



LEGISLATIVE COUNCIL

PROCEDURE COMMITTEE

# Giving of notices of motions under standing order 75



Report 21

July 2024

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Procedure Committee

# **Giving of notices of motions under standing order 75**

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Giving of notices of motions under standing order 75

"July 2024"

Chair: Hon Ben Franklin MLC



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## Terms of reference

- (1) That the Procedure Committee inquire into and report on the giving of notices of motions under standing order 75, to expedite the process to save time in the Chamber.
- (2) That the committee report by 6 August 2024.<sup>1</sup>

The terms of reference for the inquiry were referred to the committee by the Legislative Council on 29 November 2023.<sup>2</sup>

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<sup>1</sup> The original reporting date was 24 May 2024 (*Minutes*, NSW Legislative Council, 29 November 2023, Item 37, pp 772-773). The reporting date was later extended to 6 August 2024 (*Minutes*, NSW Legislative Council, 19 March 2024, Item 18, p 982).

<sup>2</sup> *Minutes*, NSW Legislative Council, 29 November 2023, Item 37, pp 772-773.

## Committee details

### Committee members

<b>Hon Ben Franklin MLC</b>	The Nationals	<i>Chair</i>
<b>Hon Robert Borsak MLC</b>	Shooters, Fishers and Farmers	<i>Deputy Chair</i>
<b>Ms Abigail Boyd MLC</b>	The Greens	
<b>Hon Jeremy Buckingham MLC</b>	Legalise Cannabis Party	
<b>Hon John Graham MLC</b>	Australian Labor Party	
<b>Hon Emma Hurst MLC</b>	Animal Justice Party	
<b>Hon Mark Latham MLC*</b>	Independent	
<b>Hon Taylor Martin MLC**</b>	Independent	
<b>Hon Tania Mihailuk MLC***</b>	Pauline Hanson's One Nation	
<b>Hon Sarah Mitchell MLC</b>	The Nationals	
<b>Hon Bob Nanva MLC</b>	Australian Labor Party	
<b>Hon Peter Primrose MLC</b>	Australian Labor Party	
<b>Hon Chris Rath MLC</b>	Liberal Party	
<b>Hon Rod Roberts MLC</b>	Independent	
<b>Hon John Ruddick MLC</b>	Libertarian Party	
<b>Hon Penny Sharpe MLC</b>	Australian Labor Party	
<b>Hon Damien Tudehope MLC</b>	Liberal Party	

\* The Hon Mark Latham MLC was appointed to the committee on 30 November 2023.

\*\* The Hon Taylor Martin MLC was appointed to the committee on 19 April 2024.

\*\*\* The Hon Tania Mihailuk MLC was appointed to the committee on 30 November 2023.

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Taylah Cauchi, Council Officer

Stewart Smith, Director



## Chair's foreword

The Legislative Council operates on a fundamental principle that notice must be given for any motion that a member wishes to be considered by the House. This supports the orderly and transparent operation of the House, so that members and the public are able to give due consideration to the business that comes before the House.

This report focuses on standing order 75 and the procedures for giving notice of the motions which members intend to have considered by the House.

I thank members for their engagement with this inquiry and for their consideration of potential reforms within the context of ensuring parliamentary principles of transparency and accountability are upheld and are supported by effective and efficient procedures which meet the needs of members and other stakeholders.

I also thank the Clerk and committee secretariat for their expertise and professional support.

Hon Ben Franklin MLC  
**President**

## Recommendations

### Recommendation 1

19

That for the remainder of this Parliament, the House adopt a sessional order amending standing order 75 stipulating that members may only read up to three notices of motions in full on any one sitting day, with all other notices to be given in summary format if desired, and all notices to be lodged in writing with the Clerk.

### Recommendation 2

20

That the President give a ruling in the House that when giving notice using the summary provision in standing order SO 75 (3), members may, if desired, give notices in a list format, provided that the category of business and subject matter of the motion is made clear to the House, and that the signed notice contains the full text of the motion.

### Recommendation 3

21

That for the remainder of this Parliament, the House adopt a sessional order amending standing order 75 stipulating that members may give notice by handing the signed written notice to the Clerks-at-the-Table from the commencement of the meeting of the House until the conclusion of the giving of notices of motions during formalities.

### Recommendation 4

23

That for the remainder of this Parliament, the House adopt a sessional order amending standing order 195 (1) to stipulate that a private members' business notice of motion that has remained on the Notice Paper for 13 sitting days without being moved will be removed from the Notice Paper.

### Recommendation 5

24

That the President make a statement in the House informing members that they may use the form for giving notice to also indicate their desire for the motion to be considered as formal business on the next sitting day.

## **Conduct of inquiry**

The terms of reference for the inquiry were referred to the committee by the Legislative Council on 29 November 2023.

The committee published a discussion paper in April 2024, to which four submissions were received.

The committee held one deliberative meeting in May 2024 to allow committee members to discuss issues concerning this inquiry, as well as to discuss issues related to the two other inquiries before the committee at that time.

Inquiry related documents are available on the committee's website, including submissions.



# Chapter 1 Overview

This chapter provides an overview of the role of the Procedure Committee, and the committee's inquiry into the giving of notices.

## Role of the Procedure Committee

1.1 The Procedure Committee is appointed at the commencement of each Parliament under standing order 211. The committee considers amendments to the standing orders (the rules of the House), proposals to change the practices and procedures of the House, and any other procedural matter referred to it by the House or the President.<sup>3</sup>

## Inquiry overview

1.2 On 29 November 2023 the Legislative Council resolved that the Procedure Committee inquire into and report on the giving of notices of motions under standing order 75, to expedite the process to save time in the Chamber.<sup>4</sup>

1.3 In April 2024 the committee published a discussion paper which outlined current practices in the giving of notices of motions, and compared practice in other jurisdictions. Members of the Legislative Council and other stakeholders were invited to make submissions.

1.4 Four submissions were received, from the Honourable Robert Borsak MLC of the Shooters, Fishers and Farmers Party, the Honourable Emma Hurst of the Animal Justice Party, the Government Whip (Mr Bob Nanva), and Mr John Evans PSM (Parliamentary Ethics Advisor and former Clerk of the Parliaments).

1.5 The committee met in May 2024 to discuss the issues raised in the discussion paper and the submissions received.

1.6 An updated version of the discussion paper is contained in Chapter 2. The key issues and considerations discussed during the inquiry are then explored in Chapter 3, which also contains the committee's comments and recommendations.

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<sup>3</sup> Stephen Frappell and David Blunt, *New South Wales Legislative Practice* (Federation Press, 2nd ed, 2021) p 733.

<sup>4</sup> *Minutes*, NSW Legislative Council, 29 November 2023, Item 37, pp 776-777.



## Chapter 2 Giving of notices of motions

This chapter provides an overview of the key provisions of standing order 75 which governs the giving of notices of motions. It includes details of the procedures for giving notice and their current operation, a comparison of the provisions used for giving notice in other Australian jurisdictions, and a summary of previous related reports by this committee.

An earlier version of this chapter was published with information to March 2024 as a discussion paper to inform stakeholders' input into the inquiry and to assist the committee's deliberations. This chapter includes statistical information on notices given until June 2024.

### Standing order 75

#### 2.1 Standing order 75 states:

##### 75. Giving of notices

- (1) A member may give notice of a motion to initiate a subject for discussion by reading the notice of motion aloud, and:
  - (a) giving the Clerk-at-the-Table a signed written copy and stating the day proposed for moving the motion, or
  - (b) submitting the notice to the Clerk electronically before or at the time for giving of notices.
- (2) Notices of motions must be in the English language but where not practicable they must be accompanied by a translation in English, certified to be correct by the member giving notice. Such notices will be published in the Notice Paper in English.
- (3) Lengthy notices need not be read, provided a summary of the intent of the notice is indicated to the House.
- (4) The Clerk will enter notices of motions on the Notice Paper in the order they are given.
- (5) A member may give notice of a motion for any other member not present. The names of both members are placed on the notice.
- (6) A member may give notice of a motion co-sponsored by other members whose names are placed on the notice and recorded in the Notice Paper.
- (7) A notice of motion must be given before the House proceeds to the business of the day as set out in the Notice Paper, except by leave of the House.
- (8) A notice of motion may not be set down for a day later than four weeks from the day of giving notice.
- (9) A notice which is contrary to these standing orders or practice will be amended before it appears on the Notice Paper.

#### 2.2 As provided by the standing order, the key provisions for giving notice require that:

- notices are to be read aloud by members in the chamber (SO 75 (1))
- where a notice is lengthy, members may instead indicate a summary of the intent of the notice (SO 75 (3))

- a signed copy of the notice is given to the Clerks-at-the-Table, along with an electronic version via email (SO 75 (1)(a) and (b), which support accurate production of the Notice Paper).

**2.3** The standing order contains two limitations in relation to notices:

- a notice of motion must be given during formalities (SO 75 (7))
- a notice contrary to the standing orders or practice will be amended prior to publication (SO 75 (9)).

**2.4** Notwithstanding these provisions, on occasion, the House has varied practice to allow members to lodge signed written notices to the Clerks-at-the-Table for publication in random order on the Notice Paper.<sup>5</sup> The House has adopted this practice on ceremonial or particularly short sitting days, such as the first sitting day after the general election where there is insufficient time for members to read notices aloud or it is not befitting the day.<sup>6</sup>

## Standing order 75 in practice

**2.5** As required by standing order, notices are given towards the end of formalities each sitting day.<sup>7</sup> This occurs shortly after 12.30 pm on Tuesdays (often resuming at 4.00 pm after the lunch break, as discussed below), and 10.00 am on Wednesdays and Thursdays.

**2.6** In the 58th Parliament from May 2023 to June 2024, 1,283 notices of motions were given in the House. This represents the total number of notices given across all categories of business, including government business, private members' business, business of the House and matters of public importance.

**2.7** Figure 1 shows the breakdown of notices given each sitting day between May 2023 and June 2024. Please note the figure represents 1,202 motions given across all categories of business, but excludes the 81 notices given which relate to government and private members' bills.

