



LEGISLATIVE COUNCIL

PROCEDURE COMMITTEE

# Procedures for dealing with disorder by members during committee proceedings



Report 19

July 2024

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Procedure Committee

# **Procedures for dealing with disorder by members during committee proceedings**

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Procedures for dealing with disorder by members during committee proceedings

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Chair: Hon Ben Franklin MLC



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## Terms of reference

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

The terms of reference were referred to the committee by the Legislative Council on 13 March 2024.<sup>1</sup>

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<sup>1</sup> *Minutes*, NSW Legislative Council, 13 March 2024, p 931.

## 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 Taylor Martin MLC was appointed to the committee on 19 April 2024.

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## Chair's foreword

I am pleased to present this report of the Procedure Committee on its inquiry into procedures for dealing with disorder by members during committee proceedings.

The Legislative Council has a highly active committee system. The seventeen standing upper house committees hold many dozens of hearings each year, not only in Parliament but across New South Wales. The committee system is a source of pride for members, providing a key mechanism for members of the public to engage directly with the Council, and playing a critical role in ensuring government accountability.

Committees are most effective when proceedings are conducted in an orderly way. At present, however, there are limited options available to committees to manage disorder. This is despite the fact that disorderly conduct in committees has the potential to impair the evidence gathering process, disincentive witnesses from participating in inquiries, and negatively impact the reputation of the Council.

To address this, this report recommends the introduction of a new sessional order which would enable committees to order the withdrawal of a committee member for disorderly conduct. The sessional order incorporates elements from standing order 196 in the House, as well as the approach taken in New Zealand.

Removing a member from committee proceedings is a serious step and it is envisaged that this sessional order would be used rarely and judiciously. However, in situations where it is required, it is intended to introduce an appropriate, effective and swift way to manage disorderly conduct.

I thank members of the Procedure Committee for their consideration of this report and the secretariat for managing this inquiry.

Hon Ben Franklin MLC  
**President**



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## Recommendations

### Recommendation 1

13

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 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.

### Recommendation 2

13

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

## **Conduct of inquiry**

The terms of reference were referred to the committee by the Legislative Council on 13 March 2024.

The committee received 12 submissions.

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

## Chapter 1      **Background: Legislative Council committees**

The NSW Legislative Council has a sophisticated and active committee system. Committees conduct dozens of hearings per year, which are routinely broadcast, recorded, and transcribed. At these hearings, and during other committee proceedings, committee chairs preside over the meeting and are responsible for maintaining order. Hearings are an invaluable mechanism for committees to receive evidence and to provide an opportunity for citizens to engage in the parliamentary process. Member disorder not only threatens to disrupt the evidence gathering process but may also have a deleterious impact on the reputation of the upper house.

### **Background to this inquiry**

- 1.1      On 13 March 2024, the House agreed to a motion by the Hon Jeremy Buckingham MLC, chair of Portfolio Committee No. 1 – Premier and Finance, that the Procedure Committee inquire into and report on procedures for dealing with disorder by members during committee proceedings.<sup>2</sup>
- 1.2      The motion referred to the Budget Estimates 2023-2024 additional hearing for the Legislature held on 4 March 2024. It stated that during this hearing, 'a member repeatedly flouted the rulings of the chair and the procedural fairness resolution for inquiry participants'.<sup>3</sup>

### **The Legislative Council committee system**

- 1.3      The Legislative Council has a highly active committee system. There are currently eighteen committees, comprised of:
  - eight portfolio committees, which conduct the Budget Estimates process (as well as other inquiries)
  - three subject standing committees, on Law and Justice, Social Issues and State Development
  - three 'specialist' committees: Animal Welfare, Public Accountability and Works, and Regulation
  - three committees relating to Privileges, Procedure, and Bills
  - one select committee (at the time of reporting): the Select Committee on the Proposal to Develop Rosehill Racecourse.
- 1.4      Additionally, Legislative Council members sit on twelve Joint Committees alongside members of the Legislative Assembly, including two Joint Committee which originated in the Legislative Council: the Modern Slavery Committee and the Joint Select Committee on Arts and Music Education and Training in NSW.

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<sup>2</sup>      *Minutes*, NSW Legislative Council, 13 March 2024, Item 8, p 931.

<sup>3</sup>      *Minutes*, NSW Legislative Council, 13 March 2024, Item 8, p 931.

