

General Purpose Standing Committees

Budget Estimates Guide 2002 - 2003

How to contact the Committees

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Preface

This document is intended as a guide to practices and procedures relevant to the inquiry into the Budget Estimates referred by the House to the Legislative Council General Purpose Standing Committees. It does not cover all aspects of General Purpose Standing Committee operations, but it will provide guidance to Ministers, members and staff on the most common practices and procedures.

John Evans
Clerk of the Parliaments
June 2002

Chapter 1 Introduction

Establishment of the General Purpose Standing Committees

- 1.1** Five General Purpose Standing Committees were first constituted in 1997.¹ The Committees were reappointed on 13 May 1999, shortly after the commencement of the present Parliament.² (A copy of the resolution of 13 May 1999 is provided at Appendix A). Since the inception of the General Purpose Standing Committees, the Budget Estimates and related papers have been referred to them for inquiry and report.
- 1.2** The General Purpose Standing Committees have a majority of non-government members. Of the five General Purpose Standing Committees, three are chaired by Cross Bench members and two are chaired by Opposition members.
- 1.3** The functions of the General Purpose Standing Committees are to inquire into and report on:
- (a) any matters referred to them by the House,
 - (b) the expenditure, performance or effectiveness of any department of government, statutory body or corporation,
 - (c) any matter in any annual report of a department of government, statutory body or corporation.³

Portfolios

- 1.4** The five General Purpose Standing Committees have responsibility for Government Ministers' portfolio responsibilities,⁴ which are as follows:

General Purpose Standing Committee No. 1

Premiers, Arts and Citizenship
 Treasury, State Development
 Education and Training
 The Legislature
 Special Minister of State, Assistant Treasurer and Industrial Relations

¹ Minutes of Proceedings, No 65, 7 May 1997, p. 677.

² Minutes of Proceedings, No 3, 13 May 1999, p. 62 (hereafter referred to as Resolution of 13 May 1999).

³ Resolution of 13 May 1999, para 3.

⁴ Minutes of Proceedings, No 14, 4 June 2002, pp173-174.

General Purpose Standing Committee No. 2

Health
Community Services, Ageing, Disability Services, Women
Small Business, Tourism
Mineral Resources, Fisheries

General Purpose Standing Committee No. 3

Police
Attorney General
Fair Trading
Corrective Services
Juvenile Justice

General Purpose Standing Committee No. 4

Planning, Aboriginal Affairs, Housing
Transport, Roads
Gaming and Racing
Public Works and Services, Sport and Recreation

General Purpose Standing Committee No. 5

Information Technology, Energy, Forestry, Western Sydney
Agriculture
Land and Water Conservation
Environment, Emergency Services
Local Government, Regional Development, Rural Affairs

Powers of the General Purpose Standing Committees

- 1.5** The General Purpose Standing Committees have the power to:
- (a) send for and examine persons, papers, records and things
 - (b) adjourn from place to place
 - (c) make visits of inspection within the State
 - (d) request the attendance of and examine members of the House
 - (e) publish, before presentation to the House, submissions received and evidence taken in public and
 - (f) report from time to time their proceedings, evidence taken in public and recommendations.⁵

⁵ Resolution of 13 May 1999, para 8.

Referral of the 2002-2003 Budget Estimates

- 1.6** On 4 June 2002, the Legislative Council resolved that the Budget Estimates and related documents presenting the amounts to be appropriated from the Consolidated Funds be referred to the General Purpose Standing Committees for inquiry and report.⁶ Each Committee is to examine the Budget Estimates for their relevant portfolios and report to the House by Thursday 5 September 2002.⁷

RESOLUTION OF 4 JUNE 2002

1. That the Budget Estimates and related documents presenting the amounts to be appropriated from the Consolidated Fund be referred to the General Purpose Standing Committees for inquiry and report.
2. That the Committees consider the Budget Estimates in accordance with the allocation of portfolios to the Committees.
3. For the purposes of this inquiry any member of the House may attend a meeting of a Committee in relation to the Budget Estimates and question witnesses, participate in the deliberations of the Committee at such meeting and make a dissenting statement relating to the Budget Estimates, but may not vote or be counted for the purpose of any quorum.
4. The Committees must hear evidence on the Budget Estimates in public.
5. Not more than 3 Committees are to hear evidence on the Budget Estimates simultaneously.
6. When a Committee hears evidence on the Budget Estimates, the Chair is to call on items of expenditure in the order decided on and declare the proposed expenditure open for examination.
7. The Committees may ask for explanations from Ministers in the House, or officers of departments, statutory bodies or corporations, relating to the items of proposed expenditure.
8. The report of a Committee on the Budget Estimates may propose the further consideration of any items.
9. A daily Hansard record of the hearings of a Committee on the Budget Estimates is to be published as soon as practicable after each day's proceedings.
10. The Committees have leave to sit during the sittings or any adjournment of the House.
11. That initial hearings of Committees be according to a schedule prepared and circulated by the Leader of the Government.
12. The Committees may hold supplementary hearings as required.
13. The Committees present a final report to the House by Thursday 5 September 2002.

(Minutes of the Proceedings, 4 June 2002, p. 183)

⁶ Minutes of Proceedings, No 14, 4 June 2002, p 183 (hereafter referred to as Resolution of 4 June 2002).

⁷ Resolution of 4 June 2002, para 13.

Budget Estimates hearings

- 1.7** For Budget Estimates hearings, not more than three Committees can hear evidence simultaneously.⁸
- 1.8** In accordance with the resolution referring the Budget Estimates, the Government has provided a schedule for the initial round of hearings.⁹ Hearings have been scheduled for the evening of Thursday 20 June 2002, all day Friday 21 June 2002 and the evenings of Tuesday 25 June 2002 and Wednesday 26 June 2002 at Parliament House. A copy of the timetable is provided at Appendix B. The timetable can also be found on the Internet and the parliamentary website at www.parliament.nsw.gov.au.
- 1.9** It is usual to hold a short deliberative meeting to deal with procedural matters prior to the commencement of each hearing (see para 3.10). **Members are asked to attend Budget Estimates hearings 15 minutes prior to the advertised commencement times.** This will ensure that procedural matters can be dealt with before the arrival of witnesses and maximise the time available for the examination of witnesses.

Supplementary hearings

- 1.10** Committees may choose to hold further hearings to consider proposed expenditure (see para 3.22).¹⁰ Individual Committees are responsible for making decisions about future hearing dates.

Leave to sit during sittings and adjournments

- 1.11** For the purposes of the Budget Estimates reference, the Committees have leave to sit during the sittings or any adjournment of the House.¹¹

⁸ Resolution of 4 June 2002, para 5.

⁹ Resolution of 4 June 2002, para 11.

¹⁰ Resolution of 4 June 2002, para 12.

¹¹ Resolution of 4 June 2002, para 10.

Chapter 2 Committee membership

Committee members

- 2.1** Each Committee consists of seven members of the Legislative Council, comprising:
- three Government members
 - two Opposition members and
 - two Cross Bench or Independent members.¹
- 2.2** Details of the membership of each Committee are provided at Appendix C.

Chairs/Deputy Chairs

- 2.3** All Committees have elected a Chair and Deputy Chair. Names of the Chairs and Deputy Chairs are also provided at Appendix C.
- 2.4** Committee Chairs have a deliberative and, in the event of an equality of votes, a casting vote.²

Substitute members

- 2.5** Substitute members may be appointed for any matter before the General Purpose Standing Committees by notice in writing to the Chair of the relevant Committee.³ Nominations for substitute Government or Opposition members may be made by the Leader of the Government, Leader of the Opposition, Government or Opposition Whips or Deputy Whips, as applicable. Nominations for substitute Cross Bench or Independent members may be made by another Cross Bench or Independent member.