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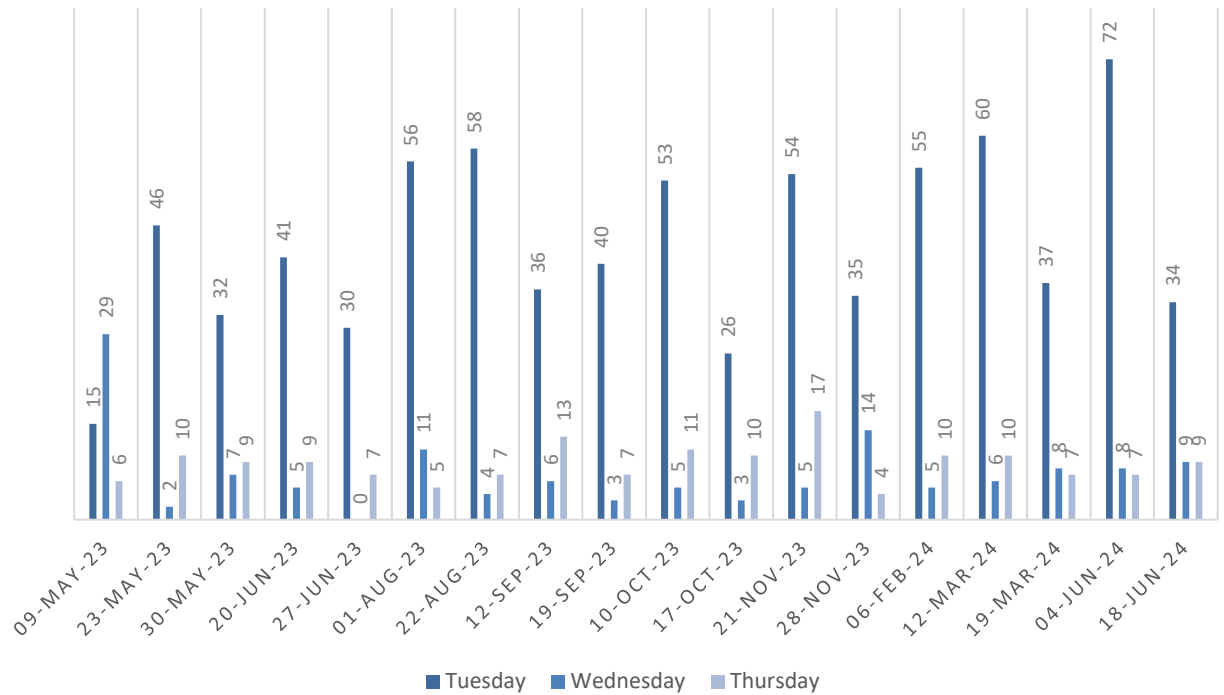
<sup>5</sup> Susan Want and Jenelle Moore, edited by David Blunt, *Annotated Standing Orders of the New South Wales Legislative Council*, (Federation Press, 2018), p 246. See also Susan Want and Jenelle Moore, edited by David Blunt, *Annotated Standing Orders of the New South Wales Legislative Council*, (Federation Press, 2018), Chapter 13, pp 243-251 and Stephen Frappell and David Blunt, *New South Wales Legislative Practice* (Federation Press, 2nd ed, 2021) pp 368 and 371.

<sup>6</sup> *Minutes*, NSW Legislative Council, 9 May 2023, Item 18, p 13; *Minutes*, NSW Legislative Council, 20 September 2022, Item 5, p 3618.

<sup>7</sup> See also standing order 41 which provides the routine of business during formalities.



**Figure 1** Number of notices given each sitting day, May 2023 to June 2024, for all motions except those relating to bills

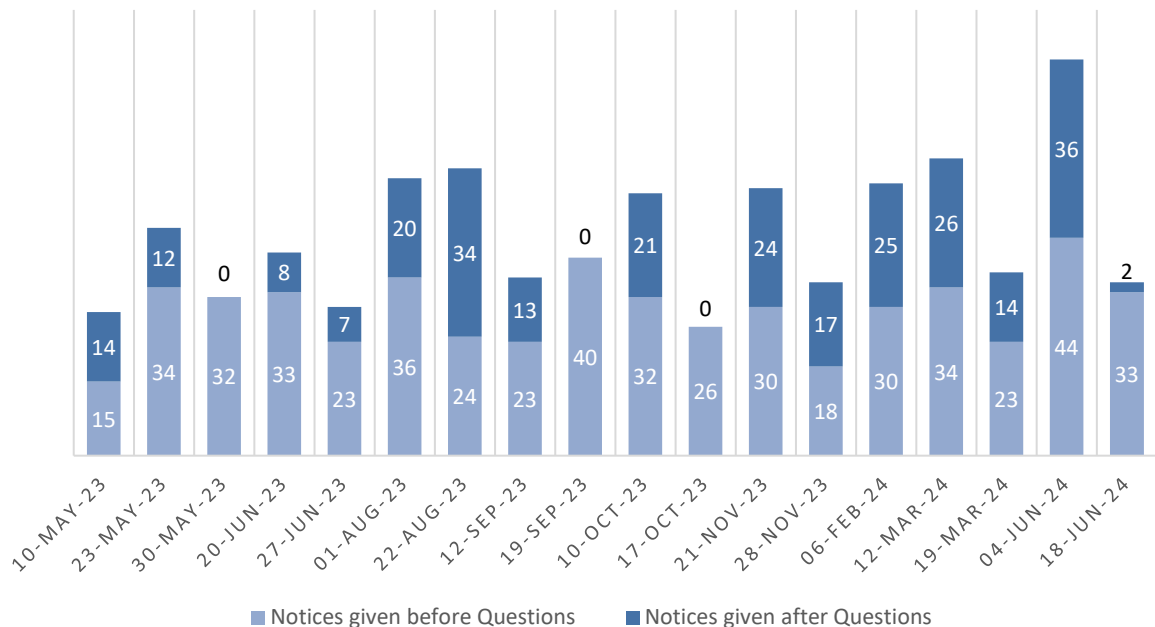


**2.8** As reflected in Figure 1, an average of 67 notices are given each sitting week (excluding notices for bills), with the majority being given on Tuesday, the first sitting day of the week.<sup>8</sup>

**2.9** On Tuesdays the giving of notices is frequently interrupted by Questions, followed by the take note of answers debate and the afternoon break. When the House resumes at 4.00 pm, all remaining notices of motions are given, with formalities concluding at approximately 4.30 pm. Figure 2 below provides a breakdown of notices given before and after Questions each Tuesday during the current Parliament.

<sup>8</sup> Note: The first sitting day on which business was conducted following the 2023 General Election was Wednesday 10 May 2023, to ensure consistency in the statistics presented in this paper, this date has been used instead of the opening of Parliament on Tuesday 9 May 2023.

**Figure 2** Number of notices given before and after Questions on the first sitting day of each sitting week, May 2023 to June 2024, for all motions except those relating to bills



**2.10** As shown in Figure 2, the giving of notices on Tuesdays was interrupted by Questions on 15 occasions during the first 18 sitting weeks of the 58th Parliament to June 2024.<sup>9</sup>

**2.11** Figure 2 also shows that, when interrupted, generally between 20 and 59 per cent of notices are given after 4.00 pm. The fluctuation results from a range of factors, such as the volume of other formalities on a sitting day (for example tabling), the length and number of notices, and the number read in full or in summary.

### Giving notice in summary (SO 75 (3))

**2.12** Standing order 75 (3) has provided members the opportunity to not read lengthy notices in full for over 100 years. Changes to the standing orders in 1922 specified that: "to meet the convenience of the House, Notices of a lengthy nature need not be so read."<sup>10</sup> Under the provision, the custom developed that members would read part of the text of a notice and then indicate "as the motion is lengthy, copies are available from the Clerks".

**2.13** The revision of the standing orders in 2003 introduced new language for this provision, and stated: "Lengthy notices need not be read, provided a summary of the intent of the notice is indicated to the House".

<sup>9</sup> Note: For consistency with Figure 1 these statistics also exclude notices which relate to government and private members' bills.

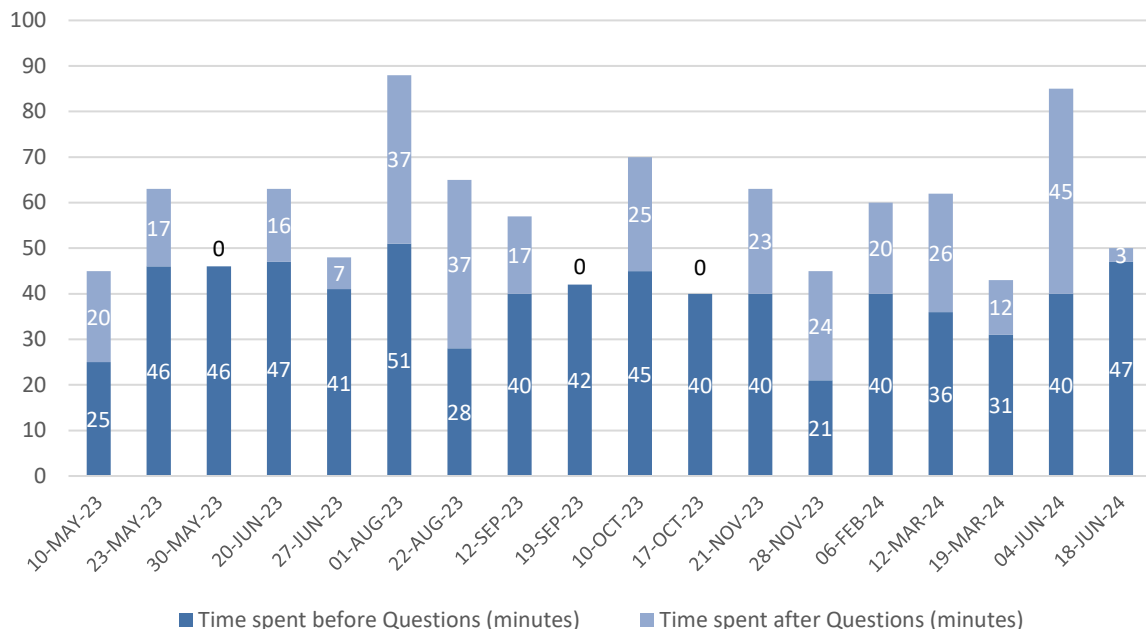
<sup>10</sup> Formerly standing order 49.