- 1.5 Legislative Council committees conduct a large number of activities, with 84 hearings held in the 2022-2023 financial year.<sup>4</sup> Committees also routinely hold hearings and conduct site visits across New South Wales.
- 1.6 Legislative Council committee activities are highly accessible to the public. Most hearings are broadcasted live on the Parliament's website. Transcripts and video recordings of hearings are generally uploaded to the website shortly after they are held. Additionally, committee activities are regularly publicised through media releases and posts on the Legislative Council's Facebook and X pages.
- 1.7 There is often a high degree of public interest in Legislative Council committee activities. The conduct of committee proceedings may therefore bear significantly on the reputation of the NSW Parliament. In his submission, the Hon Bob Nanva MLC, Government Whip in the Legislative Council, outlined the potential impacts if disorder in committee proceedings is not appropriately managed:

Firstly, disorder and inappropriate behaviour by members during committee hearings may put the committee process, the NSW Legislative Council, and the NSW Parliament at large into disrepute. Secondly, disorder during hearings may disrupt the ability of other committee members to interrogate relevant lines of inquiry effectively and efficiently. Thirdly, any display of disorder during hearings may act as a disincentive for future witnesses to share evidence with Legislative Council committees, which undermines the role and capacity for committees to seek evidence and inquire into serious and important issues for NSW.<sup>5</sup>

### **Members' conduct in committee proceedings**

- 1.8 Two resolutions of continuing effect in the Legislative Council may provide guidance on when conduct in committee proceedings could be considered disorderly: Procedural Fairness for Inquiry Participants and the Members' Code of Conduct. All members are subject to these resolutions.
- 1.9 Procedural Fairness for Inquiry Participants, commonly called the 'Procedural Fairness Resolution', was passed by the House in 2018.<sup>6</sup> This is a comprehensive resolution that sets out 21 principles for how inquiry participants should be treated. Two principles are particularly relevant to this inquiry:
- No. 9, which provides that 'a committee chair will ensure that all questions put to witnesses are relevant to the inquiry', and
  - No. 19, which provides that 'witnesses will be treated with courtesy at all times'.
- 1.10 The Code of Conduct was passed by the House in 2020.<sup>7</sup> This includes a number of principles guiding members' conduct in the discharge of their parliamentary duties. Relevantly for this inquiry, no. 10 provides that 'a member must treat their staff and each other and all those

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<sup>4</sup> Department of the New South Wales Legislative Council, *Annual Report 2023* (2023), p 95.

<sup>5</sup> Submission 9, Government Whip, p 1.

<sup>6</sup> *Minutes*, NSW Legislative Council, 25 October 2018, pp 3138-3140.

<sup>7</sup> *Minutes*, NSW Legislative Council, 24 March 2020, pp 883-886, as amended *Minutes*, NSW Legislative Council, 8 June 2022, pp 3420-3421.

working for Parliament in the course of their parliamentary duties and activities with dignity, courtesy and respect, and free from any behaviour that amounts to bullying, harassment or sexual harassment<sup>1</sup>.

- 1.11** A member who is in apparent breach of these principles may be called to order by a chair in committee proceedings. However, as will be discussed in the next chapter, there are limited options to take action beyond this.

## The role of committee chairs

- 1.12** All Legislative Council committees have a chair and a deputy chair. The deputy chair acts as chair when the chair is absent from a meeting.<sup>8</sup>
- 1.13** Committee chairs fulfill several important functions in the conduct of committee inquiries. They are the head of a committee, responsible for guiding the inquiry process. They preside over meetings and maintain order in hearings. The chair also represents the committee publicly in statements to the media.<sup>9</sup>
- 1.14** Additionally, chairs work closely with the committee secretariat in administering an inquiry, including arranging meetings and overseeing preparation for hearings and other activities. With assistance from the secretariat, they also produce the chair's draft report which is then presented to the committee for consideration and adoption.<sup>10</sup>

### Standing order 218

- 1.15** Standing order 218 relates to the functions of chairs and deputy chairs of committees. Clause 2 provides: 'The chair presides at meetings and has the powers necessary to conduct the committee's proceedings in an orderly and expeditious manner'.
- 1.16** Standing order 218(2) was adopted in November 2022 as part of a broader reform of the Legislative Council's standing rules and orders. These arose from a comprehensive review by the Procedure Committee over the preceding year and a half.<sup>11</sup>
- 1.17** In its first report, the Procedure Committee noted that 'the standing orders do not prescribe the role of the Chairs unlike the provisions in some other jurisdictions including the Western Australian Legislative Council'.<sup>12</sup> It recommended that standing order 218 should be amended

<sup>8</sup> Standing order 218(3).