Participating members

- 2.6** Any member of the House may attend a meeting of a Committee in relation to the Budget Estimates and question witnesses, participate in the deliberations of the Committee at the meeting and make a dissenting statement relating to the Budget Estimates, but may not vote or be counted for the purpose of any quorum.⁴

¹ Resolution of 13 May 1999, para 2.

² Resolution of 13 May 1999, para 6(2).

³ Resolution of 13 May 1999, para 7.

⁴ Resolution of 4 June 2002, para 3.

Quorum

- 2.7** The quorum of a General Purpose Standing Committee is three members⁵ and it is the responsibility of Committee members to maintain a quorum.
- 2.8** If during the sitting of a Committee, a quorum is not present, the Chair is to suspend the proceedings of the Committee to a stated hour and if a quorum is not then present, the Committee must be adjourned to some later time.⁶

⁵ Standing Order 241.

⁶ Standing Order 245.

Chapter 3 Procedures at Budget Estimates hearings

Public proceedings

- 3.1** The resolution referring the Budget Estimates to the Committees requires the Committees to hear all evidence in public.¹

Attendance of witnesses

- 3.2** The General Purpose Standing Committees may request the attendance of and examine members of the Legislative Council, including its Ministers.² A Minister from the Legislative Assembly may give evidence before a General Purpose Standing Committee, but cannot be compelled to do so (for more information see Appendix D). It is anticipated that Ministers from the Legislative Assembly will attend the initial round of hearings.
- 3.3** In addition, the Committees have the power to send for and examine persons who are not members, such as departmental officers, however this is seldom necessary.³ Departmental officers normally appear voluntarily at initial and supplementary Budget Estimates hearings.
- 3.4** It is usual for Ministers to bring officers of their choice to the Budget Estimates hearings, although Committees have the right to specify particular officers whom they desire to question. After the initial round of hearings, if a Committee resolves to inquire further, the Minister may choose to attend, however it is usual that the Committee requests the attendance of departmental officers only. Where a member wishes to request the attendance of a particular witness, the Committee should advise the Minister in writing prior to the hearing.

Ministerial contact officers

- 3.5** Normally, an officer from each Minister's office is nominated as a contact officer to co-ordinate matters between the Minister and his or her Department and Committee staff.
- 3.6** The ministerial contact officer will liaise with, and ensure the attendance of, all witnesses from a department and the relevant statutory bodies/corporations. The ministerial contact officers may also liaise with the Budget Estimates secretariat in relation to the coordination of responses to questions taken on notice.
- 3.7** The contact officer will usually contact the Budget Estimates secretariat prior to the initial round of hearings to facilitate effective communication.

¹ Resolution of 4 June 2002, para 4.

² Resolution of 13 May 1999, para 8 (d).

³ Resolution of 13 May 1999, para 8 (a).

3.8 The following items are normally provided by ministerial contact officers to the Committee staff prior to the commencement of the hearing:

- twelve copies of a list of all their witnesses under each agency title (including statutory bodies and corporations) and their job title, for circulation to members, Committee staff and Hansard
- desk name cards for all witnesses and advisers to assist Committee members and Hansard to correctly identify witnesses.

Meeting procedures

First meeting of a Committee to consider the 2002-2003 Budget Papers

3.9 A short deliberative meeting is normally held prior to the first hearing to consider operational and procedural matters, such as procedures for the examination of witnesses.

Deliberative meeting prior to each hearing

3.10 Prior to the commencement of each Budget Estimates hearing, the Committee would usually deal with the following procedural matters:

- advice of substitute member arrangements, where relevant. Please note, notification must be by notice in writing to the Chair of the Committee⁴
- procedures for examination of the various expenditure areas, if required
- the sequence or order of questions (eg Government, Opposition, Cross Bench).

CHAIR ADVISING COMMITTEE OF SUBSTITUTE MEMBER

I advise that the *(Leader of the Government/Leader of the Opposition/Hon [Cross Bench member])* has written to me to advise that the Hon *(substitute member)* MLC has been nominated as a substitute member in place of the Hon *(Committee member)* MLC for the purposes of this meeting of General Purpose Standing Committee No _____.

During the hearing

3.11 When declaring a Committee hearing open the Chair would normally make a short statement and discuss the following procedural issues with witnesses:

- advise the media about the rules governing the broadcasting of the Committee's public proceedings (see para 3.24)

⁴ Resolution of 13 May 1999, para 6.

- consult Ministers regarding the allocated times for examination of various program areas
- advise that an attendant is on duty for the delivery of messages for witnesses or members
- to assist Hansard, ask departmental officials to state their name and departmental title prior to answering any question
- check whether the Minister has a pair in the House and consult regarding procedures in the event of a division in the Legislative Assembly

MOTION IN THE EVENT OF A DIVISION IN THE LEGISLATIVE ASSEMBLY

member says—

Mr/Madam Chair—

I move: That if Minister has to absent himself/herself from the hearing to attend a division,

- the Committee will adjourn until the Minister returns.

OR

- the Committee will continue the examination of the portfolio areas of in the Minister's absence.

3.12 The Chair should then declare the proposed expenditure open for examination and call on items of expenditure in the order agreed.⁵

3.13 It is usual for the Chair to ask Ministers if they wish to make a brief opening statement before members ask questions.

Deliberative meeting after the hearing

3.14 Once questioning has concluded the Chair should ensure the room is cleared before the Committee commences any deliberations. At this deliberative meeting the Committee may need to consider matters such as:

- future Committee activity
- a resolution to make public documents presented to the Committee (see para 3.18)
- the form and content of the report.

⁵ Resolution of 4 June 2002, para 6.

Documents provided by witnesses

- 3.15** Witnesses should provide nine copies of any document submitted to a Committee: one for each Committee member, one for the Committee Clerk and one for Hansard.
- 3.16** Any document to be tabled or incorporated into the official record should be clearly identified by the Chair for the benefit of members and Hansard.
- 3.17** Committees will need to resolve to accept documents tendered by witnesses during the course of hearings. At the end of each hearing, a Committee may also decide to authorise publication of submissions and documents tabled during the hearings (see below).

ACCEPTANCE OF DOCUMENTS TABLED BY WITNESSES

member says—

Mr/Madam Chair—

I move: That the Committee accept the documents.

Authority to publish documents and evidence

- 3.18** Section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975*, authorises a Committee to publish a document received by it or evidence given before it.
- 3.19** Section 6 of the Act provides a defence to any action or proceeding, civil or criminal, arising from the publication of any document that was authorised under section 4.
- 3.20** Standing Order 252 states that evidence taken by a Committee and documents presented to the Committee which have not been reported to the House, may not, except with the permission of the Committee, be disclosed or published by any member of the Committee or by any other person.
- 3.21** In order to ensure that Committees have an opportunity to review documents which are to be published on their authority, it is suggested that each Committee authorise publication of tabled documents at the conclusion of each hearing.

MOTION TO PUBLISH TABLED DOCUMENTS

member says—

Mr/Madam Chair—

I move: That under Section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* and under the authority of Standing Order 252, the Committee authorises the Clerk of the Committee to publish the documents accepted by the Committee during today's hearing.

N.B. This motion may be varied if the Committee does not wish to publish all documents. In this case, the documents to be published must be clearly identified in the motion.

Supplementary hearings

- 3.22** The Committee may wish to hold further hearings to take further evidence. Procedures for supplementary hearings are the same as those for initial hearings. The resolution provides for each Committee to report by 5 September 2002.

MOTION FOR FURTHER HEARING

member says—

Mr/Madam Chair—

I move: That the Committee hold a further hearing on:

- *date/time*
OR
- on a date to be determined by the Chair after consulting with Committee members
to consider matters relating to the portfolio area(s) of (*portfolio area*).

