Support for committees

Committee staff

Administrative, procedural and research support for Legislative Assembly administered committees is provided by parliamentary officers employed by the Legislative Assembly. Parliamentary officers are not politically aligned and have a code of conduct requiring objectivity, political neutrality and equal service to all members of Parliament.

Committee staff make arrangements for all committee activities in consultation with the Chair. This includes arranging meetings and hearings, liaising with witnesses, organising visits of inspection, preparing and distributing meeting papers, drafting correspondence and drafting reports.

Assistance is only provided to members in relation to committee activities. The role of committee staff does not extend to providing general administrative support for members.

Rotation of committee staff

Officers are assigned to committee inquiries depending on operational needs as determined by the Clerk-Assistant (Committees).

Individual staff are rotated to supplement resources on a needs basis, and to provide opportunities to broaden their committee experience and enhance skills development.

Secondees/ Consultants

Where committees need specialist advice on particular issues, they may resolve to seek the Speaker's approval to engage consultants. Approval will depend on the need for such expert assistance and competing priorities for limited funding.

Staff of public sector agencies may be seconded to committees. In the event that an agency continues to pay the salary of a seconded member of staff, prior approval for the arrangement should still be sought from the Speaker.

Relationship with Chair and members

Committee staff provide objective, unbiased advice to the Chair and to the committee as a whole, and they occupy sensitive positions of trust. This involves maintaining the confidentiality of communications around matters subject to committee deliberations.

When advising the Chair and members, committee staff must act in accordance with the administrative, managerial and procedural requirements of the Legislative Assembly.

By necessity the Chair will have more frequent contact with the senior committee staff responsible for the day to day management of an inquiry.

Committee staff liaise with the Chair on such issues as the appropriate arrangements for the circulation of documents and the signing of correspondence and minutes.

The committee is also kept informed of progress on actions arising from committee meetings.

Appendix One: Relevant Legislative Assembly Standing Orders

Chapter 23

COMMITTEES

General Provisions

272. The following rules shall apply for the appointment and conduct of all committees, unless otherwise ordered or provided by statute.

Number of members

273. A committee shall consist of between five and ten members.

Appointment or discharge of committee members

274. Motions appointing and discharging Members from committees may be moved without notice when there is no question before the Chair.

Speaker, Deputy Speaker and Assistant Speaker exempt

275. The Speaker, Deputy Speaker and Assistant Speaker shall not be chosen to serve on committees except with their consent.

Personal or pecuniary interest

276. A Member shall not participate as a committee member in a matter under inquiry by a committee if personally interested or if the Member has a direct pecuniary interest in the matter under inquiry not held in common with other citizens of the State.

Notice of appointment

277. The notice of motion for the appointment of every committee may contain the names of the Members the mover intends to serve on the committee.

Ballot

278. Any Member may call for a ballot for the selection of committee Members.

First meeting

279. The date and time of the first meeting shall be set by the mover if a member of the committee, otherwise the Clerk shall call the meeting.

Quorum

280. A quorum for committees is three Members.

Quorum not present at first meeting

281. If a quorum is not present within 15 minutes of the time set for a meeting, the meeting shall lapse and the Chair, if appointed, or the Clerk shall issue notices for the next meeting.

Election of Chair and Deputy Chair

282.

- (1) At the first meeting of a committee a Chair and Deputy Chair shall be elected.
- (2) The Speaker, upon being advised, shall report the appointments of a committee Chair and a Deputy Chair to the House.

Voting

283.

- (1) A question arising at a meeting of a committee shall be determined by a majority of the votes of the Members present and voting.
- (2) The Chair shall exercise a deliberative vote and, in the event of an equality of vote, shall exercise a casting vote, except upon a private bill.

Absence of Chair

284. In the absence of the Chair, the Deputy Chair shall act as Chair. If the Chair and Deputy Chair are both absent, committee members present from day to day may elect an acting chair.

Minutes

285. The minutes of committee meeting shall record:

- (1) Members present and apologies received.
- (2) Every motion and amendment moved and the name of the mover.
- (3) Every proceeding and decision not the subject of a resolution.
- (4) The names of Members voting in a division and whether for or against the motion.