<sup>9</sup> Stephen Frappell and David Blunt, *New South Wales Legislative Council Practice* (The Federation Press, 2<sup>nd</sup> ed, 2021), p 753.

<sup>10</sup> Stephen Frappell and David Blunt, *New South Wales Legislative Council Practice* (The Federation Press, 2<sup>nd</sup> ed, 2021), p 753.

<sup>11</sup> Procedure Committee, NSW Legislative Council, *Review of the Standing and Sessional Orders* (March 2022) and Procedure Committee, NSW Legislative Council, *Second Review of the Standing and Sessional Orders* (November 2022).

<sup>12</sup> Procedure Committee, NSW Legislative Council, *Review of the Standing and Sessional Orders* (March 2022), p 45.

'to set out the powers of the chair when presiding at meetings' and proposed wording identical to that of the relevant standing order in the West Australian upper house.<sup>13</sup>

- 1.18** There has been limited interpretation of standing order 218(2) since its introduction. It post-dates the most recent versions of *Legislative Council Practice* (2021)<sup>14</sup> and the *Annotated Standing Orders* (2018).<sup>15</sup>

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<sup>13</sup> Procedure Committee, NSW Legislative Council, *Review of the Standing and Sessional Orders* (March 2022), p 45; Standing order 173(1) (Western Australia Legislative Council).

<sup>14</sup> Stephen Frappell and David Blunt, *New South Wales Legislative Council Practice* (The Federation Press, 2<sup>nd</sup> ed, 2021).

<sup>15</sup> Susan Want and Jenelle Moore, *Annotated Standing Orders of the New South Wales Legislative Council* (The Federation Press, 2018).

## Chapter 2 Options to manage disorder during committee proceedings

In the NSW Legislative Council, there are currently limited options to manage disorder by members in committee proceedings. This chapter outlines these options as well as the rules and practices operating in other jurisdictions. It also proposes a new option to be trialled to facilitate the effective management of member disorder in committees.

### Current options to manage disorder in committee proceedings

**2.1** There are a limited number of options currently available to committees to manage disorderly conduct by members. These include resolving to limit the question time allocated to a member, suspending or adjourning proceedings, and/or making a special report to the House. Neither committees nor their chairs are authorised to exclude a substantive committee member from a hearing or meeting.

#### Limiting question time

**2.2** The resolutions appointing most Legislative Council committees provide that the sequence of questions to be asked at hearings is to alternate between opposition, crossbench, and government members, 'unless the committee decides otherwise'.<sup>16</sup> Most committees therefore have flexibility to determine and vary the time given to members to ask questions.

**2.3** If a committee were concerned that one member was using their allocated question time in a disorderly way, it could resolve to vary or limit the member's time. However, while this may limit disruption during the member's time, it would not necessarily prevent disorderly conduct during other members' questioning time (such as through interjections). In practice, this option is rarely considered by chairs and committees, as it may be seen as removing a democratic right and role of a member during the inquiry process.

#### Suspending or adjourning a meeting

**2.4** If a committee cannot resolve disorder during a public hearing, they may suspend the meeting to meet in private. This could allow members to discuss the disorderly conduct and informally resolve the issue. If this were unsuccessful, and the committee formed the view they could not continue with the hearing, they could adjourn the meeting altogether as provided for under standing order 214(a).

**2.5** However, adjourning a meeting early could have significant negative impacts. Witnesses, who may have spent considerable effort preparing for their appearance, could have their time before the committee cut short or cancelled altogether. This could negatively impact theirs

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<sup>16</sup> Except for the Law and Justice Committee, the Social Issues Committee, the State Development Committee, the Privileges Committee, the Procedure Committee, and the Selection of Bills Committee.

and others' perception of the process and upper house committees more generally. The committee would also lose the opportunity to ask genuine questions of those witnesses, harming the evidence-gathering process.

- 2.6** Even suspending a meeting for a short time can be disruptive as this requires all witnesses, members of the public and media to clear the room for the duration of the private meeting.