Dissent from ruling of the Chair

- 3.23** Where debate occurs on a procedural motion, or a member dissents from a ruling of the Chair, it is normal for a Committee to deliberate in private session. Accordingly, the room should be cleared of witnesses, members of the public and media to permit debate in private.

DISSENT FROM CHAIR'S RULING

A member wishing to object to a ruling of the chair says:

Mr/Madam Chair—

I move: That the Committee dissent from the ruling of the Chair. I seek the indulgence of the Committee to permit me to state my objection in writing.

The Chair requests everyone except Committee members and staff to leave until the dissent motion has been dealt with.

The dissenting member must then put their objection in writing. A pro-forma for this purpose is available from the Committee Clerks.

When the reasons are presented, the Chair reads them to the Committee.

Debate may ensue.

Question is put. If resolved in the affirmative, the ruling of the Chair is overturned. If resolved in the negative, the ruling stands.

Broadcasting of proceedings

- 3.24** On 11 October 1994 the Legislative Council adopted a resolution allowing the broadcasting of proceedings.⁶ In 1999 each General Purpose Standing Committee adopted this resolution as part of their standard procedural motions. A copy of the resolution appears at Appendix F.
- 3.25** The resolution provides that a Committee may, by a vote of the Committee, authorise the sound broadcasting and television broadcasting of its public proceedings.⁷ A Committee may also:
- (a) determine terms and conditions, not inconsistent with paragraphs 1(3) and 1(4) of the resolution, for the sound recording and television broadcasting of its proceedings
 - (b) give instructions for the observance of terms and conditions determined under paragraph (a) or
 - (c) order that part of its proceedings not be recorded or broadcast.⁸
- 3.26** A witness who is to appear before the Committee may wish to object to the broadcasting or televising of proceedings and should inform the Chair at the beginning of the hearing. The Committee must consider an objection having regard to the protection of the witness and the public interest in the proceedings. If the Committee decides to permit the broadcasting or televising of proceedings despite an objection of a witness, the witness must be informed before appearing in the proceedings of the Committee.⁹

DISCONTINUANCE OF BROADCASTING

member says—

Mr/Madam Chair—

I move: That the broadcasting of these proceedings be discontinued.

Publication of Hansard

- 3.27** A daily Hansard record of the hearings of a Committee on the Budget Estimates is to be published as soon as practicable after each day's proceedings.¹⁰
- 3.28** Proof copies of Hansard will be provided to members of the Legislative Council and Ministers. In addition, proof copies of Hansard will be loaded on to the internal Parliament House Lotus Notes system, and on to the Parliament House website (www.parliament.nsw.gov.au) via the "Committees" heading, for external users.

⁶ Minutes of Proceedings, 11 October 1994, pp. 279-281.

⁷ Broadcasting Resolution, para. 2 (1).

⁸ Broadcasting Resolution, para. 2 (2).

⁹ Broadcasting Resolution, para. 2 (3).

¹⁰ Resolution of 4 June 2002, para 9.

Chapter 4 Examination of witnesses

4.1 Committees possess substantial powers to require answers to questions and have a number of mechanisms for obtaining information. The most effective form is oral questioning of witnesses.

Questions during the hearings

4.2 The following is an overview to the questioning of witnesses during the hearings:

- during Budget Estimates inquiries, witnesses generally attend voluntarily, and are not summoned under the *Parliamentary Evidence Act 1901* and as such are usually not sworn prior to questioning
- members may ask for explanations from the Minister attending, or officers of departments, statutory bodies or corporations, relating to the items of proposed expenditure
- all members of the Committee, and any members attending, are permitted to ask questions, including the Chair
- due to the broad nature of the Budget Estimates inquiries, wide latitude is allowed in the asking of questions on any of the Budget Estimates and related documents. It should be noted that Budget Estimates inquiries may be one of several inquiries before a particular Committee. Questions asked as part of the Budget Estimates inquiries should not attempt to debate the unreported proceedings of other Committee inquiries¹
- the Chair will determine if questions are in order, but as a general guide will usually leave it to a witness to object to questions
- convention dictates that questions of a policy nature should be directed to and answered by the Minister. If the Minister is not present, the Chair may remind public servants about this convention. As stated in *Odgers Senate Practise*, 9th edition

The rule relating to the giving of opinions on matters of policy is designed to avoid public servants becoming involved in discussion or disputation with Committee members about the merits of government policy as determined by ministers. Public servants may explain government policy, describe how it differs from alternative policies, and provide information on the process by which a particular policy was selected, but may not be asked to express opinions on the relative merits of alternative policies.²

- Committee members may ask questions directly of departmental officers
- Sessional Orders relating to rules for questions without notice do not apply.

¹ See advice from the Clerk, 20 June 2001, reproduced at Appendix E.

² Odgers, p.431.

Immunity of witnesses

4.3 The immunities for witnesses appearing before the Committees are:

- the privilege under article 9 of the Bill of Rights adopted in New South Wales by the *Imperial Acts Application Act 1969* which provides that the freedom of speech and debates or proceedings in Parliament ought not be impeached or questioned in any court or place outside of Parliament. Since the Committees are a creature of the House, proceedings of properly constituted meetings are covered by article 9 of the Bill of Rights
- the defence of absolute privilege given by section 18 of the *Defamation Act 1974* in relation to a publication in the course of an inquiry under the authority of a House of Parliament
- the defence of absolute privilege given by ss 17(1) & 17(2) of the *Defamation Act 1974* in relation to the publication of a document under the authority of a House of Parliament, and the authorised publication of the debates and proceedings of the House.

Questions taken on notice during the hearing

4.4 A witness may not be able to answer all of the questions directed to them during a hearing. In such cases, the witness may undertake to provide an answer at the end of the hearing, by the end of the day, or within a certain time frame agreed by the Committee and the witness.

4.5 **It is important for the Chair to confirm that the witness has agreed to take the question(s) on notice and when the answer will be provided.**

4.6 On receipt of the transcript of evidence the day after the hearing, the Secretariat will identify verbal questions taken on notice during the hearing and forward them to the witness through the relevant Minister's office.

Written questions on notice

4.7 There is no formal provision for written questions on notice in the resolution of the House referring the Budget Estimates inquiry to the General Purpose Standing Committees.

4.8 In previous years, some Committees have resolved to allow members to lodge written questions on notice following a hearing and have also set time frames for the return of answers.

4.9 While this method of lodging questions on notice is permissible, if the Committee so decides, members should note that answers may not be provided within the time set by the Committee. In such cases, members may have no means of compelling an answer within the time frame set by the Committee, other than calling for a supplementary hearing or placing the question on the Notice Paper of the House.

- 4.10** The resolution referring the Budget Estimates provides that Committees may hold supplementary hearings, as required.³ To ensure timely provision of answers, a Committee may decide to hold a supplementary hearing to receive answers to questions taken on notice.
- 4.11** In the past, processing written questions on notice has had a considerable impact on the administration and workload of the Budget Estimates secretariat. For example, last year more than 700 questions on notice were received by Budget Estimates Committees. In other General Purpose Committee inquiries far fewer questions are taken on notice because there is more effective oral questioning. If the Committee resolves to receive questions on notice with the secretariat rather than asking members to place them on the Notice Paper, they should be aware that the Committee is making a decision about the allocation of resources as well as the procedures of the Committee.
- 4.12** Members are reminded of the alternative procedure where questions may be placed on the Notice Paper. Under this process, answers are required within 35 days, after which various sanctions may be initiated if an answer is not provided.⁴
- 4.13** If a Committee decides to receive written questions on notice through the Budget Estimates secretariat then it is recommended they follow the procedures outlined in Appendix H.