- 2.14 Despite the change in language, the existing practice in the House continued, with members reading the text of notices in part, rather than providing a summary of the notice's intent.
- 2.15 In its operation, standing order 75 (3) affords members discretion in how much or little of the notice they read. While generally a substantial portion of a notice is read, on the rare occasion that a member reads only the initial segment of the notice, no points of order have been raised, and to date no rulings have been made to define how much of a notice should be read, or what constitutes the summary under standing order 75 (3).

**Impact on chamber time**

- 2.16 One impact of the length of time spent giving notices of motions is on the use of chamber time. Again this is especially apparent on Tuesdays, when the majority of notices are given, and where approximately half of the time spent in formalities is used for the giving of notices.
- 2.17 Figure 3 below shows that the total time spent giving notices of motions on a Tuesday is, on average 57 minutes. On nine occasions the giving of notices took an hour or more, noting that on 1 August 2023 this took 88 minutes in total and on 4 June 2024 this took 85 minutes in total. Figure 3 also provides a breakdown of the time spent giving notices both before and after Questions where applicable.

**Figure 3 Time (in minutes) spent on the giving of notices on the first day of each sitting week, May 2023 to June 2024, including a breakdown of time spent before and after Questions**



### **Impact on publication and administration**

- 2.18** Shortly after notices are given, a number of administrative processes are undertaken to provide members and other stakeholders access to the full text of motions and to prepare for the next sitting day. These include:
- online publication of notices given via the Running Record (in draft form)
  - entry into the Parliamentary Information Management System and editing for compliance with formatting, grammar and content requirements
  - publication in the Notice Paper shortly after the adjournment of the House.
- 2.19** In addition, members provide copies of notices to the Government Whip for the Business Committee meeting (usually 6.30 pm on Tuesdays).
- 2.20** The time taken on Tuesdays to give notices unavoidably creates two 'batches' of notices. This duplicates the administrative processes outlined above, which in turn delays the production and publication of the formal business list, the Business Committee determination and the Notice Paper. During the current parliament, staff regularly work beyond 11.00 pm on Tuesdays, regardless of the timing of the adjournment, in order to support this aspect of the House.
- 2.21** Separately, opportunities to improve the timeliness of the publication of notices are possible as part of the eParliament project and the continued development of the Parliamentary Information Management System.

### **Expiry of private members' notices of motions**

- 2.22** Formalised in 2023, standing order 195 provides that private members' notices relating to general motions (not motions for bills or disallowance) expire after 20 sitting days.
- 2.23** First introduced via sessional order in June 2011, the expiry provision was intended to better manage the unwieldy size of the Notice Paper, then approximately 100 to 115 pages in length, by negating the need for members to withdraw notices of motions they no longer intended to move. The practice quickly became an established routine of the House.
- 2.24** In the 58th Parliament, where private members' general motions are considered, this usually occurs soon after notice is given, either as formal business or on a private members' business day, and often in the same sitting block that notice is given. It is unusual for a notice close to expiry to be brought on for debate or to be listed for consideration as formal business. In addition, procedural complications arising from notices expiring before they are able to be considered are rare, and none have occurred in this parliament.<sup>11</sup>

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<sup>11</sup> For example, on 10 November 2020, by leave under standing order 71 (now standing order 75), a member gave notice of a motion that was expiring on the Notice Paper, in order to allow for its inclusion in the private members' business list on the next sitting day. See *Minutes*, NSW Legislative Council, 10 November 2020, Item 40, p 1557.

**2.25** To date, despite the expiry provision, the size of the Notice Paper has continued to grow. Factors contributing to this include the number of notices, the length of individual notices, and the length of the expiry period. Since August 2023, the Notice Paper has consistently been 140 to 170 pages in length.

## Provisions in other jurisdictions

**2.26** Table 1 summarises the provisions for giving notice in jurisdictions around Australia and New Zealand.<sup>12</sup> It shows that the practice of giving notice in other legislatures has evolved over time.

**Table 1 Provisions for the giving of notices in other jurisdictions around Australia and New Zealand**

<b>Jurisdiction</b>	<b>Current provisions</b>
<b>Senate</b>  SO 76	<b>Written lodgement</b> with ability to read in the House <ul style="list-style-type: none"> <li>• Written lodgement since 1999.</li> <li>• While the ability to read notices in the House remains, in practice only occurs where Senators need to table associated documents.</li> <li>• Limit of 200 words for most non-government motions, introduced 2020.</li> <li>• No limit on number able to be lodged.</li> <li>• Notices as lodged are circulated by email shortly after the time for giving notices each sitting day, ahead of the whips' meeting to discuss the following day's program. Then edited for compliance with the standing orders for publication in the Notice Paper.</li> </ul>
<b>House of Representatives</b>  SO 106	<b>Written lodgement only</b> <ul style="list-style-type: none"> <li>• Notices of motions may only be lodged in writing.</li> <li>• No reading of notices provided for since 2008.</li> <li>• No limit on length.</li> </ul>
<b>New Zealand</b>  SO 98, 101	<b>Written lodgement only</b> <ul style="list-style-type: none"> <li>• No provision for reading of notices since 1974.</li> <li>• Motions accepted sit on Table for the day, then are printed in the Order Paper</li> <li>• Removed from Order Paper after one week.</li> <li>• No word limit.</li> <li>• No limit on number able to be lodged.</li> </ul>
<b>Tasmania – Legislative Council</b>  SO 52	<b>Must be read in the House</b> <ul style="list-style-type: none"> <li>• Notices are required to be read in full.</li> <li>• No word limit.</li> <li>• Provision for members to introduce multiple notices consecutively was recently introduced.</li> <li>• No provision for automatic removal from Notice Paper.</li> </ul>

<sup>12</sup> Table 1 was compiled based on information provided via email by the Clerks in each jurisdiction around Australia and New Zealand in response to a request by the Clerk of the Parliaments.

<p><b>Tasmania – Legislative Assembly</b></p> <p>SOs 68-75</p>	<p><b>Written lodgement only</b></p> <ul style="list-style-type: none"> <li>• Written lodgement required since 2017.</li> <li>• Limit of 250 words with exceptions of a notice of motion from a minister moved pursuant to statute, notice of motion for the establishment of a committee, or a member giving notice of a want of confidence or censure motion</li> <li>• Maximum three per sitting day per member</li> <li>• Tabled with the Clerk by 11.00 am each sitting day. Uncorrected proof emailed shortly afterwards then edited for next day's Notice Paper.</li> <li>• Lapse from Notice Paper if not brought on for debate within three months.</li> </ul>
<p><b>South Australia – House of Assembly</b></p> <p>SO 88</p> <p>Sessional Orders 7 and 8</p>	<p><b>Must be read in the House</b></p> <ul style="list-style-type: none"> <li>• Required to be read aloud.</li> <li>• No restriction on length.</li> <li>• Private members' business notices are withdrawn from the Notice Paper after 12 sitting days, if not yet moved. Prior to that, lapsed at the end of the session.</li> <li>• Up to two notices may be given if no other member has a notice to give.</li> </ul>
<p><b>South Australia – Legislative Council</b></p> <p>SO 98</p>	<p><b>Must be read in the House</b></p> <ul style="list-style-type: none"> <li>• Notices are read out in full.</li> <li>• No word limit.</li> <li>• No provision for lapsing.</li> <li>• Recent change to allow members to give more than one notice at a time.</li> </ul>
<p><b>Queensland</b></p> <p>SOs 65, 74</p>	<p><b>Written lodgement with only specified ability to read in the House</b></p> <ul style="list-style-type: none"> <li>• Until 2020 members were able to state all notices in the House. Since that time, only four types of motions able to be stated: <ul style="list-style-type: none"> <li>- Private Members' Motion x 1 each week</li> <li>- Cross Bench Members' Motion x 1 each week (this is a new innovation allowed by Sessional Orders)</li> <li>- Disallowance of Statutory Instrument (Statutory Right)</li> <li>- Ministerial Notices of Motion</li> </ul> </li> <li>• All others are provided in writing.</li> <li>• No word limits.</li> <li>• General business notices lapse after 30 days unless stipulated in statute or standing order.</li> </ul>
<p><b>Victoria – Legislative Council</b></p> <p>SOs 6.01, 6.08, 5.03</p>	<p><b>Must be read in the House</b></p> <ul style="list-style-type: none"> <li>• Maximum of 15 minutes per sitting day may be spent on notices of motion.</li> <li>• Limit of 250 words (set by President's ruling), except for a notice of motion of as procedural nature, including an order for papers or committee reference.</li> <li>• Lapse after 20 sitting days, except for bills or items in a Minister's name.</li> </ul>