### **Special report to the House**

- 2.7** Neither committees nor their chairs are able to order a member to withdraw from a hearing or meeting. The only other option available to committees to manage disorder in Legislative Council committees, if alternatives (restricting questions, or suspending or adjourning a hearing or meeting) are not effective, is to make a special report to the House. In doing so, the committee can recommend that the matter be referred to the Privileges Committee for inquiry and report.<sup>17</sup>

- 2.8** There are a handful of examples of committees making special reports to the House. These have covered situations including adverse reflections on committee proceedings by a member, unauthorised disclosure of committee proceedings, refusal of a witness to answer questions at a hearing, and alleged interference with inquiry witnesses.<sup>18</sup> Relevantly, there appears to be no recorded case of a special report arising from disorderly conduct during committee proceedings.

- 2.9** This remedy is unlikely to have an immediate effect, as consideration of a special report to the House may take weeks, if not months. Nonetheless the prospect of a committee agreeing to such a course of action may help to prevent or address disorder as it occurs.

### **Options available in other jurisdictions**

- 2.10** This inquiry received submissions from several other Parliaments, outlining the procedures they have available to manage disorder in committee proceedings. Many of these were similar to those available in Legislative Council committees.

### **Suspending or adjourning a meeting and requesting a member to withdraw**

- 2.11** A number of other Parliaments stated that the primary method for committee chairs to manage disorderly conduct is to suspend or adjourn a meeting. Suspending a meeting was often identified as a first step to try to informally resolve the conduct, with adjourning a more serious option where the disorder is significant and cannot be resolved otherwise. As noted above, this option is also available to Legislative Council committees.<sup>19</sup>

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<sup>17</sup> Stephen Frappell and David Blunt, *New South Wales Legislative Council Practice* (The Federation Press, 2<sup>nd</sup> ed, 2021), p 164.

<sup>18</sup> Stephen Frappell and David Blunt, *New South Wales Legislative Council Practice* (The Federation Press, 2<sup>nd</sup> ed, 2021), pp 164-165.

<sup>19</sup> Submission 11, Parliamentary Ethics Adviser, p 1.



- 2.12** When disorderly conduct occurs in a public hearing in a committee of the Australian House of Representatives, 'chairs are advised to suspend the hearing and discuss the issue in private session'.<sup>20</sup> Chairs can use this opportunity to ask for disorderly behaviour to cease. If this is unsuccessful, the chair can then adjourn the hearing altogether.<sup>21</sup> Similarly, the Australian Senate advised that chairs will often suspend a hearing for a short time to allow the committee to meet in private and discuss points of concern.<sup>22</sup> If this or other measures are unsuccessful, the committee could terminate the meeting.<sup>23</sup>
- 2.13** Other jurisdictions take a similar approach when members are disorderly:
- In the ACT Legislative Assembly a chair may suspend or adjourn a committee meeting in the case of 'grave disorder', although this has been used sparingly.<sup>24</sup>
  - In the New Zealand House of Representatives a chair can interrupt a hearing and move the committee into closed session to deal with a matter of order. In the case of grave disorder, the chair could suspend the meeting.<sup>25</sup>
  - In UK House of Commons the first step would be for the chair to suspend the meeting for a short time to attempt to resolve the situation. If this did not work, the chair may move to adjourn the meeting.<sup>26</sup>
  - In the Canadian House of Commons a chair may suspend a meeting until order can be restored or, if the situation is 'so serious as to prevent the committee from continuing with its work', may adjourn the meeting.<sup>27</sup>
- 2.14** In two legislatures the decision to adjourn a meeting may be taken after a member has been asked to withdraw but has refused. In the Australian Senate, a chair may ask a senator to withdraw from a meeting due to disorderly conduct. A motion may also be passed by the committee in the same terms.<sup>28</sup> However, if the senator refuses to withdraw, the committee has no other actions available except to adjourn the meeting and report the matter to the Senate.<sup>29</sup>
- 2.15** Similarly, in the Welsh Parliament, a member may be required by the chair to withdraw from the remainder of a meeting if the chair considers their conduct such as to warrant withdrawal.<sup>30</sup> However, if the member refuses to withdraw, the only option is for the chair to adjourn or suspend the meeting and report the matter to the Presiding Officer.<sup>31</sup>

<sup>20</sup> Submission 4, Department of the House of Representatives, Parliament of Australia, p 1.

<sup>21</sup> Submission 4, Department of the House of Representatives, Parliament of Australia, p 2.

<sup>22</sup> Submission 2, Department of the Senate, Parliament of Australia, p 2.