³ Resolution of 4 June 2002, para 12.

⁴ Sessional order 11, 3rd session 52nd Parliament

Chapter 5 Committee reports

- 5.1** The General Purpose Standing Committees are required to report to the House on the Budget Estimates by **Thursday 5 September 2002**.¹
- 5.2** Committees may find it useful to discuss the general content of their report immediately after the conclusion of each estimates hearing, especially where it is apparent that there may be items of particular concern. At the conclusion of hearings, Committees will need to schedule a deliberative meeting to consider and adopt the report.

Report content

- 5.3** As there is a Hansard record of Committee proceedings published separately, the Committee reports should briefly note matters considered along with the outcomes of any formal Committee deliberations and include a copy of the minutes of proceedings.
- 5.4** The report of a Committee on the Budget Estimates may propose the further consideration of any items.²

MOTION FOR THE ADOPTION OF COMMITTEE REPORT

Following the conclusion of debate on amendments to the draft report.

member says—

Mr/Madam Chair—

I move: That the report, as amended, be adopted.

I move: That the report be signed by the Chair and presented to the House in accordance with the resolution referring the Budget Estimates.

Participation in Committee deliberations on reports

- 5.5** For the purposes of the Budget Estimates inquiry, any member of the House may participate in the deliberations of a Committee about the content of its report, however, only members of a Committee may vote or be counted for the purpose of any quorum.³

¹ Resolution of 4 June 2002, para 13.

² Resolution of 4 June 2002, para 8.

³ Resolution of 4 June 2002, para 3.

Statements of dissent

- 5.6** A member of the House who participates in deliberations of the Committee may prepare and append to a report of the Committee a statement of dissent in relation to any part of the report.⁴ The Secretariat will ensure that statements of dissent are appended to the report.

Tabling of reports when the House is not sitting

- 5.7** If the House is not sitting when a Committee wishes to report to the House, a Committee is authorised to present its report to the Clerk of the House. A report presented to the Clerk is deemed to have been laid before the House and published by order or under authority of the House. The report is recorded in the Minutes of the Proceedings for the next sitting of the House.⁵

⁴ Resolution of 4 June 2002, para 3.

⁵ Resolution of 13 May 1999, para 11.

Chapter 6 Staff

Budget Estimates secretariat

- 6.1** The Secretariat is responsible for coordinating the Budget Estimates inquiries, including the preparation of Committee reports and handling of questions on notice. The Secretariat will be located in room 812.
- 6.2** Inquiries about the Budget Estimates should be made to:
- Clerk Assistant-Committees, Warren Cahill, on telephone 9230 2464, and e-mail: warrencahill@parliament.nsw.gov.au
 - Co-ordinator of Budget Estimates secretariat, Tony Davies, on telephone 9230 3435
 - Senior Project Officer, Beverly Duffy, on telephone 9230 2850
 - Committee Officer, Victoria Pymm, on 9230 3078.
- 6.3** The Budget Estimates Secretariat facsimile is 9230 2981.
- 6.4** The Budget Estimates Secretariat e-mail is: **budgetestimates@parliament.nsw.gov.au**

Committee clerks and assistant clerks

- 6.5** Legislative Council Committee staff will act as Committee clerks, and will provide procedural support to Chairs and members during hearings.
- 6.6** Committee clerks are responsible for preparing the minutes of Committee proceedings, collation and circulation of questions and answers and preparing the initial draft of the final report.

Appendix A

Resolution of 13 May 1999, establishing the General Purpose Standing Committees

Resolution passed 13 May 1999, 1st Session, Minutes No 3, p. 61 as amended by Resolution passed 5 April 2001, 2nd Session, Minutes No 97, p. 931 and further amended by Resolution passed 4 June 2002, 3rd session, Minutes No. 14, pp. 173-174

Mr Jobling moved, according to Notice:

1. That, notwithstanding anything to the contrary in the Standing Orders, during the present session and unless otherwise ordered, five General Purpose Standing Committees reflecting Government Ministers' portfolio responsibilities be appointed, as follows:
 - (a) Committee No. 1
 - Premiers, Arts and Citizenship
 - Treasury, State Development
 - Education and Training
 - The Legislature
 - Special Minister of State and Industrial Relations
 - (b) Committee No. 2
 - Health
 - Community Services, Ageing, Disability Services, Women
 - Small Business, Tourism
 - Mineral Resources, Fisheries
 - (c) Committee No. 3
 - Police
 - Attorney General
 - Fair Trading
 - Corrective Services
 - Juvenile Justice
 - (d) Committee No. 4
 - Planning, Aboriginal Affairs, Housing
 - Transport, Roads
 - Gaming and Racing,
 - Public Works and Services, Sport and Recreation
 - (e) Committee No. 5
 - Information Technology, Energy, Forestry, Western Sydney

Agriculture
Land and Water Conservation
Environment, Emergency Services
Local Government, Regional Development, Rural Affairs

2. (1) Each Committee is to consist of 7 members, comprising:
 - (a) 3 Government members nominated by the Leader of the Government,
 - (b) 2 Opposition members nominated by the Leader of the Opposition,
 - (c) 2 Cross Bench or Independent members nominated by agreement between Cross Bench and Independent members. In the absence of any agreement the representation on the Committee is to be determined by the House.
- (2) Nominations for membership of the Committee must be made in writing to the Clerk of the House within 7 days of the passing of this Resolution.
3. The Committees may inquire into and report on:
 - (a) any matters referred to them by the House,
 - (b) the expenditure, performance or effectiveness of any department of government, statutory body or corporation,
 - (c) any matter in any annual report of a department of government, statutory body or corporation.
4. A meeting of a Committee may be convened at the request of any three members of the Committee in writing to the Clerk of a Committee.
5. The Clerk of a Committee must convene a meeting of the Committee within 7 days of the receipt of the request.
6. (1) Before proceeding to any business at its first meeting each Committee must elect a Chair and a Deputy Chair. The Deputy Chair is to act as Chair when the Chair is absent from a meeting of a Committee or the position of Chair is vacant.
 - (2) The Chair of a Committee has a deliberative vote and in the event of an equality of votes a casting vote.
7. (1) Government or Opposition members may be appointed to the Committees as substitutes for a member of the Committees for any matter before the Committees, by notice in writing to the Chair of a Committee.
 - (2) Cross Bench or Independent members may be appointed to the Committees as substitutes for another Cross Bench or Independent member of the Committees for any matter before the Committees by notice in writing to the Chair of a Committee.
 - (3) Nominations for substitute Government or Opposition members may be made by the Leader of the Government, Leader of the Opposition, Government or Opposition Whips or Deputy Whips, as applicable.

-
- (4) Nominations for substitute Cross Bench or Independent members may be made by another Cross Bench or Independent member.
8. The Committees have power:
- (a) to send for and examine persons, papers, records and things,
 - (b) to adjourn from place to place,
 - (c) to make visits of inspection within the State,
 - (d) to request the attendance of and examine members of the House,
 - (e) to publish, before presentation to the House, submissions received and evidence taken in public, and
 - (f) to report from time to time its proceedings, evidence taken in public and recommendations.
9. A member of a Committee may append to a report of the Committee made to the House a statement of dissent in relation to any part of the report.
10. Unless a Committee otherwise decides, a member of the House, who is not a member of the relevant Committee may take part in the public proceedings of a Committee and question witnesses, but may not vote, move any motion or be counted for the purpose of any quorum or division.
11. (1) If the House is not sitting when a Committee wishes to report to the House, the Committee is to present its report to the Clerk of the House.
- (2) A report presented to the Clerk is:
- (a) on presentation, and for all purposes, deemed to have been laid before the House,
 - (b) to be printed by authority of the Clerk,
 - (c) for all purposes, deemed to be a document published by order or under the authority of the House, and
 - (d) to be recorded in the Minutes of the Proceedings of the House.