<p><b>Victoria – Legislative Assembly</b></p> <p>SOs 140, 141, 142</p> <p>Sessional order in both 59th and 60th Parliaments</p>	<p><b>Written lodgement only for private members business</b></p> <ul style="list-style-type: none"> <li>• Since 2019, Ministers must give notices of motion verbally; all other members can only do so in writing (except for motions of no confidence in the government).</li> <li>• No word limits.</li> <li>• Lapse after 30 days unless the member specifically requests they be renewed.</li> </ul>
<p><b>Western Australia – Legislative Council</b></p> <p>SOs 60 and 66</p>	<p><b>Must be read in the House</b></p> <ul style="list-style-type: none"> <li>• Members required to read aloud.</li> <li>• For members other than a minister or parliamentary secretary, limit of one notice consecutively if another member has a notice to give, and a maximum of two notices per day (except for disallowance motions)</li> <li>• No word limits.</li> <li>• No lapsing from Notice Paper.</li> </ul>
<p><b>Western Australia – Legislative Assembly</b></p>	<p><b>Must be read in the House</b></p> <ul style="list-style-type: none"> <li>• Members required to read aloud.</li> <li>• No word limits or time limits.</li> <li>• Lapse after 30 days if not debated, with the ability to renew a notice for a further 30 days (except for disallowance motions, which remain for 60 days).</li> </ul>
<p><b>Northern Territory Legislative Assembly</b></p> <p>SOs 70 and 81</p>	<p><b>Written lodgement only</b></p> <ul style="list-style-type: none"> <li>• Given in written form only, stating the day the motion is proposed to be moved.</li> <li>• No word limit; SO refers to "succinct and concise".</li> <li>• Only lapse if the member is not in their place, or the member fails to rise, when the notice is called on.</li> </ul>
<p><b>Australian Capital Territory – Legislative Assembly</b></p> <p>SOs 101, 106A, 125A</p>	<p><b>Written lodgement only</b></p> <ul style="list-style-type: none"> <li>• Given in writing only.</li> <li>• Limited to 500 words with exceptions: <ul style="list-style-type: none"> <li>- for Ministers, motions required by statute</li> <li>- members seeking to establish a committee or refer an inquiry</li> <li>- no confidence motions.</li> </ul> </li> <li>• If not called on, lapse after four sitting weeks, after notifying the member.</li> </ul>
<p><b>New South Wales – Legislative Assembly</b></p> <p>SOs 105, 133</p>	<p><b>Must be read in the House</b></p> <ul style="list-style-type: none"> <li>• Notices must be given verbally.</li> <li>• Time limit of 30 seconds for general business notices, for a maximum of 15 minutes in total, at the discretion of the Speaker.</li> <li>• Notices for bills not commenced or completed lapse after 6 months; other notices not commenced or completed lapse after 3 months.</li> </ul>

## Earlier Procedure Committee reports

- 2.27** The Procedure Committee conducted inquiries into the procedures for notices of motions in both 2012 and 2017.<sup>13</sup> The key matters considered in each inquiry are outlined below.
- 2.28** It is noted that there is no commentary in this discussion paper from the 2021 Review of the Standing and Sessional Orders, as the changes made to standing order 75 (previously standing order 71) arising from that inquiry did not relate to the model for giving notice.

### *Notices of Motions, June 2012*

- 2.29** In 2011, at the commencement of the 55th Parliament, the House adopted changes to private members' business and formal business which saw an increase in the number of notices given and subsequently moved as 'formal business'—meaning without debate.<sup>14</sup>
- 2.30** As detailed in its June 2012 report, the Procedure Committee explored the following matters, particularly as they related to private members' notices for general motions:
- the increased number, length and complexity of general motions, and the use of giving notice as undelivered speeches
  - additional rules to limit the content or word length of notices of motions, with exemptions for procedural motions such as committee references and orders for papers
  - additional rules to limit either the time, or the number, of notices which may be given each sitting day
  - options for improved publication of notices and motions on the parliamentary website and other media channels
  - the impact of potential reforms on how the House and its member's exercised their roles, including:
    - the risk of a motion passing, particularly as formal business, which has not been fully considered by the House,
    - the risk of motions which may diminish the integrity of the House, may not reflect its purview and role as the state's House of Review, or may reduce the significance of its resolutions
    - the role of members in representing the people of New South Wales, and ensuring public access to the work of members
    - the impartial role of the President and Clerk in ensuring compliance of the text of notices of motions with the rules and practices of the House
    - how limitations may infringe the rights of members.

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<sup>13</sup> Procedure Committee, NSW Legislative Council, *Procedures for giving, moving and publication of notices of motions* (2012); Procedure Committee, NSW Legislative Council, *Report relating to the rules for notices of motions, the rules for questions, e-petitions and two new sessional orders* (2017).

<sup>14</sup> Further discussion of the impact of the 2011 reforms can be found in Steven Reynolds, 'Cane Toads, Notices of Motion and the Law of Unintended Consequences' (Paper presented at 60th Commonwealth Parliamentary Association Conference, Yaoundé, Cameroon, 2-10 October 2014).



2.31 In submissions to the inquiry, support was offered by certain members and parties for the following reforms:

- reading motions aloud in a list form
- submitting written notices of motions to the Clerks-at-the-Table without having to read them aloud
- streamlining procedures for formal business.

2.32 Ultimately, the committee did not make recommendations for reform.

***Report relating to the rules for notices of motions, the rules for questions, e-petitions and two new sessional orders, November 2017***

2.33 In 2017, the then Government proposed a new sessional order to vary the rules for notices of motions. This included additional rules for content and length, and a restriction of the number of notices able to be given by a member on a sitting day. The sessional order was considered by the House and subsequently referred to the Procedure Committee.<sup>15</sup>

2.34 As detailed in its November 2017 report, the committee explored the specific proposals that:

- a notice of motion must not contain statements, quotations, lists of names or details or other matter not strictly necessary to make the proposed resolution or order intelligible
- a notice of motion must not contain argument or debating points
- a notice of motion must be clear in its purpose, concise and relate to a matter within the competency of the House
- a notice of motion should not exceed 250 words, unless it relates to the business of the House, matters of privilege, or the establishment of committees
- a member may not give more than three notices of motions each sitting day.

2.35 While the inquiry had a greater focus on the content of motions, rather than the model for giving notice, these two related issues were explored by the committee following consideration of the approaches taken in other Australian jurisdictions and in New Zealand.

2.36 The committee did not recommend any changes to the rules at that time, commenting that:

The committee acknowledged that the amount of time taken up by the giving of notices is an issue that periodically arises for the House, and that the number of notices of motions given invariably waxes and wanes as members exert a level of restraint. More importantly, the committee was reluctant to impose any restriction on the ability of a member to bring matters to the attention of the House.<sup>16</sup>

<sup>15</sup> *Minutes*, NSW Legislative Council, 16 November 2016, Item 20, pp 1437-1438.

<sup>16</sup> Procedure Committee, NSW Legislative Council, *Report relating to the rules for notices of motions, the rules for questions, e-petitions and two new sessional orders* (2017), p 2.

## Discussion questions

**2.37** The committee's discussion paper proposed six questions in order to canvass views on potential options for changes to standing order 75 and reforms to the giving of notices of motions. The questions are examined in detail in Chapter 3. The six questions asked were:

1. Should notices be given in writing only, or should the ability to read notices aloud be retained?
2. Should there be differing approaches for specific types of motions or categories of business?
3. If notices are required to be given only in writing, what time on a sitting day, or prior to the sitting week, should they be lodged by?
4. If notices are continued to be read aloud, should any limits apply, such as:
  - a. an overall time limit for the giving of notices
  - b. individual notice or speaker time limits
  - c. reading of notices in a list format or only expressing a summary of the intent of the motion?
5. Should any other rules apply to notices, such as:
  - a. a 250 word limit for general motions
  - b. a limit on the number of notices a member may give on a sitting day?
6. Should the 20 sitting day expiry period for private members' notices relating to general motions be reduced? If so, what should the expiry period be?

## Chapter 3 Options for reform

This chapter examines the key issues relating to the giving of notices under standing order 75 by exploring the options for procedural reform canvassed in the inquiry discussion questions. As detailed in paragraph 2.37, the discussion questions related to two 'models' for the giving of notices—reading motions aloud, or providing written notices. This chapter also outlines other reforms options, including limits on the content of notices, the expiry period for private members' general motions, and processes for formal business requests.

### The impact of current processes on parliamentary administration

- 3.1 The giving of notices in a manner which supported orderly and efficient parliamentary administration, particularly on a Tuesday, was a point of discussion during the inquiry.
- 3.2 Procedures which result in the early lodgement of notices was supported in the submissions from the Government Whip and the Shooters, Fishers and Farmers Party, who respectively highlighted the administrative burden of the current system particularly "in preparation for the Business Committee meeting" on a Tuesday<sup>17</sup> and the importance of "timely processing and consideration of notices during the sitting week"<sup>18</sup>.
- 3.3 The Shooters, Fishers and Farmers submission proposed introducing procedural reforms which sought to "strike a balance between facilitating Members ability to raise important matters and ensuring the effective operation of the Council".<sup>19</sup> Similarly, the Government Whip made suggestions for procedural reforms to introduce a fair, flexible and efficient model for giving notice that balanced the use of the time of the House.<sup>20</sup> Use of chamber time is discussed in detail from paragraph 3.10.
- 3.4 During committee discussion, the Clerk of the Parliaments also noted that the giving of notices both before and again after Questions on a Tuesday not only delayed the preparation of the formal business list, but also delayed the preparation of the Notice Paper. The result was that staff responsible for the preparation of the Notice Paper worked until very late on a Tuesday night, which created work, health and safety issues that the Clerk, as employer, was responsible for.
- 3.5 The Clerk advised that a process in which notices are given at one time early each sitting day would better align with the meeting of the Business Committee at 6.30 pm and the adjournment of the House at 10.30 pm.

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<sup>17</sup> Submission 3, Government Whip, p 2.

<sup>18</sup> Submission 1, Shooters, Fishers and Farmers Party, p 3.

<sup>19</sup> Submission 1, Shooters, Fishers and Farmers Party, p 3.

<sup>20</sup> Submission 3, Government Whip, pp 2-3.

3.6 During discussion it was also noted that consideration could be given to the sitting pattern and schedule of business on a Tuesday, to ensure formalities, which includes the giving of notices concludes before Questions, to which the Government stated that this option was not under consideration. The suggestion was made as an alternative to the options for procedural changes to the giving of notices discussed in the rest of this chapter.

### **Discussion question – Should there be differing approaches for specific types of motions or categories of business?**

3.7 As detailed earlier in Table 1, some jurisdictions restrict the giving of notices aloud to certain types of motions or categories of business.