<sup>23</sup> Submission 2, Department of the Senate, Parliament of Australia, p 2.

<sup>24</sup> Submission 1, Office of the Legislative Assembly, Australian Capital Territory, p 1.

<sup>25</sup> Submission 12, House of Representatives, New Zealand, p 1.

<sup>26</sup> Submission 5, House of Commons, United Kingdom, p 5.

<sup>27</sup> Submission 3, House of Commons, Canada, p 3.

<sup>28</sup> Submission 2, Department of the Senate, Parliament of Australia, pp 1-2.

<sup>29</sup> Submission 2, Department of the Senate, Parliament of Australia, p 2.

<sup>30</sup> Standing order 17.27 (Welsh Parliament).

<sup>31</sup> Submission 8, Chief Executive and Clerk, Welsh Parliament – Senedd Cymru, p 4.

### **Excluding non-substantive members from proceedings**

- 2.16** In the NSW Legislative Council, non-substantive ('participating') members are able to take part in the public or private proceedings of a committee, question witnesses, and have access to committee evidence and documents, unless the committee orders otherwise.<sup>32</sup> If a committee wanted to exclude a participating member from proceedings, therefore, they could resolve to do so.
- 2.17** Several jurisdictions similarly have separate rules relating to the participation of non-substantive committee members:
- In the ACT Legislative Assembly, the chair or any other committee member may request that a member (who is not a member of the committee) withdraw from committee proceedings.<sup>33</sup> A request for a visiting member to withdraw has been raised as a warning in estimates hearings from time to time. On two occasions a visiting member has been asked to leave a hearing.<sup>34</sup>
  - In the New Zealand House of Representatives, the chair may order any other member of Parliament present at the committee who is not a member of the committee to withdraw from the meeting if the member's conduct is disorderly.<sup>35</sup>
  - In the UK House of Commons, a committee can order a member who is not on the committee to withdraw from a private meeting, if the committee considers that their presence would obstruct its business. However, the committee cannot remove a member from a public meeting.<sup>36</sup>

### **Ordering a member to withdraw**

- 2.18** A more significant option to manage disorder, available in New Zealand, is to order a disorderly member to withdraw from the committee's proceedings.
- 2.19** In the New Zealand House of Representatives, standing order 218(3) provides: 'a select committee may resolve to exclude a member of the committee from its meeting if that member's conduct is highly disorderly. The member may be excluded for up to the remainder of the meeting held on that day'.<sup>37</sup>
- 2.20** A motion to exclude a member under this standing order may be moved at any time during a committee meeting.<sup>38</sup> For the motion to be moved successfully, the chair must first determine

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<sup>32</sup> Standing order 225.

<sup>33</sup> Submission 1, Office of the Legislative Assembly, Australian Capital Territory, pp 1-2.

<sup>34</sup> Submission 1, Office of the Legislative Assembly, Australian Capital Territory, p 2.

<sup>35</sup> Submission 12, House of Representatives, New Zealand, p 2.

<sup>36</sup> Submission 5, House of Commons, United Kingdom, p 5.

<sup>37</sup> Standing order 218 (New Zealand House of Representatives). See also Submission 11, Parliamentary Ethics Adviser, pp 1-2.

<sup>38</sup> Submission 12, House of Representatives, New Zealand, p 2.

whether the member in question has been guilty of highly disorderly conduct. If they have not ruled as such, the committee cannot exclude the member.<sup>39</sup>

- 2.21** This option was supported by the former Clerk of the Parliaments, and current Parliamentary Ethics Advisor, Mr John Evans PSM, who suggested an amendment to the Legislative Council's standing orders like standing order 218 of the New Zealand Parliament to assist in dealing with disorder during committee proceedings.<sup>40</sup>
- 2.22** The Hon Bob Nanva MLC, Government Whip in the Legislative Council, also supported the introduction of a mechanism to eject members from committee proceedings, though raised concern that committees lack an enforcement mechanism to force a member to withdraw when they have refused to do so. Mr Nanva proposed that a chair be able to put a member on a call for disorder. If a member has been put on three calls, the chair should be bound to call the committee into a deliberative meeting and propose a motion that the member be ejected. The committee would then consider and vote on that motion. However, if the disorderly member refused to be ejected, Mr Nanva stated that the committee could immediately adjourn the meeting and then report the matter to the House.<sup>41</sup>
- 2.23** The Hon Jeremy Buckingham MLC, on whose motion the inquiry commenced, also called for new options to manage disorder in committee proceedings. He discussed his difficulty in managing disorderly conduct in the absence of clear measures under the standing orders, referring to a hearing he chaired in which he called a member to order 26 times.<sup>42</sup> Mr Buckingham stated that the member 'repeatedly interjected, called into question the impartiality of myself as Chair and treated witnesses with discourtesy'.<sup>43</sup> He also commented that, after suspending the meeting to try and resolve the behaviour, he was advised that there was limited recourse to address the conduct.<sup>44</sup>
- 2.24** Mr Buckingham suggested the Legislative Council could adopt a version of standing order 196 (which applies in the House) to the committee context, which would allow for the removal of a member after repeated calls to order.<sup>45</sup> This is discussed later in this chapter.