Appendix B

Budget Estimates timetable 2002 - 2003

Daily schedules (20 June - 26 June 2002 inclusive)

Thursday 20 June 2002

Time	Portfolios	Committee No	Room
5.30pm - 7.30pm	Premier, Arts and Citizenship	1	LC Chamber
5.30pm - 7.30pm	Police	3	Room 814/815
5.30pm - 7.30pm	Small Business, and Tourism	2	Jubilee Room
8.00pm - 10.00pm	Treasury, and State Development	1	LC Chamber
8.00pm - 10.00pm	Planning, Aboriginal Affairs and Housing	4	Jubilee Room
8.00pm - 10.00pm	Environment and Emergency Services	5	Room 814/815

Friday 21 June 2002

Time	Portfolios	Committee No	Room
9.30am - 11.30am	Mineral Resources and Fisheries	2	Room 814/815
9.30am - 11.30am	Juvenile Justice	3	LC Chamber
9.30am - 11.30am	Special Minister of State, Assistant Treasurer and Industrial Relations	1	Jubilee Room
1.00pm - 3.00pm	Transport and Roads	4	LC Chamber
1.00pm - 3.00pm	Health	2	Jubilee Room
1.00pm - 3.00pm	Fair Trading	3	Room 814/815
4.00pm - 6.00pm	Education and Training	1	LC Chamber
4.00pm - 6.00pm	Local Government, Regional Development and Rural Affairs	5	Jubilee Room
4.00pm - 6.00pm	Gaming and Racing	4	Room 814/815

Tuesday 25 June 2002

Time	Portfolios	Committee No	Room
6.00pm - 8.00pm	Information Technology, Energy, Forestry, Western Sydney	5	Jubilee Room
6.00pm - 8.00pm	Community Services, Ageing, Disability Services, Women	2	Room 814/815
6.00pm - 8.00pm	Attorney-General	3	LC Chamber

Wednesday 26 June 2002

Time	Portfolios	Committee No	Room
5.30pm – 7.30pm	Public Works and Services, Sports and Recreation	4	LC Chamber
5.30pm – 7.30pm	Agriculture	5	Jubilee Room
5.30pm – 7.30pm	Legislature	1	Room 814/815
8.00pm – 10.00pm	Corrective Services	3	Jubilee
8.00pm – 10.00pm	Land and Water Conservation	5	814/815

Individual Committee schedules**General Purpose Standing Committee No 1**

Date	Time	Portfolios	Room
20 June 2002	5.30pm - 7.30pm	Premier, Arts and Citizenship	LC Chamber
20 June 2002	8.00pm - 10.00pm	Treasury, and State Development	LC Chamber
21 June 2002	9.30am - 11.30am	Special Minister of State, Assistant Treasurer and Industrial Relations	Jubilee Room
21 June 2002	4.00pm – 6.00pm	Education and Training	LC Chamber
26 June 2002	5.30pm – 7.30pm	Legislature	Room 814/815

General Purpose Standing Committee No 2

Date	Time	Portfolios	Room
20 June 2002	5.30pm - 7.30pm	Small Business, and Tourism	Jubilee Room
21 June 2002	9.30am - 11.30am	Mineral Resources and Fisheries	Room 814/815
21 June 2002	1.00pm- 3.00pm	Health	Jubilee Room
25 June 2002	6.00pm – 8.00pm	Community Services, Ageing, Disability Services, Women	Room 814/815

General Purpose Standing Committee No 3

Date	Time	Portfolios	Room
20 June 2002	5.30pm - 7.30pm	Police	Room 814/815
21 June 2002	9.30am - 11.30am	Juvenile Justice	LC Chamber
21 June 2002	1.00pm - 3.00pm	Fair Trading	Room 814/815
25 June 2002	6.00pm – 8.00pm	Attorney-General	LC Chamber
26 June 2002	8.00pm – 10.00pm	Corrective Services	Jubilee Room

General Purpose Standing Committee No 4

Date	Time	Portfolios	Room
20 June 2002	8.00pm - 10.00pm	Planning, Aboriginal Affairs and Housing	Jubilee Room
21 June 2002	1.00pm - 3.00pm	Transport and Roads	LC Chamber
21 June 2002	4.00pm - 6.00pm	Gaming and Racing	Room 814/815
26 June 2002	5.30pm - 7.30pm	Public Works and Services, Sport and Recreation	LC Chamber

General Purpose Standing Committee No 5

Date	Time	Portfolios	Room
20 June 2002	8.00pm - 10.00pm	Environment and Emergency Services	Room 814/815
21 June 2002	4.00pm - 6.00pm	Local Government, Regional Development and Rural Affairs	Jubilee Room
25 June 2002	6.00pm - 8.00pm	Information Technology, Energy, Forestry, Western Sydney	Jubilee Room
26 June 2002	5.30pm - 7.30pm	Agriculture	Jubilee Room
26 June 2002	8.00pm - 10.00pm	Land and Water Conservation	Room 814/815

Appendix C

Committee membership

General Purpose Standing Committee No 1

The Hon Revd Fred Nile MLC (Chair)

The Hon Tony Kelly MLC (Deputy Chair)

The Hon Patricia Forsythe MLC

The Hon Don Harwin MLC

The Hon Peter Primrose MLC

The Hon Henry Tsang MLC

The Hon Dr Peter Wong MLC

Christian Democratic Party

Australian Labor Party

Liberal Party

Liberal Party

Australian Labor Party

Australian Labor Party

Unity

General Purpose Standing Committee No 2

The Hon Dr Brian Pezzutti MLC (Chair)

The Hon Dr Arthur Chesterfield-Evans MLC (Deputy Chair)

The Hon Alan Corbett MLC

The Hon Ron Dyer MLC

The Hon Amanda Fazio MLC

The Hon Henry Tsang MLC

The Hon Doug Moppett MLC

Liberal Party

Australian Democrats

A Better Future for Our Children

Australian Labor Party

Australian Labor Party

Australian Labor Party

National Party

General Purpose Standing Committee No 3

The Hon Helen Sham-Ho MLC (Chair)

The Hon John Hatzistergos MLC (Deputy Chair)

The Hon Greg Pearce MLC

The Hon Peter Primrose MLC

Ms Lee Rhiannon MLC

The Hon Jim Samios MLC

The Hon Ian West MLC

Independent

Australian Labor Party

Liberal Party

Australian Labor Party

The Greens

Liberal Party

Australian Labor Party

General Purpose Standing Committee No 4

The Hon Jenny Gardiner MLC (Chair)

The Hon Ian Cohen MLC (Deputy Chair)

The Hon Jan Burnswoods MLC

The Hon Charlie Lynn MLC

The Hon Ian Macdonald MLC

The Hon David Oldfield MLC

The Hon Janelle Saffin MLC

National Party

The Greens

Australian Labor Party

Liberal Party

Australian Labor Party

One Nation

Australian Labor Party

General Purpose Standing Committee No 5

The Hon Richard Jones MLC (Chair)

Ms Jan Burnswoods MLC (Deputy Chair)

The Hon Janelle Saffin MLC

The Hon Richard Colless MLC

The Hon Amanda Fazio MLC

The Hon Malcom Jones MLC

The Hon John Jobling MLC

Independent

Australian Labor Party

Australian Labor Party

National Party

Australian Labor Party

Outdoor Recreation Party

Liberal Party

Appendix D

Advice from the Clerk 16 September 1999



LEGISLATIVE COUNCIL

OFFICE OF THE CLERK OF THE PARLIAMENTS

MEMORANDUM

To	Honourable members of the Legislative Council
From	Clerk of the Parliaments
Subject	Advice provided to General Purpose Standing Committees in relation to Budget Estimates hearings
Date	16 September 1999

During the Budget Estimates hearings conducted by General Purpose Standing Committees, my advice has been sought on a number of procedural issues. As these issues were not addressed in the *Manual for Budget Estimates Hearings*, published under my hand earlier this month, and the circumstances which have given rise to these requests for advice may arise again during further Budget Estimates hearings, or indeed during other inquiries conducted by the General Purpose Standing Committees, I believe it is important for the advice provided to be circulated to all members.

