

General Purpose Standing Committees

Budget Estimates Guide 2007-2008

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Clerk's preface

This Guide provides Ministers, members and staff with information on the most common practices and procedures relevant to the inquiry into the Budget Estimates 2007-2008.

The resolution referring the Budget Estimates 2007-2008 contains some significant differences from the Budget Estimates resolution for the inquiry held in 2006-2007. This Guide details the administrative and procedural changes resulting from the new resolution.

Lynn Lovelock

Clerk of the Parliaments

Chapter 1 Introduction

General Purpose Standing Committees¹

- 1.1** Under the resolution of the House establishing the General Purpose Standing Committees (GPSCs), the Committees may inquire into and report on:
- (a) any matters referred to them by the House,
 - (b) the expenditure, performance or effectiveness of any department of government, statutory body or corporation, and
 - (c) any matter in any annual report of a department of government, statutory body or corporation.²
- 1.2** The five GPSCs reflect Government Ministers' portfolio responsibilities. The portfolio areas allocated to each GPSC are:³

General Purpose Standing Committee No. 1	Premier Citizenship Juvenile Justice Western Sydney Treasury Infrastructure Hunter The Legislature Roads Commerce
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¹ Five GPSCs were first constituted in 1997. The committees were reappointed on 10 May 2007, shortly after the commencement of the current 54th Parliament. Since 1997, the Budget Estimates and related papers have been referred to the GPSCs for inquiry and report. See the resolution establishing the GPSCs (hereafter referred to as the 'GPSC Resolution') of 10 May 2007, pp55-57, as amended by LC Minutes 28/06/07 pp214-215.

² GPSC Resolution, para 2 (1)

³ LC Minutes 28/06/07 pp214-215

General Purpose Standing Committee No. 2	Education and Training Industrial Relations Assistant Finance Central Coast Fair Trading Youth Volunteering Ageing Disability Services Health
General Purpose Standing Committee No. 3	Police Illawarra Attorney General Justice Emergency Services Water Utilities Gaming and Racing Sport and Recreation Local Government Aboriginal Affairs Mental Health
General Purpose Standing Committee No. 4	Transport Finance Planning Redfern Waterloo Arts Science and Medical Research Women Community Services Small Business Regulatory Reform Ports
General Purpose Standing Committee No. 5	Primary Industries State Development Mineral Resources Energy Lands Rural Affairs Regional Development Waterways Housing

	Tourism Climate Change and Environment Water
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Powers of the GPSCs

1.3 Under standing order 208, GPSCs have the power to:

- (a) adjourn from time to time,
- (b) adjourn from place to place,
- (c) send for and examine persons, papers, records and things,
- (d) make visits of inspection within New South Wales and, if authorised by the House, with the approval of the President, elsewhere in Australia and outside Australia, and
- (e) request the attendance of and examine members of the House.

1.4 Other relevant standing orders provide that a committee has:

- power to authorise publication, before presentation to the House, of submissions received and evidence taken (SO 223 (1)).
- leave to report to the House from time to time its proceedings, evidence taken in public, and recommendations as it deems fit (SO 226 (1)).

Referral of the 2007-2008 Budget Estimates

1.5 On Thursday 28 June 2007, the Legislative Council resolved ‘that the Budget Estimates and related papers for the financial year 2007-2008 presenting the amounts to be appropriated from the Consolidated Fund be referred to the General Purpose Standing Committees for inquiry and report’.⁴ Each committee is to examine the Budget Estimates for the relevant portfolios and report to the House by Friday 30 November 2007.⁵ The resolution, excluding the first paragraph relating to portfolio allocations, appears below:⁶

⁴ LC Minutes 28/06/07 pp214-215, hereafter referred to as the Estimates Resolution, para 1

⁵ Estimates Resolution, para 10

⁶ Paragraph 1 of the Estimates Resolution is outlined in para 1.2

2. That the Budget Estimates and related papers for the financial year 2007-2008 presenting the amounts to be appropriated from the Consolidated Fund be referred to the General Purpose Standing Committees for inquiry and report.
3. The committees are to consider the Budget Estimates in accordance with the allocation of portfolios to the committees.
4. The committees must hear evidence in public.
5. Not more than two committees are to hear evidence simultaneously.
6. The committees may ask for explanations from Ministers in the House, or officers of departments, statutory bodies or corporations, relating to the items of proposed expenditure.
7. A daily Hansard record is to be published as soon as practicable after each day's proceedings.
8. That the Leader of the Government is to provide to each committee, by Friday 13 July 2007, a schedule outlining the attendance of relevant ministers to appear before each committee, for the committee's consideration.
9. The committees may hold supplementary hearings as required.
10. The committees are to present a final report to the House by Friday 30 November 2007.
11. Committee members may lodge questions on notice with the Clerk to the committee up to two days following a hearing.
12. Questions lodged on notice are subject to standing order 67 and will be published in the Questions and Answers Paper.