### Reporting to the House

- 2.25** As in the NSW Legislative Council, some other Parliaments raised the option of making a special report to the House to manage disorder in committee proceedings. This was often identified as the only formal method available when committee chairs lack coercive or punitive powers.

<sup>39</sup> Submission 12, House of Representatives, New Zealand, p 2.

<sup>40</sup> Submission 11, Parliamentary Ethics Adviser, p 2.

<sup>41</sup> Submission 9, Government Whip, p 2.

<sup>42</sup> Submission 6, The Hon. Jeremy Buckingham, p 1.

<sup>43</sup> Submission 6, The Hon. Jeremy Buckingham, p 1.

<sup>44</sup> Submission 6, The Hon. Jeremy Buckingham, p 1.

<sup>45</sup> Submission 6, The Hon. Jeremy Buckingham, p 2.

- 2.26** In the Australian House of Representatives, if a chair was unable to stop disorderly conduct by a member, they could report the matter to the House. It would then be open to the House to take any further action.<sup>46</sup>
- 2.27** In the UK House of Commons if a chair were unable to control disorderly behaviour by a member, the committee could attempt to make a special report to the House on the disorderly conduct.<sup>47</sup> If the committee could not agree to the special report, the chair may make an oral report to the House on their own authority.<sup>48</sup>
- 2.28** Committees of the Canadian House of Commons do not have the power to punish misconduct, breach of privilege, or contempt; they can only report them to the House.<sup>49</sup> Therefore, if a committee sought a specific sanction against a disorderly member, it must report the situation to the House and the House could then impose measures it deemed appropriate.<sup>50</sup>

## Options available in the House

- 2.29** Compared to committees, there are much clearer options available to manage disorder in the House. The responsibility for maintaining order lies with the President.<sup>51</sup> *Legislative Council Practice* describes the President's role as follows:

When presiding in the House, the President is responsible for ensuring that proceedings are conducted in accordance with the standing orders and the practices and procedures of the House, relying on relevant precedents, rulings of past Presidents and other procedural authorities. The President calls members to speak in debate, puts all questions for determination by the House and maintains order, including ruling on points of order, drawing on the various sources of authority for guidance.<sup>52</sup>

- 2.30** Under standing order 196, the President (or other occupant of the chair) has the power to order the removal of a member from the House for a period not beyond the termination of the sitting. The President can exercise this power in two situations:
- if the President calls a member to order three times in the course of a sitting for any breach of the standing orders, or
  - if a member conducts themselves in a grossly disorderly manner.
- 2.31** Under standing orders 197 and 198, the President may also name and report a member as having committed an offence under the standing orders to the House. Another member may

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<sup>46</sup> Submission 4, Department of the House of Representatives, Parliament of Australia, p 2.

<sup>47</sup> Submission 5, House of Commons, United Kingdom, p 5.

<sup>48</sup> Submission 5, House of Commons, United Kingdom, p 5.

<sup>49</sup> Submission 3, House of Commons, Canada, p 3.

<sup>50</sup> Submission 3, House of Commons, Canada, p 3.

<sup>51</sup> Standing order 86(1).