1. (A) Can a General Purpose Standing Committee resolve to limit the time taken by a witness to answer questions?

A Committee of the House has the power and responsibility to determine its own practices and procedures, subject to: the resolutions establishing the Committee; any reference from the House; the Standing Orders of the House; and established Committee practice.

The key provisions in the resolution of the House referring the Budget Estimates relating to the taking of evidence are:

2. That the Committees consider the Budget Estimates in accordance with the allocation of portfolios to the Committees.

6. When a Committee hears evidence on the Budget Estimates, the Chair is to call on items of expenditure in the order decided on and declare the proposed expenditure open for examination.
7. The Committees may ask for explanations from Ministers in the House, or officers of departments, statutory bodies or corporations, relating to the items of proposed expenditure.¹

The only provision in the resolution establishing the General Purpose Standing Committees relating the taking of evidence is:

10. Unless a Committee otherwise decides, a member of the House, who is not a member of the relevant Committee may take part in the public proceedings of a Committee and question witnesses...²

The Standing Orders of the House do not prescribe specific procedures for the taking of evidence. However, the procedures by which Committees take evidence are well established. These procedures are set out in each of the relevant authorities on parliamentary practice and procedure.³ *Odgers' Senate Practice* notes that "the Standing Orders allow the Senate and its Committees to formulate procedures for the giving of evidence before them... This allows maximum flexibility."⁴

There is nothing in the resolution establishing the General Purpose Standing Committees, the reference of the Budget Estimates to these Committees, the Standing Orders of the House, or established Committee practice, that would preclude the Committees from limiting the time taken by a witness to answer a question. The Committees therefore do have the power to limit the time taken by a witness to answer a question. (However, it would be hoped that any Committee resolving to impose a limit on the time taken by a witness to answer a question would make provision for a witness to apply for an extension of time if required, and that any such time limits would be applied somewhat flexibly.)

1. (B) If so, can such time limits be applied to a Minister from the Lower House?

Paragraph 7 of the resolution referring the Budget Estimates, set out above, provides for the Committee to "ask for explanations from Ministers in the House, or officers of departments, statutory bodies or corporations". Paragraph 8 of the resolution establishing the General Purpose Standing Committees provides the Committees with powers "to send for and examine persons..." and "to request the attendance of, and examine members of the House".⁵

¹ Minutes of Proceedings, No. 14, 29 June 1999, pp 163-164.

² Minutes of Proceedings, No. 3, 13 May 1999, p 62.

³ See for example *Erskine May*, 22nd Edition, 1997, pp 650-651; *Odger's Senate Practice*, 8th Edition, 1997, p. 421; *House of Representatives Practice*, 3rd Edition, 1997, pp 599-601.

⁴ *Odgers' Senate Practice*, p 421.

⁵ Minutes of Proceedings, No. 3, 13 May 1999, p 62.

The Standing Orders of the House do not specifically address the attendance of members (including Ministers) from the Legislative Assembly before Legislative Council Committees (or indeed the attendance of members of the Legislative Council before Legislative Council Committees).

The relevant authorities on parliamentary practice and procedure provide consistent information in relation to the attendance of members before Committees. The position is that a member may give evidence before a Committee but cannot be compelled to do so. Where a member refuses a request to attend to give evidence before a Committee, the Committee is required to inform the House, in order that the House determine the matter. However, a member cannot be summoned to attend to give evidence before a Committee. This also applies to members of one House giving evidence before a Committee of the other House in a bicameral Legislature.⁶

Where a member (including a member or Minister from the other House in a bicameral Legislature) appears before a Committee, they are treated like any other voluntary witness. *Erskine May* states that:

A member who has submitted himself to examination without any order of the House is treated like any other witness. When a member's refusal to answer questions has been reported to the House by a select Committee, the House has ordered that he should submit his objection to the Committee.⁷

While a Minister from the Legislative Assembly is attending and giving evidence before a General Purpose Standing Committee (including during Budget Estimates hearings) they will be subject to any procedures established by such a Committee, including any time limits for the answers to questions agreed to by the Committee. A failure to comply with any such procedures established by a such a Committee would need to be reported to the House by the Committee.

However, as a Minister from the Legislative Assembly cannot be compelled to attend and give evidence before a General Purpose Standing Committee (or any other Legislative Council Committee), a Minister from the Legislative Assembly may decide to leave such a hearing at any time, if they did not wish to comply with any procedures established by such a Committee, including any time limits for the answers to questions agreed to by the Committee.

2. Can a Committee hold additional hearings in relation to the portfolios of a Minister already examined during the initial round of Budget Estimates hearings, prior to the Committee report on the initial round of hearings?

The *Manual for Budget Estimates Hearings* notes that the "the Government has provided a proposed timetable for the initial round of Budget Estimates hearings".⁸ The proposed timetable was published as an Appendix to the manual.

The resolutions referring the Budget Estimates prescribe a detailed procedure and sequence for the General Purpose Standing Committees to follow at the end of the initial round hearings, including the

⁶ *Erskine May*, pp 616, 648; *Odgers' Senate Practice*, p 416; *House of Representatives Practice*, p 652.

⁷ *Erskine May*, p 648.

⁸ *Manual for Budget Estimates Hearings*, p 3.

procedures to be followed in relation to supplementary hearings. These procedures are set out on page 11 of the manual.

The relevant provision in the resolution referring the Budget Estimates in relation to the initial round of hearings is:

2. That the Committees consider the Budget Estimates in accordance with the allocation of portfolios to the Committees.

There is nothing in the resolution referring the Budget Estimates which requires the initial round of hearings to be limited to a single hearing for each Ministerial portfolio. There is nothing in the resolutions referring the Budget Estimates which requires the initial round of hearings to be limited to the hearings listed in the Government's proposed timetable published in the manual.

The General Purpose Standing Committees have the power to hold any number of hearings in relation to a portfolio area until such time as they have exhausted all questions in relation to that portfolio. At that time, the Committee must report to the House and the procedures set out on page 11 of the manual will then come into effect. Even if a Committee were to resolve to restrict questions to a particular period of time, the Committee could later resolve to change its view on this matter, and extend the time or have additional hearings.

A General Purpose Standing Committee resolving to conduct further hearings in relation to a portfolio area as part of the initial round of hearings, may invite a Minister from the Legislative Assembly to attend and give evidence at such further hearings.⁹ However, as noted above, a Minister from the Legislative Assembly cannot be compelled to attend any hearing of a General Purpose Standing Committee.

A General Purpose Standing Committee may invite officers of departments, statutory bodies or corporations to attend and give evidence at a Budget Estimates hearing, including at any further hearing in relation to a portfolio area.¹⁰ Under the provisions of the *Parliamentary Evidence Act 1901* the General Purpose Standing Committees may compel such officers to attend and give evidence through the issue of a summons, although the use of these coercive powers is not normally considered necessary.

3. Can the Committees meet prior to the starting time set out in the Government's proposed timetable for the Budget Estimates to deliberate?

As noted above, the Government's proposed timetable for the initial round of Budget Estimates hearings was published as an appendix to the *Manual for Budget Estimates Hearings*. This timetable has been the subject of a number of changes. Clearly, the timetable was published by way of guidance and was always subject to possible change.