3.8 Broadly summarised, some jurisdictions allow certain procedural motions (such as motions for bills) or items of government business to be read aloud, while general notices (such as those recognising community events) or items from private members' must be given in writing.

3.9 Although this question was not a focus of the inquiry, the Government Whip argued that for the interests of simplicity and avoiding confusion, all notices of motions should be subject to the same requirements.<sup>21</sup> This position was largely supported by other submissions.<sup>22</sup>

### **Discussion question – Should notices be given in writing only, or should the ability to read notices aloud be retained?**

3.10 The primary question considered by the committee was the use of chamber time to give notices of motions aloud, which, as outlined earlier in the report, averaged nearly an hour on Tuesdays and is often interrupted by Questions.

3.11 The submissions received by the committee gave careful consideration to the merits of reading notices aloud for parliamentary accountability and transparency, the role of giving notices for members to fulfil their parliamentary duties, as well as issues relating to the use of this time in the chamber.

3.12 In its submission, the Shooters, Fishers and Farmers Party reflected on the importance of raising issues of concern and acknowledging significant events and citizens through notices of motions. The submission emphasised the value of open debate and discussion in the House as an "essential part of the democratic process". However, the Shooters, Fishers and Farmers Party expressed concern about the length of time taken to read notices aloud, and argued that the current procedures are being misused by members to give lengthy notices which are not moved or considered and instead serve as "opportunities to make unchallenged and undebated statements" and "proxy speeches".<sup>23</sup>

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<sup>21</sup> Submission 3, Government Whip, p. 4.

<sup>22</sup> For example, see submission 2, Ms Emma Hurst, p 1.

<sup>23</sup> Submission 1, Shooters, Fishers and Farmers Party, pp 1-2.

Ms Hurst's submission similarly emphasised the importance of giving notice as "central to the ability of private members to fulfil their duties" and "communicate issues in full before the House" as expected by constituents. Ms Hurst argued that reading notices in full was an efficient and effective "way of giving a shorter format to issues that may not make it to debate". She cited a notice of motion regarding obstetric violence which was not debated or considered by the House, but was critical to initiating an inquiry into birth trauma in a manner, she argued, was not possible via other procedures available to members.<sup>24</sup> Ms Hurst did not support any changes to current practice and expressed the view that limitations would "gag" members, reduce transparency, and limit members' opportunities to effectively and efficiently raise matters in the House and bring them to the attention of Government.<sup>25</sup>

**3.13** The submission from the Government Whip acknowledged the importance of giving certain notices aloud as an "opportunity for members to represent issues to the chamber and broader community" and that members may benefit from hearing the text of notices when given. However, the Whip argued that generally reading notices aloud "fails to provide any tangible benefit to the chamber" and detracts time from other business. The Government held the view that chamber time is finite and that members need to work within the practical constraints of the sitting day.<sup>26</sup>

**3.14** During discussion committee members explored the views raised in submissions, and also focused on:

- the rights of members to raise issues for debate without limitations
- the benefits of reading notices aloud in maintaining transparent and accountable practices for notices
- the appropriateness and sustainability of devoting approximately an hour of chamber time each Tuesday to the giving of notices
- the observations that Hansard does not transcribe the giving of notices, reading notices informs members in the chamber of their content and also enables members to publish video clips to their social media profiles.

### **Committee comment**

**3.15** The committee notes the general consensus of members who contributed to the inquiry that the practice of being able to read notices aloud should continue. The committee acknowledges the views expressed by members that giving notices aloud provides an opportunity for members to raise issues of concern to them in the House, particularly at a time when there are likely to be many members present in the chamber. However, as discussed in the next section, the ability to read notices of motions in the chamber without limitation was subject to some debate in the committee.

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<sup>24</sup> Submission 2, Ms Emma Hurst, pp 1, 2, and 3-7.

<sup>25</sup> Submission 2, Ms Emma Hurst, p 2.

<sup>26</sup> Submission 3, Government Whip, pp 1-2.

**Discussion question – If notices are continued to be read aloud, should any limits apply?**

**3.16** This discussion paper question asked that if notices are to continue to be read aloud, should any limits apply, and directed discussion to the following areas:

- an overall time limit for the giving of notices
- individual notice or speaker limits
- reading of notices in list format or only expressing a summary of the intent of the motion.

**3.17** This section of the paper combines a discussion of the first two sub-questions together then focusses on the third part.

**Should there be an overall time limit or individual notice / speaker limits for the giving of notices?**

**3.18** Submissions and committee discussions on whether there should be an overall time limit on the giving of notices, or individual speaker limits highlighted a variety of views. The Government Whip proposed changes such that:

- notices be afforded precedence for 30 minutes during formalities prior to Questions
- each member has a 90 second overall time limit for giving notices
- time limits could be extended by leave (unanimous agreement) of the House.<sup>27</sup>

**3.19** Similarly, the Shooters, Fishers and Farmers Party suggested new procedures to apply only to the giving of notices relating to private members' general motions, including:

- limiting the number of notices which can be read in full to two notices
- each member subject to an overall three minute time limit, and
- a 300 word limit for each notice.<sup>28</sup>

**3.20** In contrast, in her submission Ms Hurst did not support any "limitations on the reading out of notices, nor on their length or number" given.<sup>29</sup>

**3.21** Discussion by committee members during the inquiry canvassed whether there should be a restriction on the number of notices which could be read in full. Whilst some commented that there should be no limits, others suggested 3 or 4 notices as an appropriate limit, whilst others suggested that it was appropriate for only one notice of motion to be read aloud.

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<sup>27</sup> Submission 3, Government Whip, pp 1-3.

<sup>28</sup> Submission 1, Shooters, Fishers and Farmers Party, p 3.

<sup>29</sup> Submission 2, Ms Emma Hurst, p 1.

### Committee comment

- 3.22** The general consensus of the committee was that there should be no overall time limit on the giving of notices of motions. However, in regard to individual member limits, it was agreed that members should be allowed to read no more than three notices of motions in full, following which subsequent notices must be given in summary format or lodged in writing with the Clerk.

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### Recommendation 1

That for the remainder of this Parliament, the House adopt a sessional order amending standing order 75 stipulating that members may only read up to three notices of motions in full on any one sitting day, with all other notices to be given in summary format if desired, and all notices to be lodged in writing with the Clerk.

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### Reading of notices in list format or only expressing a summary of intent of the motion?

- 3.23** As detailed in Chapter 2, members are required to read notices aloud in the House, with an option to indicate "a summary of the intent of the notice" where a notice is lengthy.
- 3.24** In practice, when a member does not wish to read a notice in full, they read as much of the notice as desired, and then state: "As the motion is lengthy, copies are available with the Clerks".
- 3.25** The Government Whip proposed a change which would allow a member to read out a list of their notices of motions, to include information identifying the type and subject matter of the motion.<sup>30</sup> Similarly, the Shooters, Fishers and Farmers Party suggested allowing for a 'tabling' process, where members indicate a brief summary of the motions intent.<sup>31</sup>
- 3.26** During committee discussion, members noted that a tabling or list format could be useful, but that at a minimum such a list should include information identifying the category of business and the subject matter of the motion.

### Committee comment

- 3.27** The committee supports the proposal that members be given the option to give notices in a list format, provided that the category of business and subject matter of the motion is made clear to the House, and that the signed notice contains the full text of the motion. Examples of the list format include:

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<sup>30</sup> Submission 3, Government Whip, pp 3-4.

<sup>31</sup> Submission 1, Shooters, Fishers and Farmers Party, p 3.

- I give notice of an item of private members' business relating to an order for papers regarding good governance.
- I give three notices, for the following items:
  - (1) business of the House relating to the disallowance of the Henry Regulation
  - (2) private members' business regarding constituents
  - (3) a matter of public importance regarding a subject for discussion.

**3.28** Hence the committee recommends that the President give a ruling in the House to make clear to members that under standing order 75(3), members have the option to give notices in a list format, provided that the category of business and subject matter of the motion is made clear to the House, and that the signed notice contains the full text of the motion.

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### **Recommendation 2**

That the President give a ruling in the House that when giving notice using the summary provision in standing order SO 75 (3), members may, if desired, give notices in a list format, provided that the category of business and subject matter of the motion is made clear to the House, and that the signed notice contains the full text of the motion.

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### **Discussion question – If notices are required to be given only in writing, what time on a sitting day, or prior to the sitting week, should they be lodged by?**

**3.29** It was identified above that the consensus of members was that the practice of reading of notices of motions aloud in some format should continue. Hence this discussion question for notices 'only in writing' is effectively redundant. However, members supported the lodging of written notices as an ancillary to the reading of notices aloud, so the balance of this part of the report focusses on lodging notices in writing. As outlined in the discussion paper, eight of the 15 Australian and New Zealand legislatures allow for notices to be given in writing.<sup>32</sup>

**3.30** During the inquiry the committee considered how options for the submission of written notices could operate in practice, such as lodging motions:

- with the Clerk before the commencement of the sitting of the House (similar to procedures for postponing business) or
- in the House for a period at the beginning of a sitting day (eg, up to 12.00 pm, similar to procedures for formal business).

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<sup>32</sup> Procedure Committee, NSW Legislative Council, *Discussion Paper—Giving of notice of motions* (April 2024), pp 6-9.



- 3.31** The Government Whip proposed a procedure in which members submit written notices directly with the Clerk one hour prior to the sitting of the House. During formalities the Clerk would report on any written motions received in a summary format, "including the types and subject matters of the motions, and the identity of the movers", and publish the draft motions via the Running Record.<sup>33</sup>
- 3.32** The Shooters, Fishers and Farmers Party similarly supported the introduction of written notices, and proposed the lodgement of written notices with the Clerks-at-the-Table until 12.00 pm each sitting day. The proposed deadline would then "ensure timely processing and consideration of notices during the sitting week".<sup>34</sup>
- 3.33** During discussion, committee members also considered the impact of written notices on the ability of members to review the full text of notices. In particular, it was considered important to ensure that motions contrary to the standing orders or Council practice continue to be amended prior to publication in the Notice Paper either by way of points of order from members, or through the administrative procedures overseen by the Clerk, as provided for under SO 75 (9).