<sup>52</sup> Stephen Frappell and David Blunt, *New South Wales Legislative Council Practice* (The Federation Press, 2<sup>nd</sup> ed, 2021), p 257.

then move a motion without notice that the member be suspended from the service of the House for any period that the House decides. This power has been exercised infrequently.<sup>53</sup>

- 2.32** While the power to remove a member under standing order 196 can also be exercised by the Chair of Committees during committee of the whole, in more serious cases of disorder under standing orders 197 and 198, the chair must leave the chair and report the matter to the President.
- 2.33** The President can also suspend a sitting of the House in cases of 'serious disorder' under standing order 199.<sup>54</sup> This is a rarely used procedure which can only be exercised by the President or person acting as President. Like standing order 197 and 198, should such disorder occur in committee of the whole, the Chair of Committees would need to report the matter to the House.<sup>55</sup>

## Committee comment

- 2.34** Currently, there are few effective options to manage disorder in Legislative Council committee proceedings. Limiting the questioning time of a disorderly member may constrain some of their conduct in the short term but it does not necessarily prevent them from being disorderly while other members or witnesses are speaking. Suspending or adjourning a meeting or hearing is also technically available as an option, although would no doubt have unwelcome impacts, particularly on witnesses who have agreed to assist the committee with evidence for an inquiry. This option, if exercised, would also likely have significant reputational impacts for committees.
- 2.35** Making a special report to the House may also have some impact in the longer term but it is unlikely to address a member's disorderly conduct at the time it occurs.
- 2.36** Inquiry participants, including members, called for new options to deal with disorderly conduct in committee proceedings, and the committee agrees that a more effective solution is required. To that end, we recommend the introduction of a new sessional order which would enable committees to order the withdrawal of a committee member for disorderly conduct.
- 2.37** The proposed sessional order is similar to standing order 196 in the House, as suggested by the Hon Bob Nanva MLC, in that it requires the member to be put on a call three times before the committee considers excluding them. It also incorporates elements from the approach taken in New Zealand, such as requiring the motion to exclude the member to be made by another committee member and not the chair. The proposed sessional order would apply to public committee proceedings like hearings or public forums, but not to private deliberative meetings.

<sup>53</sup> Stephen Frappell and David Blunt, *New South Wales Legislative Council Practice* (The Federation Press, 2<sup>nd</sup> ed, 2021), p 483.

<sup>54</sup> Stephen Frappell and David Blunt, *New South Wales Legislative Council Practice* (The Federation Press, 2<sup>nd</sup> ed, 2021), p 483.

<sup>55</sup> Susan Want and Jenelle Moore, *Annotated Standing Orders of the New South Wales Legislative Council* (The Federation Press, 2018), p 632.

- 2.38** In the committee's view, the sessional order should have the following elements:
- the chair can call a member to order for disorderly conduct during a committee meeting (not including a deliberative meeting)
  - if a member is called to order by the chair three times, the committee must go into a private (deliberative) meeting to consider the member's conduct
  - any member (except the chair) may then move a motion that the member called to order be excluded from the meeting for a specified time, not beyond the conclusion of the meeting
  - if the committee resolves to remove the member, it must table a special report in the House.
- 2.39** Disorderly conduct that would merit a call to order by the chair may include actions such as using offensive words that were not withdrawn, rudeness towards a witness or other committee member, or disruptive behaviour like repeated interjections. As in the House, there would not be a specified time limit between when calls to order could be made but any calls would expire at the end of the committee meeting (that is, they would not carry through to subsequent meetings).
- 2.40** A call to order by the chair would require a specific form of words to be used and would be minuted. Prior to the introduction of the sessional order, training should be held to familiarise chairs with the required procedures, and scripts can be prepared for the chair's folder. Further, as a call to order is not a ruling, a member could not dissent from it.
- 2.41** If a member was called to order three times and the committee went into a private meeting, they could first attempt to resolve the disorderly conduct informally. For example, the member could be given the opportunity to explain their conduct, apologise or undertake to cease the disorderly behaviour. However, if resolution could not be achieved this way, any other member would then have the opportunity to move a motion that the member be excluded. Members would have the opportunity to debate and amend this motion if required (for example, limiting or extending the time the member is excluded) and to vote against it.
- 2.42** If the committee resolved to exclude the member, they would then be escorted out of the room by the most senior parliamentary officer present. Once they have left, they could not be substituted by another member for the period of time in which they are excluded. A special report would also be made in the House, to inform the House of the member's removal. If the member refused to leave, the chair would warn them that this may constitute a contempt of parliament. If the member continued to refuse, the only option would be to adjourn the meeting and consider making a special report to the House in relation to that refusal.
- 2.43** The operation of this sessional order should be reviewed by the Procedure Committee after 12 months.

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**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.

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**Recommendation 2**

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

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## Appendix 1 Submissions

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

## 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**