⁹ The Minister for Environment, Emergency Services and Corrective Services has agreed to attend and give evidence at a further hearing of Committee No 5 on Thursday 23 September, in relation to Emergency Services and Corrective Services.

¹⁰ Arrangements are being made for the Directors-General of the Departments of Community Services, Women and Ageing to attend and give evidence at such a further hearing of Committee No 2 during the next few weeks.

There is nothing in the resolution referring the Budget Estimates to prevent the General Purpose Standing Committees from resolving to hold additional deliberative meetings during the period when the initial round of Budget Estimates hearings are being held. There is nothing in the resolution referring the Budget Estimates to prevent Committees from resolving to meet prior to the scheduled starting time for a particular hearing in order to deliberate.

4. Can Chairs of the General Purpose Standing Committees ask questions?

The provisions of the resolution establishing the General Purpose Standing Committees and the resolution referring the Budget Estimates relating to the examination of witnesses are set out above. There is nothing in the resolution establishing the General Purpose Standing Committees or the resolution referring the Budget Estimates to prevent Committee Chairs from asking questions at hearings.

The General Purpose Standing Committees are established to operate in generally the same way as the other Standing Committees of the Legislative Council, in which there has never been any doubt about the capacity of Chairs to ask questions.

5. Procedures for the publication of tabled documents, including answers to questions on notice forwarded to Ministers prior to the initial round of hearings.

Standing Order 252 of the House provides that:

Evidence taken by any Select Committee of the House, and documents presented to such Committee which have not been reported to the House, may not, except with the permission of the Committee, be disclosed or published by any member of such Committee or by any other person.

Section 4 (2) of the *Parliamentary Papers (Supplementary Provisions) Act 1975* provides that “a Committee may authorise the publication of documents received or evidence given before it”.

As set out on page 8 of the *Manual for Budget Estimates Hearings*, General Purpose Standing Committees need to move a resolution to accept and authorise the publication of any evidence or submissions or documents that are tabled during the Budget Estimates hearings. The manual suggests that “this *can* be done in globo at the end of the hearing” [emphasis added]. However, there is nothing to prevent a Committee from resolving to publish tabled documents or other papers received by the Committee as they are tabled, or in some other way.

There is nothing to prevent a Committee from resolving prospectively to publish documents to be received at or before a certain date. However, in pursuit of consistency, and in order to ensure that Committees have an opportunity to review documents which are to be published on their authority, it is recommended that each Committee authorise publication of tabled documents either at the time they are tabled or, at the conclusion of each hearing. (While this practice is recommended, it is not incumbent on Committees to follow this practice in all instances.)

6. Procedures for a General Purpose Standing Committee to “self refer” a matter for inquiry

Paragraphs 3 and 4 of the resolutions establishing the General Purpose Standing Committees provide the Committees with a power to “self refer” matters for inquiry, and also set out the procedure to be followed in order for a Committee to commence such an inquiry.

3. The Committees may inquire into and report on: (a) any matters referred to them by the House; (b) the expenditure, performance or effectiveness of any department of government, statutory body or corporation; (c) any matter in any annual report of a department of government, statutory body or corporation.
4. A meeting of a Committee may be convened at the request of any three members of any three members of the Committee in writing to the Clerk of a Committee.¹¹

During the 51st Parliament two inquiries were “self referred” to General Purpose Standing Committee in this way.¹² In each case, a meeting was convened following the receipt of a letter signed by three members of the relevant Committee requesting the convening of the Committee to conduct a particular inquiry.

Prior to the first of the Budget Estimates hearings on 7 September 1999, the Chair of Committee No 2 sought advice on the procedures for “self referring” a matter for inquiry by that Committee. Advice was provided that, as the Committee was scheduled to meet on 7 September, the provisions of paragraph 4 of the resolutions establishing the Committees were redundant in this case and there was no need for a letter to be signed by three members of the Committee to request that the Committee convene. The Chair was advised that, once the Committee went into deliberative session, the Chair could table proposed terms of reference to “self refer” a matter for inquiry.

Where a General Purpose Standing Committee is scheduled to meet, paragraph 4 of the resolution establishing the General Purpose Standing Committees, is redundant, and a proposed “self reference” can be discussed by a Committee during a deliberative session at any scheduled meeting. However, where a General Purpose Standing Committee is not scheduled to meet, or where three or more members wish to initiate an inquiry prior to a scheduled meeting, the provisions of paragraph 4 of the resolutions establishing the Committees apply and a letter signed by three members must be provided to the Clerk of the Committee requesting the convening of a Committee.

I trust this information clarifies the situation for members serving on General Purpose Standing Committee.

[signed by the Deputy Clerk for]

John Evans
Clerk of the Parliaments

¹¹ Minutes of Proceedings, No 3, 13 May 1999, p 62.

¹² See General Purpose Standing Committee No 2, *Interim Report – Inquiry into Rural and Regional New South Wales Health Services*, July 1998; General Purpose Standing Committee No 1, *Interim Report on the Inquiry into the Impact of the National Electricity Market on the Finances of the New South Wales Government*, November 1998.

Appendix E

Advice from the Clerk 20 June 2001



LEGISLATIVE COUNCIL

OFFICE OF THE CLERK OF THE PARLIAMENTS

MEMORANDUM

To	Chairs of General Purpose Standing Committees
From	Clerk of the Parliaments
Subject	Advice regarding questioning in Budget Estimates with respect to Committee's other terms of reference and the content of questions
Date	20 June 2001

I have been asked for advice in relation to the following two issues.

1. Questions that may be relevant to other Committee inquiries

Further to the Budget Estimates Guide 2001 – 2002,¹ questions asked as part of the Budget Estimates inquiries should not attempt to raise or debate the unreported or unpublished proceedings, or deliberations of a current inquiry before a Committee.

This does not prevent members from asking any questions that deal with the subject matter of an inquiry. The purpose of Budget Estimates hearings is to inquire into and report on the conduct of government and their policies for expenditure of public monies authorised by Parliament. In exercising this role, there is bound to be a degree of overlap with current Committee inquiries.

There is a significant difference between debating the unreported proceedings of a Committee and asking questions on the general subject of an inquiry before a Committee.

¹ See section 4.2 Questions during the hearing, page 14

2. Rules relating to content of questions during Committee hearings

In my advice to Honorable members of the Legislative Council dated 16 September 1999 regarding budget estimates hearings it was noted that maximum flexibility is allowed to Committees to formulate procedures for taking evidence. The advice states²:

The Standing Orders of the House do not prescribe specific procedures for the taking of evidence. However, the procedures by which Committees take evidence are well established. These procedures are set out in each of the relevant authorities on parliamentary practice and procedure. *Odgers Senate Practice* notes that “the Standing Orders allow the Senate and its Committees to formulate procedures for the giving of evidence before them...This allows maximum flexibility.”

The House has not laid down any rules regarding the form and content of questions to witnesses before Committees. However, there is a requirement that a question be “lawful” where a witness is appearing by summons under the *Parliamentary Evidence Act 1901*. The rules relating to questions without notice in the House do not apply to questioning of witnesses before Committees.

It is an accepted principle that questions by Committees should be relevant to the matter that has been referred to them for inquiry and report.³ In the case of the budget estimates inquiry, this means the estimates of expenditure from the consolidated fund and other matters covered by the budget papers. The estimates of expenditure relate to the activities of departments, which in many cases reflect the implementation of policy. For this reason, the Budget and related papers contain information relating to departmental activities and implementation of policy. Similarly, information from other sources, such as annual reports of departments, reports by the Audit Office and policy announcements by Ministers or other government officials relate to expenditure from the consolidated fund and would be considered relevant to the budget estimates inquiry.