#### **Committee comment**

- 3.34** The committee notes that eight other legislatures in Australia / New Zealand provide for the lodgement of written notices, and accepts that this practice is also appropriate for the Legislative Council to adopt. Hence the committee recommends that a sessional order be introduced such that members may give notice by handing the signed written notice to the Clerks-at-the-Table from the commencement of the meeting of the House until the conclusion of the giving of notices of motions during formalities.

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#### **Recommendation 3**

That for the remainder of this Parliament, the House adopt a sessional order amending standing order 75 stipulating that members may give notice by handing the signed written notice to the Clerks-at-the-Table from the commencement of the meeting of the House until the conclusion of the giving of notices of motions during formalities.

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<sup>33</sup> Submission 3, Government Whip, pp 1-3.

<sup>34</sup> Submission 1, Shooters, Fishers and Farmers Party, p 3.

**Discussion question – Should any other rules apply to notices, such as a 250 word limit for general motions, or a limit on the number of notices a member may give on a sitting day?**

- 3.35** There are currently no limits on the length or number of notices of motions given by members in the Legislative Council.
- 3.36** The discussion paper invited comment on rules which operate in other jurisdictions that either set word limits, vary practices based on the subject matter of the motion, or cap the overall number of notices which may be given. During committee discussion, members canvassed whether a word limit should be placed on notices read aloud, what that limit should be and the practicalities for the President to rule on it if required.
- 3.37** The introduction of such limits was not widely supported by members either in submissions or committee discussion. Members argued that it was important that no limits were imposed on the length of motions so that complex issues could be fully explored.<sup>35</sup> Similarly, members also argued that they should not be restricted in the overall number of notices which they can give each sitting day.<sup>36</sup>

**Committee comment**

- 3.38** The committee notes the highly varied nature of the contents of notices of motions, and supports the continuation of current practice such that there are no limits on the word count of a notice nor any restrictions on the number of notices that a member can lodge on a sitting day.

**Discussion question – Should the 20 day expiry period for general private members' motions be reduced?**

- 3.39** Currently, notices for general private members' motions remain on the Notice Paper for 20 sitting days, and are then removed if the motion has not been moved. Discussion paper question six sought comment on the appropriateness of this expiry period, if it should be reduced, and if so what the expiry period should be.
- 3.40** Ms Hurst, Animal Justice Party, was not supportive of any reduction to the expiry period. Ms Hurst expressed the view that, given the needs of members to manage issues within the limited number of opportunities available each sitting week, a reduced expiry "could have unintended consequences of notices being given repeatedly".<sup>37</sup>

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<sup>35</sup> Submission 2, Ms Emma Hurst, p 1; Submission 3, Government Whip, p 4.

<sup>36</sup> Submission 1, Shooters, Fishers and Farmers Party, p. 3; Submission 2, Ms Emma Hurst, p 1; Submission 3, Government Whip, p 4.

<sup>37</sup> Submission no. 2, Ms Emma Hurst, pp 1 and 2.

- 3.41** The Shooters, Fishers and Farmers Party highlighted that in the current Parliament to March 2024, 199 notices – 21 per cent of the number given, had expired without being formally moved. The Party suggested that a 12 day expiry period would be more appropriate, and that this would "prevent the accumulation of notices that are never acted upon...".<sup>38</sup>
- 3.42** The Government Whip's submission indicated that the Government was open to considering the expiry period in order to better manage the Notice Paper.<sup>39</sup> The Notice Paper is currently some 150 pages long.<sup>40</sup>

#### **Committee comment**

- 3.43** The committee notes that the current Notice Paper is some 150 pages long and supports measures that may help reduce its length. Hence the committee recommends that the expiry period for general private members' motions be reduced to 13 sitting days.

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#### **Recommendation 4**

That for the remainder of this Parliament, the House adopt a sessional order amending standing order 195 (1) to stipulate that a private members' business notice of motion that has remained on the Notice Paper for 13 sitting days without being moved will be removed from the Notice Paper.

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### **Other procedural changes**

- 3.44** Whilst the focus of the inquiry was directed to the discussion paper questions, during the inquiry other suggestions were raised about related changes to procedural practice that could be implemented to facilitate the giving of notices efficiently. This section of the paper discusses proposed changes to the process for formal motion requests.

#### **Proposed change to process for formal motion requests**

- 3.45** During committee discussion a suggestion was made relating to the process for requesting motions be considered formally, without debate, under standing order 44 (commonly known as formal business).
- 3.46** Under the proposal members could make formal business requests during the giving of notices, by indicating their request in writing on the form used to give notice, and, if desired, verbally indicating this request to the House.

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<sup>38</sup> Submission 1, Shooters, Fishers and Farmers Party, pp 1 and 3.

<sup>39</sup> Submission 3, Government Whip, p 4.

<sup>40</sup> See Legislative Council Notice Paper No. 57, 18 June 2024.

- 3.47** This new practice would operate in addition to the existing procedures which allow requests to be made in writing to the Clerk until 4.00 pm, or one hour after the conclusion of formalities.

**Committee comment**

- 3.48** The committee expresses its support for practices which facilitate timely and efficient parliamentary administration. The committee notes that allowing members to state that they wish the notice they have either just read out or lodged to be considered as formal business would facilitate the more timely indication of which items will appear for consideration as formal business on the next sitting day, while having a negligible impact on the time taken to give notice. The committee therefore recommends that the President make a statement in the House informing members that they may use the form for giving notices to also indicate any formal business requests.

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**Recommendation 5**

That the President make a statement in the House informing members that they may use the form for giving notice to also indicate their desire for the motion to be considered as formal business on the next sitting day.

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## Appendix 1 Submissions

No.	Author
1	Shooters, Fishers and Farmers Party
2	The Hon. Emma Hurst
3	Government Whip
4	Parliamentary Ethics Adviser

## Appendix 2 Minutes

### Minutes no. 1

Wednesday 13 March 2024, 12.36 pm

President's Dining Room, Parliament House, Sydney

#### 1. Members

Mr Franklin (*Chair*)

Mr Borsak (from 12.53 pm)

Ms Boyd

Ms Hurst

Mrs Mitchell

Mr Nanva

Mr Primrose

Mr Rath

Mr Roberts

Mr Ruddick

Ms Sharpe

#### 2. Apologies

Mr Tudehope

#### 3. Correspondence

The committee noted the following item of correspondence:

##### ***Received:***

- 23 February 2024 – Correspondence from the Hon Greg Piper MP, Speaker of the NSW Legislative Assembly, Chair of the Standing Orders and Procedure Committee, to the Hon Ben Franklin MLC, President of the NSW Legislative Council, Chair of the Procedure Committee, advising that the Legislative Assembly Standing Orders and Procedure Committee is proposing to grant public access to proceedings of the Legislative Assembly through Parliament-on-Demand.

#### 4. Tabling of resolution establishing the committee

The President tabled the resolution of the House establishing the committee, which reads as follows:

##### **Procedure Committee**

That, notwithstanding anything to the contrary contained in the standing orders:

##### **Appointment**

- (1) A Procedure Committee be appointed.

##### **Membership**

- (2) In accordance with standing order 211 (3) and (4), the committee consist of the following members:
  - (a) the President, Deputy President, Assistant President, Leader of the Government, Deputy Leader of the Government, Leader of the Opposition, Deputy Leader of the Opposition, the Government Whip, and the Opposition Whip, and
  - (b) representatives of The Greens, the Shooters, Fishers and Farmers Party, the Animal Justice Party, the Legalise Cannabis Party, Pauline Hanson's One Nation and the Liberal Democratic Party, nominated in writing to the Clerk, and any independent member.

**Chair**

- (3) The Chair of the committee be the President.

**5. Conduct of committee proceedings**

The committee considered adopting relevant standard provisions for inquiries, noting the longstanding practice that the Procedure Committee has generally not held hearings.

Resolved, on the motion of Ms Boyd: That unless the committee decides otherwise:

- submissions to inquiries are to be published, subject to the Committee Clerk checking for confidentiality and adverse mention and, where those issues arise, bringing them to the attention of the committee for consideration,
- attachments to submissions are to remain confidential,
- media statements on behalf of the committee are to be made only by the Chair.

**6. Public access to proceedings through Parliament-on-Demand**

Resolved, on the motion of Mr Primrose: That the President be authorised to respond to the correspondence from the Speaker received 23 February 2024, to indicate that the Procedure Committee also supports the next stage in the implementation of Parliament-on-Demand.

**7. Inquiry into the giving of notices of motions under standing order 75**

The committee noted the following terms of reference referred by the House on 29 November 2023:

- (1) That the Procedure Committee inquire into and report on the giving of notices of motions under standing order 75, to expedite the process to save time in the Chamber.
- (2) That the committee report by 24 May 2024.

**7.1 Proposed timeline**

Resolved, on the motion of Mrs Mitchell: That the committee adopt the following timeline for the administration of the inquiry:

- Call for submissions to commence – week of Tuesday 2 April 2024
- Closing date for submissions – Friday 10 May 2024
- Report deliberative – week of Monday 29 July 2024
- Committee to report by – Tuesday 6 August 2024 (first sitting day in August).

Resolved, on the motion of Ms Sharpe: That the Leader of the Government seek a resolution from the House to extend the reporting date to Tuesday 6 August 2024.

**7.2 Discussion paper**

Resolved, on the motion of Mr Nanva: That:

- the committee secretariat prepare a discussion paper to be published coinciding with the call for submissions, the content of which will include:
  - relevant discussion and recommendations from previous reports of the Procedure Committee including:
    - the 2016 inquiry into rules for notices of motions
    - the 2012 inquiry into procedures for the giving, moving and publication of notices of motion
  - summary of relevant procedures in other jurisdictions.
- the draft discussion paper be considered for publication by the committee via email.