Quorum not present during meeting

286. If during a sitting of a committee, attention is drawn to the absence of a quorum the Chair shall suspend the sitting until a quorum is formed or adjourn the committee to a later time.

Times of sitting

287. A committee may adjourn from time to time and from place to place and may sit during any sittings or adjournment of the House.

Persons, papers, records and exhibits

288. A committee shall have power to send for persons, papers, records, exhibits and things.

Witnesses

289. Summonses to be issued to witnesses shall be signed by the Chair of the committee or by the Deputy Chair in the absence of the Chair.

Counsel

290. Repealed

Examination of witnesses

291. Witnesses shall be examined on oath or affirmation as follows:

- (1) The Chair may first question the witness uninterrupted upon the subject matter of the inquiry.
- (2) Other Members may then ask questions.

- Recording of evidence** **292.** The questions and the evidence of witnesses shall be reported by Hansard unless otherwise ordered by the committee.
- Correction of evidence** **293.** Witnesses may correct their evidence. Corrections shall be confined to verbal inaccuracies. Evidence can only be altered in substance by re-examination.
- Admission to hearings** **294.** At a hearing any person may be admitted but may be excluded at the discretion of the Chair or at the request of any committee member.
- Meetings** **295.**
- (1) At a deliberative meeting only committee members and committee officers shall be present unless the attendance of other persons has been authorised by the committee.
 - (2) A committee is authorised to conduct proceedings by electronic communication without Members of the committee or witnesses being present in one place, provided that:
 - (a) When a committee deliberates, Members of the committee constituting a quorum are able to speak to and hear each other contemporaneously.
 - (b) When a witness gives oral evidence, Members of the committee constituting a quorum are able to hear the witness contemporaneously and to put questions to the witness in each other's hearing.
- In camera evidence** **296.** All persons other than committee officers shall be excluded when the committee is meeting in camera.
- No disclosure unless authorised** **297.** A Member or any other person shall not disclose evidence, submissions or other documents and information presented to the committee which have not been reported to the House unless such disclosure is first authorised by the House or the committee.
- Serious allegations to be reported immediately** **298.** Serious allegations made before any committee about a Member of the House shall be reported to the House at once without further investigation and may only be considered by a substantive motion in the House.
- Referrals and tabling of reports** **299.**
- (1) At the time provided in the routine of business, the Chair of a committee shall advise the House of any inquiries that have been referred to the committee by a Minister or that the committee has resolved to conduct at the time provided in the routine of business.
 - (2) A committee may report upon its deliberations and present its minutes, evidence and other documents from time to time.

Draft report

300. The Chair shall prepare the draft report for consideration by the committee and may circulate it on a confidential basis to committee Members only.

Consideration of draft report

301. The draft report shall be considered as follows:

- (1) Unless previously circulated, the Chair shall read the report.
- (2) The committee may order it to be circulated and a subsequent day named for its consideration.
- (3) Unless the committee otherwise resolves, the report shall be considered paragraph by paragraph – the question being “**That the paragraph be agreed to**”.
- (4) A Member may move an amendment to the paragraph at the time it is under consideration.
- (5) After the draft report has been considered, the whole or any paragraph may be reconsidered and amended.
- (6) After consideration, the committee may adopt the report with or without amendment.

Chair to sign report

302. The report shall be signed by the Chair or another Member appointed by the committee in the event of the Chair’s unavailability or refusal.

Report tabled

303. The report together with the minutes, evidence and other documents shall be tabled by the Chair or another Member signing the report or other member of the committee on that Member’s behalf.

Government responses to committee reports

303A.

- (1) On the tabling of a report from a committee, which recommends that action be taken by the Government, the Clerk is to refer the report to the relevant Minister(s), who must within six months of a report being tabled, report to the House what action, if any, the Government proposes to take in relation to each recommendation of the committee.
- (2) If at the time at which the Minister seeks to report to the House, the House is not sitting, a Minister may present the response to the Clerk.
- (3) A response presented to the Clerk is:
 - (a) On presentation, and for all purposes, deemed to have been tabled and printed, and may be circulated.
 - (b) Reported to the House at its next sitting.