The issue of whether or not a question is disorderly is a matter for the Chair, where a Committee disagrees with the decision of the Chair the issue may be determined in the usual manner.

[signed]

John Evans
Clerk of the Parliaments

² This advice is reproduced at Appendix D of the Budget Estimates Guide 2001 - 2002

³ See *Odgers' Australian Senate Practice*, 9th ed., p 376 for further discussion

Appendix F

Sound and Broadcasting Resolution

1. That this House authorises:
 - (1) the sound broadcasting of the proceedings of the House:
 - (a) on the broadcasting system within the precincts of Parliament House; and
 - (b) to persons and organisations outside Parliament House approved by the President, on terms and conditions determined by the President from time to time.
 - (2) the video broadcasting of the proceedings of the House:
 - (a) on the television system within the precincts of Parliament House; and
 - (b) to persons and organisations outside Parliament House approved by the President, on terms and conditions determined by the President from time to time.
 - (3) the broadcasting and rebroadcasting on radio and television stations of sound recordings of excerpts of proceedings of the House on the following conditions, and other terms and conditions, not inconsistent with this paragraph, determined by the President from time to time:
 - (a) excerpts may be taken from the proceedings of the House from the time of the meeting of the House until the adjournment of the House;
 - (b) excerpts must be recorded from the audio signal of proceedings transmitted by the House monitoring system in Parliament House;
 - (c) broadcasts of excerpts must be used only for the purposes of fair and accurate reports of proceedings and must provide a balanced presentation of differing views;
 - (d) excerpts must not be used for:
 - (i) political party advertising or election campaigns;
 - (ii) the purpose of satire or ridicule;
 - (iii) commercial sponsorship or commercial advertising;
 - (e) excerpts of proceedings which are subsequently withdrawn may be broadcast if the withdrawal is also broadcast;
 - (f) excerpts must be placed in context. Commentators must identify members by name;
 - (g) where audio excerpts of proceedings are used on television, their use may be that of audio over still frames, or overlay material;
 - (h) where the excerpts are used on commercial stations, the station must ensure that advertising before and after excerpts is of an appropriate nature;
 - (i) events in the Galleries are not part of the proceedings and excerpts of those events must not be used;
 - (j) access to proceedings for the purpose of recording is on the basis of an undertaking to observe these conditions. A breach of these conditions by a station may result in

- the suspension or withdrawal of permission by the President for the station to broadcast excerpts of the proceedings of the House;
- (k) the instructions of the President or delegated representatives, on the use of recorded excerpts, must be observed at all times.
- (4) the broadcasting and rebroadcasting by television stations of proceedings and excerpts of proceedings in the House, on the following conditions and other terms and conditions, not inconsistent with this paragraph, determined by the President from time to time:
- (a) the President may approve filming, on request, from the commencement of proceedings to the adjournment of the House;
- (b) broadcasts of excerpts must be used only for the purposes of fair and accurate reports of proceedings and must provide a balanced presentation of differing views;
- (c) excerpts must not be used for:
- (i) political party advertising or election campaigns;
- (ii) the purpose of satire or ridicule;
- (iii) commercial sponsorship or commercial advertising;
- (d) excerpts of proceedings which are subsequently withdrawn may be broadcast if the withdrawal is also broadcast;
- (e) excerpts must be placed in context;
- (f) where the excerpts are used on commercial stations, the station must ensure that advertising before and after excerpts is of an appropriate nature;
- (g) events in the Galleries are not part of the proceedings and must not be televised;
- (h) access to proceedings for the purpose of televising is on the basis of an undertaking to observe these conditions. A breach of these conditions may result in the suspension or withdrawal of permission by the President to televise or broadcast the proceedings of the House;
- (i) the instructions of the President or delegated representatives must be observed at all times.
2. (1) A Committee may, by a vote of the Committee, authorise the sound broadcasting and television broadcasting of its public proceedings.
- (2) A Committee may:
- (a) determine terms and conditions, not inconsistent with paragraphs 1 (3) and (4), for the sound recording and television broadcasting of its proceedings;
- (b) give instructions for the observance of terms and conditions determined under paragraph (a);
- (c) order that part of its proceedings not be recorded or broadcast.
- (3) If a Committee decides to permit the broadcasting or televising of proceedings, a witness who is to appear before the Committee in those proceedings must be given a reasonable opportunity, before appearing in the proceedings, to object to the broadcasting or televising of proceedings. The witness may state the grounds of the objection. The Committee must consider an objection having regard to the protection of the witness and

the public interest in the proceedings. If the Committee decides to permit the broadcasting or televising of proceedings despite an objection of a witness, the witness must be informed before appearing in the proceedings of the Committee.

3. The President is to report to the House from time to time:
 - (a) details of the persons and organisations authorised to receive the sound and video broadcasting and terms and conditions determined under paragraph 1 (1) and (2); and
 - (b) details of additional terms and conditions determined under paragraphs 1 (3) and (4).

(Minutes of Proceedings, 11 October 1994, pp 279-281.)

Appendix G

Legislative Council, Sessional Orders, Questions on Notice

That, during the present Session and notwithstanding anything contained in the Standing Orders, the procedure in relation to Questions on Notice is varied, as follows:

1. Notices of Questions, signed by a member, must be handed to one of the Clerks at the Table during the sitting of the House.
2. The Clerk is to publish in a Questions and Answers Paper, printed and circulated to members, Notices of Questions in the order in which they are received.
3. The reply to a Question on Notice is to be delivered to the Clerk and is to be published in the Questions and Answers Paper.
4. Ministers must lodge answers to Questions on Notice within 35 calendar days after the question is first published.
5. If an answer to a Question on Notice is not received within 35 calendar days, the President is to inform the House on the next sitting day the details of any Question not answered. The relevant Minister must immediately explain to the House the reason for non-compliance.
6. If, after explanation in the House, the Minister has not submitted an answer within 3 sitting days, the President is to again inform the House and the Minister will again be called to explain. This procedure is to continue until a written answer is submitted.
7. During any adjournment of the House, replies to Questions on Notice may be delivered to the Clerk.
8. A Questions and Answers Paper is to be printed and circulated on any prorogation of the House.

(Adopted Wednesday, 8 September 1999, 52nd Parliament, 2nd Session, Minutes of Proceedings No 2, p 24)

Appendix H

Suggested procedure for lodging written questions on notice

- 6.7** If a Committee decides to accept written questions on notice through the Budget Estimates secretariat it is recommended that the following timeframes be used:
- Lodgement of written questions with the Budget Estimates secretariat – 5.00pm on the second business day after the day on which the hearing takes place. This enables members or their staff to consider the transcript of the hearing prior to lodging further questions.
 - Return of answers – 35 calendar days from the date on which questions are sent to the relevant Minister by the Budget Estimates secretariat. This period is consistent with sessional orders relating to the question on notice. Members should note that if a large number of questions are placed on notice, there could be some delay before questions are sent to Ministers.
- 6.8** **To avoid confusion, the clerks will not accept written questions on notice during or immediately after the hearing.** Members must lodge their questions by the agreed time frame. Members' staff should check that written questions do not duplicate questions asked at the hearing and comply with the rules for questions on notice.
- 6.9** Written questions should be **typewritten** and must include the following information:
- Name of member lodging the question
 - Hearing date
 - Name of Committee
 - Name of relevant Minister and Portfolio Area
 - Name of agency or subject matter to which question relates
 - Signature of member.
- 6.10** A template for written questions on notice is available from the Budget Estimates secretariat.
- 6.11** Members should provide **two** versions of the questions to the Secretariat: a **signed** hard copy delivered to the Committee clerks or to Room 812 and an electronic copy sent to **gpsquestions@parliament.nsw.gov.au**. Members are responsible for ensuring that the electronic version is identical to the written version.