**7.3 Stakeholder list**

Resolved, on the motion of Ms Hurst: That:

- the secretariat circulate to members the President's proposed list of stakeholders to be invited to make a submission
- members have two days from when the President's proposed list is circulated to make amendments or nominate additional stakeholders

- the committee agree to the stakeholder list by email, unless a meeting of the committee is required to resolve any disagreement.

**8. Inquiry into updating the standing orders to require respectful behaviour in the Chamber, particularly as they relate to sexism and racism**

The committee noted the following terms of reference for the inquiry referred by the House on 7 February 2024:

That the Procedure Committee inquire into and report on updating the standing orders to require respectful behaviour in the Chamber, particularly as they relate to sexism and racism.

**8.1 Proposed timeline**

Resolved, on the motion of Ms Hurst: That the committee adopt the following timeline for the administration of the inquiry:

- Call for submissions to commence – week of Tuesday 2 April 2024
- Closing date for submissions – Friday 10 May 2024
- Report deliberative – week of Monday 29 July 2024
- Committee to report by – Tuesday 6 August 2024 (first sitting day in August).

**8.2 Briefing note**

Resolved, on the motion of Ms Boyd: That the committee secretariat prepare a confidential briefing note for the committee which includes:

- a summary of relevant practices in jurisdictions including across Australia and New Zealand, the United Kingdom and Canada
- discussion on parliamentary privilege and the conduct of members.

**8.3 Stakeholder list**

Resolved, on the motion of Mr Rath: That:

- the secretariat circulate to members the President's proposed list of stakeholders to be invited to make a submission
- members have two days from when the President's proposed list is circulated to make amendments or nominate additional stakeholders
- the committee agree to the stakeholder list by email, unless a meeting of the committee is required to resolve any disagreement.

**9. Inquiry into procedures for dealing with disorder by members during committee proceedings**

The committee noted the following terms of reference referred by the House this day:

That the Procedure Committee inquire into and report on procedures for dealing with disorder by members during committee proceedings.

**9.1 Proposed timeline**

Resolved, on the motion of Mr Nanva: That the committee adopt the following timeline for the administration of the inquiry:

- Call for submissions to commence – week of Tuesday 2 April 2024
- Closing date for submissions – Friday 10 May 2024
- Report deliberative – week of Monday 29 July 2024
- Committee to report by – Tuesday 6 August 2024 (first sitting day in August).

**9.2 Briefing note**

Resolved, on the motion of Ms Hurst: That the committee secretariat prepare a confidential briefing note for the committee which includes:

- a summary of relevant practices in jurisdictions including across Australia and New Zealand, the United Kingdom and Canada



- discussion on the role and powers of the Chair in respect of disorderly conduct in the House and in committees

### 9.3 Stakeholder list

Resolved, on the motion of Mrs Mitchell: That:

- the secretariat circulate to members the President's proposed list of stakeholders to be invited to make a submission
- members have two days from when the President's proposed list is circulated to make amendments or nominate additional stakeholders
- the committee agree to the stakeholder list by email, unless a meeting of the committee is required to resolve any disagreement.

## 10. Review of the recommendations from the inquiry into Auslan interpretation for broadcasting

The committee noted that in its 2022 report for this inquiry it recommended a pilot program to provide Auslan interpretation, and that an evaluation be conducted.

Resolved, on the motion of Ms Boyd: That the committee secretariat prepare a briefing paper on the implementation of the recommendations of the inquiry into Auslan interpretation for broadcasting.

## 11. Adjournment

The Committee adjourned at 12:57pm, *sine die*.

Rhea Goundar  
Committee Clerk

## Minutes no. 2

Thursday 16 May 2024, 12.40 pm

President's Dining Room, Parliament House, Sydney

### 1. Members

Mr Franklin (Chair)  
Ms Boyd  
Mr Buckingham  
Mr Graham (from 12.54 pm until 1.47 pm)  
Ms Hurst  
Mr Martin (until 1.13 pm)  
Mrs Mitchell (until 12.57 pm)  
Mr Nanva  
Mr Primrose  
Mr Roberts  
Ms Sharpe (from 12.54 pm until 1.20 pm)  
Mr Tudehope

### 2. Apologies

Mr Latham

### 3. Previous minutes

Resolved, on the motion of Mrs Mitchell: That draft minutes no. 1 be confirmed.

### 4. Membership

The committee noted Mr Martin as a substantive member of the committee from 19 April 2024.

## 5. Correspondence

The committee noted the following items of correspondence:

### *Sent:*

- 13 March 2024 - Correspondence from the Hon Ben Franklin MLC, President of the NSW Legislative Council, Chair of the Procedure Committee, to the Hon Greg Piper MP, Speaker of the NSW Legislative Assembly, Chair of the Standing Orders and Procedure Committee, responding to correspondence dated 23 February 2024, expressing the committee's support for the next stage in the implementation of Parliament-on-Demand.

### *Received:*

- 10 April 2024 - Email from the Public Service Commission, to the Procedure Committee, declining the invitation to make a submission for the inquiry into updating the standing orders to require respectful behaviour in the Chamber.

## 6. Inquiry into the giving of notices of motions under standing order 75

### 6.1 Discussion paper

The committee noted, as agreed via email, the discussion paper published by the secretariat.

### 6.2 Stakeholder list

The committee noted, as agreed via email, that the following stakeholders were invited to make a submission to the inquiry:

- All Members of the Legislative Council
- Mr John Evans, Parliamentary Ethics Adviser.

### 6.3 Public submissions

The committee noted the following submissions were published by the committee clerk under the authorisation of the resolution of the committee of 13 March 2024:

- No. 1 - Shooters, Fishers and Farmers Party
- No. 2 - The Hon. Emma Hurst
- No. 3 - Government Whip.

### 6.4 Committee discussion

Members discussed issues raised in the discussion paper and submissions to inform the final report.

## 7. Inquiry into updating the standing orders to require respectful behaviour in the Chamber, particularly as they relate to sexism and racism

### 7.1 Briefing paper

The committee noted the confidential briefing paper, as well as the following two papers, distributed by the secretariat:

- House of Representatives Standing Committee on Procedure, *Raising the Standard, July 2023*,
- Commonwealth Parliamentary Association, *Standards for Codes of Conduct, for members of Parliament and the parliamentary workplace, 2024*.

### 7.2 Stakeholder list

The committee noted, as agreed via email, that the following stakeholders were invited to make a submission to the inquiry:

- All Members of the Legislative Council
- Mr John Evans, Parliamentary Ethics Adviser
- Clerks of each State and Territory of Australia, the Senate and the House of Representatives, and New Zealand
- Clerks of the UK, Welsh, Scottish, and Canadian Parliaments
- Independent Complaints Officer
- President, Anti-Discrimination Board NSW

- NSW Ageing and Disability Commissioner
- Public Service Commissioner
- Australian Human Rights Commission
- The Ethics Centre (formerly the St James Ethics Centre)
- Council for Civil Liberties
- Centre for Independent Studies
- Institute of Public Affairs
- Emeritus Professor Simon Rice, Sydney Law School
- The University of Sydney Law School
- UNSW Law and Justice
- Macquarie Law school
- Newcastle School of Law and Justice
- ANU College of Law
- UNE Law School
- University of South Australia Law School.

### 7.3 Public submissions

The committee noted the following submissions were published by the committee clerk under the authorisation of the resolution of the committee of 13 March 2024:

- No. 1 - Department of the Senate, Parliament of Australia
- No. 2 - Legislative Assembly, Parliament of Victoria
- No. 3 - Shooters, Fishers and Farmers Party
- No. 4 - Department of the House of Representatives, Parliament of Australia
- No. 5 - The Scottish Parliament
- No. 6 - House of Commons, Canada
- No. 7 - House of Commons, United Kingdom
- No. 8 - House of Lords, United Kingdom
- No. 9 - Chief Executive and Clerk, Welsh Parliament – Senedd Cymru
- No. 10 - Anti-Discrimination NSW
- No. 11 - Government Whip
- No. 14 - Clerk of the House of Representatives, New Zealand.

### 7.4 Committee discussion

Members discussed issues raised in the confidential briefing paper, House of Representatives report, CPA document and submissions to inform the final report.

## 8. Inquiry into procedures for dealing with disorder by members during committee proceedings

### 8.1 Briefing paper

The committee noted the confidential briefing paper distributed by the secretariat.

### 8.2 Stakeholder list

The committee noted, as agreed via email, that the following stakeholders were invited to make a submission to the inquiry:

- All Members of the Legislative Council
- Mr John Evans, Parliamentary Ethics Adviser
- Clerks of each State and Territory of Australia, the Senate and the House of Representatives, and New Zealand
- Clerks of the UK, Welsh, Scottish, and Canadian Parliaments.

### 8.3 Public submissions

The committee noted the following submissions were published by the committee clerk under the authorisation of the resolution of the committee of 13 March 2024:

- No. 1 - Office of the Legislative Assembly, Australian Capital Territory
- No. 2 - Department of the Senate, Parliament of Australia
- No. 3 - House of Commons, Canada
- No. 4 - Department of the House of Representatives, Parliament of Australia
- No. 5 - House of Commons, United Kingdom
- No. 6 - The Hon. Jeremy Buckingham
- No. 7 - House of Lords, United Kingdom
- No. 8 - Chief Executive and Clerk, Welsh Parliament – Senedd Cymru
- No. 9 - Government Whip
- No. 12 - Clerk of the House of Representatives, New Zealand.

### 8.4 Committee discussion

Members discussed issues raised in the confidential briefing paper and submissions to inform the final report.

## 9. Confidential inquiry submissions

Before considering requests from authors that the committee keep their submissions confidential, the committee directed the secretariat to seek confirmation of the publication status from authors, and any would consider publication.

## 10. Adjournment

The Committee adjourned at 12:57pm, *sine die*.