Order to print

304. The report may, without debate, be ordered to be printed.

Tabling with the Clerk

305. Should the House be adjourned and a committee agree to any report before the House resumes sitting:

- (1) The committee may send any such report, minutes and evidence taken before it to the Clerk;
- (2) Upon receipt the documents shall be deemed to be published, and the

report shall be printed and may be circulated; and

(3) The documents shall be reported in the House at its next sitting.

**Tabling in the House and
debate**

306.

- (1) The report and associated documents of any committee (not being a legislation committee) shall be presented at the time provided in the routine of business, or at any other time with the leave of the House.
- (2) The Member presenting the report may move “**That the document be printed**”. This question shall be decided without debate or amendment.
- (3) Reports from committees shall stand in the order in which they are presented (or reported by the Clerk when received during an adjournment) as Orders of the Day “**That the House take note of the Report**”.
- (4) Such Orders of the Day may be considered between 1.00 p.m. and 1.30 p.m. on Fridays. Any interrupted item of business shall stand as an Order of the Day for tomorrow.
- (5) Debate on an Order of the Day may be adjourned and the resumption of the debate set down as an Order of the Day for tomorrow.
- (6) When the Order of the Day is called on and not proceeded with, consideration of the report shall be postponed until the next Friday sitting when reports are considered. If the Order of the Day is called on at that subsequent sitting and is not proceeded with, the question shall be put.
- (7) If a committee has more than one report on the Business Paper, the Chair or Member who tabled the report may move a motion without notice, amendment or debate to facilitate the consideration of two or more of the committee’s reports together.
- (8) The Member tabling the report may speak for up to 10 minutes and any other Member may speak for up to 5 minutes to the question “**That the House take note of the Report**” with the question being put after 30 minutes. No reply is permitted.
- (9) Orders of the Day not commenced or not completed 12 months from the date of tabling shall lapse.

Action on report

307. If any measure or proceeding be necessary upon a committee report it shall be considered by the House by motion on notice.

Payment of witnesses

308. A witness, at the discretion of the committee and recorded in the minutes, may be paid for attendance at the rate of a witness before the Supreme Court. The Chair shall certify such payment.

Committee lists

309. Lists of all committees shall be fixed on notice boards.

Similar committees

310. A committee shall have the power to consider and make use of evidence and records of similar committees appointed during a previous session of the current Parliament or the previous Parliament.

COMMUNICATIONS BETWEEN COMMITTEES

Conference with Council committee

311. No committee of the House may confer with a committee of the Council without leave of the House.

Conference desired by message

312. When any such order has been made it shall be communicated by message to the Council with a request that leave may be given to the committee of the Council to confer with the committee of the House.

Committees communicate by word of mouth

313. Every committee of the House directed to confer with any committee of the Council may confer freely by word of mouth, unless the House otherwise orders.

Committee of House to report proceedings at a conference

314. The proceedings of every conference between a committee of the House and a committee of the Council shall be reported in writing to the House by its own committee.

Standing Committees

Appointment

315. The House may from time to time appoint standing committees on notice of motion to meet and report on specified subjects during the term of the Parliament in which they are appointed.

Rules

316. The general provisions for committees shall apply to standing committees.

Standing Committees

317. The Standing Orders and Procedure Committee, the Library Committee and the House Committee shall be standing committees.

Speaker ex-officio Member

318. The Speaker shall be ex-officio a member of the Standing Orders and Procedure Committee, the Library Committee and the House Committee.

Joint Committees

Names stated

319. If the House proposes a joint committee, the message shall state the names of the Members to be appointed.

First meeting

320. The House originating the message for the appointment of a joint committee shall not nominate the time and place for the first meeting.

Quorum

321. At least three Members of the House must be present at every meeting of a joint committee.

Report

322. The House shall receive a report of any joint committee proceedings from one of its Members on that committee.

Legislation Committees

323.

- (1) Immediately after a motion for a bill to be agreed to in principle has been agreed to, any Member may move without notice “**That the (name of the bill) be referred to a legislation committee for consideration and report**”.
- (2) A legislation committee shall consider and report to the House on amendments to the clauses and schedules of the bill which it considers could be proposed for consideration in detail, together with a schedule of amendments which should be proposed.
- (3) A committee shall have a maximum of six Members – three shall be Members representing the Government and three shall be non-Government Members.
- (4) The Chair and Deputy Chair shall be elected by the committee and shall be Government Members.
- (5) A quorum shall be four Members.
- (6) The Chair shall exercise a deliberative vote and, in the event of an equality of votes, a casting vote.
- (7) A committee may meet during the sittings or any adjournment of the House and shall have power to take evidence and call for persons, papers, exhibits and things and to report from time to time.
- (8) In all other respects a committee shall be conducted in accordance with the general provisions relating to Committees.
- (9) A committee shall not travel.
- (10) The Minister having portfolio responsibility for the bill shall provide the committee with such drafting and support services as requested by the committee.
- (11) A committee shall table its final report no later than 6 months from the date of the committee’s establishment.
- (12) When the Chair tables the final report of a committee the Speaker shall set down its consideration in detail as an Order of the Day with the bill.
- (13) If the House is not sitting at the time of report the chair shall forward such report to the Clerk for report at the next sitting of the House.

CHAPTER 24

WITNESSES

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| Summons | 324. The Clerk shall summons witnesses, not being Members, to attend before the House. |
| Attendance of Member directed | 325. The House may direct the attendance of one of its Members for examination and the Speaker shall issue such order. |
| Attendance requested | 326. The Chair of a committee may request in writing a Member or officer of the House to attend a hearing as a witness. If the Member or officer refuses, the committee shall take no action other than to report the refusal to the House. An officer means a member of staff employed solely by the Speaker. |

Request for Council attendance

327. If the House or a committee, upon request wishes to examine a Member or officer of the Council, a message shall be sent requesting the Council to grant leave.

Council request for Assembly attendance

328. If the Council or one of its committees wishes to examine a Member or officer of the Assembly, the House may authorise the Member to attend if the Member agrees. The House may order an officer to attend.

Introduced by Serjeant-at-Arms

329. A witness before the House shall be introduced by the Serjeant-at-Arms and be examined at the Bar.

Member examined in place

330. A Member shall be examined in the Member's place.

Speaker puts questions

331. A witness appearing before the House shall be examined by Members putting questions through the Speaker.

Members may question

332. A witness appearing when the House is considering a matter in detail may be questioned directly by Members.

Objection to question

333. If any question is objected to by a witness or a Member, the witness shall withdraw while the House considers the matter.

Officers not to give evidence without leave

334. An officer of the House or a Member of the reporting staff may not give evidence elsewhere in respect of any proceedings of the House or a Committee except with the leave of the House.

Appendix Two: Standard procedural motions for committees

Motions similar to these should be considered by all committees at their first meetings. If adopted, they form a model for the way the committee will work. Each committee's minutes should contain the precise wording of the resolutions as adopted.