Rhea Goundar/Allison Stowe/Arizona Hart  
**Committee Clerk**

### Draft minutes no. 3

Tuesday 16 July 2024, 9.33 am

President's Dining Room, Parliament House, Sydney

## 1. Members present

Mr Franklin (Chair)  
Mr Borsak  
Ms Boyd  
Ms Hurst  
Mr Latham  
Mr Martin  
Mrs Mitchell  
Mr Nanva (*via teleconference*)  
Mr Primrose  
Mr Rath  
Mr Roberts  
Ms Sharpe

## 2. Apologies

Mr Buckingham  
Mr Graham  
Mr Ruddick  
Mr Tudehope

### 3. Previous minutes

Resolved, on the motion of Mr Borsak: That draft minutes no. 2 be confirmed.

### 4. Correspondence

The committee noted the following items of correspondence:

#### *Sent:*

- 24 May 2024 - Email from the committee secretariat to Mr John Evans PSM, Parliamentary Ethics Adviser, seeking permission to publish his submission to the inquiry into updating the standing orders to require respectful behaviour in the Chamber, particularly as they relate to sexism and racism.

#### *Received:*

- 27 May 2024 - Email from Mr John Evans PSM, Parliamentary Ethics Adviser, to the committee secretariat, agreeing to the publication of his submissions to the inquiry into updating the standing orders to require respectful behaviour in the Chamber, particularly as they relate to sexism and racism, the inquiry into the giving of notices of motions under standing order 75, and the inquiry into procedures for dealing with disorder by members during committee proceedings.

### 5. Inquiry into procedures for dealing with disorder by members during committee proceedings

#### 5.1 Public submission

The committee noted the following submission was published by the committee clerk under the authorisation of the resolution of the committee of 13 March 2024:

- No. 11 - Mr John Evans PSM, Parliamentary Ethics Adviser.

#### 5.2 Confidential submission

Resolved, on the motion of Mr Borsak: That the committee keep submission no. 10 confidential, as per the request of the author.

#### 5.3 Consideration of Chair's draft report

The Chair submitted his draft report entitled *Procedures for dealing with disorder by members during committee proceedings* which, having been circulated, was taken as having been read.

Resolved, on the motion of Ms Sharpe: That paragraph 2.22 be amended by omitting 'although he stopped short of recommending that the committee could force a member to withdraw' and inserting instead ', though raised concern that committees lack an enforcement mechanism to force a member to withdraw when they have refused to do so'.

Resolved, on the motion of Mr Roberts: That Recommendation 1 be amended by omitting in paragraph 1 of the proposed sessional order 'in the course of any one committee meeting for disorderly conduct' and inserting instead 'for disorderly conduct in the course of any one committee meeting (not including a deliberative committee meeting)'.

Resolved, on the motion of Mr Borsak: That Recommendation 1 be amended by inserting at the end of the proposed sessional order the following new paragraph:

- '3. If a committee resolves to remove a member under paragraph (2), the committee must table a special report in the House.'

Mr Borsak moved: That Recommendation 1, as amended, be agreed to:

#### **Recommendation 1**

That the following sessional order be introduced for the remainder of the Parliament:

#### **Disorderly conduct in committee proceedings**

1. If the chair of a committee calls a member to order three times for disorderly conduct in the course of any one committee meeting (not including a deliberative meeting), the committee must immediately meet in private.

2. Any member of the committee (not including the chair) may then a move a motion that the member called to order be removed from the meeting for a period of time as the committee may decide, but not beyond the termination of the meeting.

3. If a committee resolves to remove a member under paragraph (2), the committee must table a special report in the House.'

Question put.

The committee divided.

Ayes: Mr Borsak, Ms Boyd, Mr Franklin, Ms Hurst, Mr Latham, Mr Martin, Mr Nanva, Mr Primrose, Mr Roberts, Ms Sharpe.

Noes: Mrs Mitchell, Mr Rath.

Question resolved in the affirmative.

Resolved, on the motion of Mr Borsak: That the following new recommendation be inserted after Recommendation 1:

**'Recommendation X**

That the House refer terms of reference to the Procedure Committee to review the operation of this sessional order after 12 months.'

Resolved, on the motion of Mr Borsak: That:

- (a) the draft report, as amended, be the report of the committee and that the committee present the report to the House, subject to the circulation of the draft minutes and the amended Chair's draft report via email following the report deliberative, and giving members 24 hours to raise any concerns,
- (b) upon tabling, all unpublished attachments to submissions be kept confidential by the committee,
- (c) upon tabling, all unpublished submissions, correspondence, and discussion paper related to the inquiry be published by the committee, except for those documents kept confidential by resolution of the committee,
- (d) the committee secretariat correct any typographical, grammatical and formatting errors prior to tabling,
- (e) the committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee,
- (f) dissenting statements be provided to the secretariat within 24 hours after receipt of the draft minutes of the meeting,
- (g) the President is to table the report by Thursday, 25 July 2024.

**6. Inquiry into updating the standing orders to require respectful behaviour in the Chamber, particularly as they relate to sexism and racism**

**6.1 Public submission**

The committee noted the following submission was published by the committee clerk under the authorisation of the resolution of the committee of 13 March 2024:

- No. 13 - Mr John Evans PSM, Parliamentary Ethics Adviser.

**6.2 Confidential submission**

Resolved, on the motion of Ms Sharpe: That the committee keep submission no. 12 confidential, as per the request of the author.

**6.3 Consideration of Chair's draft report**

The Chair submitted his draft report entitled *Updating the standing orders to require respectful behaviour in the Chamber, particularly as they relate to sexism and racism* which, having been circulated, was taken as having been read.

Ms Sharpe moved: That the following recommendation be inserted at the end of chapter 4:

**'Recommendation 1**

That standing order 96(3) be amended by sessional order by inserting 'or discriminatory' after 'A member may not use offensive', such that the standing order reads:

A member may not use offensive or discriminatory words against either House of the Legislature, or any member of either House, and all imputations of improper motives and all personal reflections on either House, members or officers will be considered disorderly.'

The committee deliberated.

Question put.

The committee divided.

Ayes: Ms Boyd, Mr Franklin, Ms Hurst, Mrs Mitchell, Mr Nanva, Mr Primrose, Mr Rath, Ms Sharpe.

Noes: Mr Borsak, Mr Latham, Mr Martin, Mr Roberts.

Question resolved in the affirmative.

Resolved, on the motion of Mrs Mitchell: That the following recommendation be inserted at the end of chapter 4:

**'Recommendation 2**

That Presidents' rulings dealing with offensive or discriminatory words in the Chamber place a greater emphasis on the context in which the words are used, including the tone, manner and intent of the member speaking, as well as the effect of the comments in the Chamber.'

Resolved, on the motion of Ms Sharpe: That the secretariat insert after paragraph 4.12 new paragraphs to reflect the recommendations resolved by the committee.

Resolved, on the motion of Ms Sharpe: That:

- (a) the draft report, as amended, be the report of the committee and that the committee present the report to the House, subject to the circulation of the draft minutes and the amended Chair's draft report via email following the report deliberative, and giving members 24 hours to raise any concerns
- (b) upon tabling, all unpublished attachments to submissions be kept confidential by the committee,
- (c) upon tabling, all unpublished submissions and correspondence, and briefing paper related to the inquiry be published by the committee, except for those documents kept confidential by resolution of the committee,
- (d) the committee secretariat correct any typographical, grammatical and formatting errors prior to tabling,
- (e) the committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee,
- (f) dissenting statements be provided to the secretariat within 24 hours after receipt of the draft minutes of the meeting,
- (g) the President is to table the report by Thursday, 25 July 2024.

## **7. Inquiry into the giving of notices of motions under standing order 75**

### **7.1 Public submission**

The committee noted the following submission was published by the committee clerk under the authorisation of the resolution of the committee of 13 March 2024:

- No. 4 - Mr John Evans PSM, Parliamentary Ethics Adviser.

### **7.2 Consideration of Chair's draft report**

The Chair submitted his draft report entitled *Inquiry into the giving of notices of motions under standing order 75* which, having been circulated, was taken as having been read.

Resolved, on the motion of Ms Sharpe: That paragraph 3.6 be amended by inserting at the end of the first sentence ', to which the Government stated that this option was not under consideration.'

Resolved, on the motion of Mr Primrose: That the following new recommendation be inserted after paragraph 3.22.

**'Recommendation X**

That for the remainder of this Parliament, the House adopt a sessional order amending standing order 75 stipulating that members may only read up to three notices of motions in full on any one sitting day, with all other notices to be given in summary format if desired, and all notices to be lodged in writing with the Clerk.'

Resolved, on the motion of Mr Borsak: That the following new recommendation be inserted after paragraph 3.37:

**'Recommendation X**

That for the remainder of this Parliament, the House adopt a sessional order amending standing order 75 stipulating that members may give notice by handing the signed written notice to the Clerks-at-the-Table from the commencement of the meeting of the House until the conclusion of the giving of notices of motions during formalities.'

Resolved, on the motion of Mrs Mitchell: That the following new recommendation be inserted after paragraph 3.47:

**'Recommendation X**

That for the remainder of this Parliament, the House adopt a sessional order amending standing order 195 (1) to stipulate that a private members' business notice of motion that has remained on the Notice Paper for 13 sitting days without being moved will be removed from the Notice Paper.

Resolved, on the motion of Mrs Mitchell: That:

- (a) the draft report, as amended, be the report of the committee and that the committee present the report to the House, subject to the circulation of the draft minutes and the amended Chair's draft report via email following the report deliberative, and giving members 24 hours to raise any concerns,
- (b) upon tabling, all unpublished submissions, correspondence, and discussion paper related to the inquiry be published by the committee, except for those documents kept confidential by resolution of the committee,
- (c) the committee secretariat correct any typographical, grammatical and formatting errors prior to tabling,
- (d) the committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee,
- (e) dissenting statements be provided to the secretariat within 24 hours after receipt of the draft minutes of the meeting,
- (f) the President is to table the report by Thursday, 25 July 2024.

**8. Adjournment**

The committee adjourned at 12.30 pm, *sine die*.

David Blunt  
**Committee Clerk**