1. That arrangements for the calling of witnesses and visits of inspection be left in the hands of the committee's Chair and the Committee Manager.
2. That, unless otherwise ordered, parties appearing before the committee shall not be represented by any member of the legal profession.
3. That, unless otherwise ordered, when the committee is examining witnesses, the press and public (including witnesses after examination) be admitted to the sitting of the committee.
4. That persons having special knowledge of the matters under consideration by the committee may be invited to assist the committee.
5. That, unless otherwise ordered, press statements on behalf of the committee be made only by the Chair after approval in principle by the committee or after consultation with committee members.
6. That, unless otherwise ordered, access to transcripts of evidence taken by the committee be determined by the Chair and not otherwise made available to any person, body or organisation: provided that witnesses previously examined shall be given a copy of their evidence; and that any evidence taken in camera or treated as confidential shall be checked by the witness in the presence of the Committee Manager or another officer of the committee.
7. That the Chair and the Committee Manager be empowered to negotiate with the Speaker through the Clerk of the Legislative Assembly for the provision of funds to meet expenses in connection with advertising, operating and approved incidental expenses of the Committee.
8. That the Chair be empowered to advertise and/or write to interested parties requesting written submissions.
9. That upon the calling of a division or quorum in the House during a meeting of the committee, the proceedings of the committee shall be suspended until the committee again has a quorum.
10. That the Chair and the Committee Manager make arrangements for visits of inspection by the committee as a whole and that individual members wishing to depart from these arrangements be required to make their own arrangements.
11. That pursuant to Standing Order 297, evidence, submissions or other documents presented to the committee which have not been reported to the House not be disclosed or published by any member of the committee or by any other person.
12. That with regard to the handling of correspondence between Committee meetings:
 - a) all correspondence received should be assessed initially by a Correspondence Group consisting of the Chair and a number of additional committee members, as resolved by the committee, and in consultation with the secretariat, with a view to recommending action to the committee;

- b) matters assessed as outside jurisdiction should be declined at the outset and the correspondent notified accordingly;
- c) decisions to decline correspondence and recommendations for further action must be unanimous and, in the event that agreement cannot be reached on a proposed course of action, the correspondence in question must be referred to the committee for consideration;
- d) the Correspondence Group may seek advice from relevant bodies on correspondence which is to be considered by the full committee;
- e) matters requiring referral to the Inspector should be forwarded to the committee;
- f) a record of all correspondence received and action taken, or proposed, should be kept in tabular form and provided to the committee at the next deliberative meeting.

Appendix Three: Additional information resources

This guide has provided general advice about the operations of committees. For specialised information, members should seek advice from committee staff in the first instance. The Clerk-Assistant (Committees) is also a good source of advice.

Other sources of information include:

Books

New South Wales Legislative Assembly Practice, Procedure and Privilege – Comprehensive guide to parliamentary procedures published in 2007. There is a separate chapter on committee procedure.

Effective House Membership: A Short Guide to the procedures of the New South Wales Legislative Assembly – more concise guide to parliamentary procedures published in 2007.

House of Representatives Practice (5th edition 2005) available from House of Representatives' website and regularly updated.

Statutes of general relevance

Defamation Act 2005 provides protection for publication of committee proceedings in certain circumstances

Parliamentary Papers (Supplementary Provisions) Act 1975 authorises the publication of material by committees before being tabled in the House

Parliamentary Evidence Act 1901 empowers committees to summon and compel witnesses

Particular statutes

Some committees are established in separate in statutes which may specify such things are the number of members, powers of the committee and special secrecy provisions. This list is current as at the time of publication and new statutory committees may be established at a later date.

Committee on Children and Young People – see *Commission for Children and Young People Act 1998*

Committee on the Independent Commission Against Corruption – see *Independent Commission Against Corruption Act 1988*

Committee on the Office of the Ombudsman and the Police Integrity Commission – see *Ombudsman Act 1974, Police Integrity Act 1996, Government Information (Information Commissioner) Act 2009* and *Privacy and Personal Information Protection Act 1998*

Committee on the Health Care Complaints Commission – see *Health Care Complaints Act 1993*

Legislation Review Committee – see *Legislation Review Act 1987*

Public Accounts Committee – see *Public Finance and Audit Act 1983*

Relevant resolutions Where committees are established by resolution of either or both Houses, members should familiarise themselves with the particulars of the resolution.

Standing orders of the Legislative Council Applicable to joint committees originating by resolution in the Legislative Council only available from the Parliament's intranet.

Administrative policies and statements These may change regularly so should be checked. They are available on the Parliament's intranet.

Parliamentary Remuneration Tribunal determinations For information about allowances for members and travel entitlements for office holders. These are published annually and are available on the intranet.

Members' Entitlements Handbook This provides a comprehensive guide to members' allowances and salaries. It is available on the intranet.