Hearings

- 1.6** Under the 2007-2008 Budget Estimates Resolution, no more than two committees can hear evidence simultaneously.⁷ The initial round of Budget Estimates hearings are to be held at Parliament House on 15, 19, 22 and 26 October. A schedule of hearings is attached at Appendix 1 and is also available at www.parliament.nsw.gov.au/budgetestimates.
- 1.7** It is usual to hold a short deliberative meeting to deal with procedural matters prior to the commencement of each hearing (see para 3.12). Accordingly, members are requested to attend Budget Estimates hearings 15 minutes prior to the advertised commencement times. This will ensure that procedural matters can be dealt with before the arrival of witnesses and maximise the time available for the examination of witnesses.
- 1.8** Committees may choose to hold supplementary hearings to further consider proposed expenditure (see paras 3.40-3.42).⁸ Individual committees are responsible for making decisions about future hearing dates.
- 1.9** Any committee wishing to hold a supplementary hearing after the current reporting date of 30 November 2007 will require a resolution from the House for an extension of the reporting date.

⁷ Estimates Resolution, para 5

⁸ Estimates Resolution, para 9

Chapter 2 Operation of General Purpose Standing Committees

Committee membership

- 2.1 According to the GPSC Resolution each Committee is to consist of seven members, comprising:
- (a) three Government members
 - (b) two Opposition members
 - (c) two Cross Bench members.⁹

2.2 The membership of each committee is listed at **Appendix 2**.

Role of the chair and deputy chair

- 2.3 While there are no specific standing orders relating to the role of the chair of a committee, the role is comparable to that of the President in the House. This includes maintaining order, conducting divisions and acting as a spokesperson on behalf of the committee. The committee chair, like the President, should act with authority and impartiality. Successful committee operations depend on effective chairing. Some committees have increased their effectiveness and cohesion through the close co-operation of the chair and deputy chair.
- 2.4 At all meetings, and especially when hearing evidence, the chair is responsible for maintaining order and decorum. The standing orders that apply to debates can serve as a model for committee operations. This involves ensuring that appropriate procedures for moving motions and amendments, for calling divisions and for other methods of resolving disputes between members are applied. The chair may also make rulings on the admissibility of questions, particularly if they are not relevant to the committee's terms of reference.
- 2.5 Although the chair is in control of the meeting or hearing and directs the proceedings, it is valuable for the chair to discuss with committee members how he or she proposes to conduct the hearing and to seek agreement from committee members on such matters as allocation of time to members for questions, and the order of questioning. This helps to avoid dissent and conflict arising during the meeting.
- 2.6 The deputy chair acts as chair when the chair is absent from a meeting of a committee. In the absence of both the chair and deputy chair, a member of the committee is elected by the members present to act as chair for that meeting of the committee.¹⁰

⁹ GPSC Resolution, para 3

¹⁰ Standing order 211(2), (3)

- 2.7** The chair, deputy chair or other member acting as chair at a meeting of a committee has a deliberative vote and, in the event of an equality of votes, a casting vote.¹¹

Substitute members

- 2.8** Substitute members may be appointed for any matter before the GPSCs by notice in writing to the chair of the relevant committee. Notice of substitutions should be submitted by email to the Budget Estimates Secretariat email address prior to the commencement of the hearing. Nominations for substitute Government or Opposition members may be made by the Leader of the Government or Leader of the Opposition, or Government or Opposition Whips or Deputy Whips, as applicable. Nominations for substitute Cross Bench members may be made by another Cross Bench member.¹²

Participating members

- 2.9** Any member of the House may attend a meeting of a committee in relation to the Budget Estimates and question witnesses, participate in the deliberations of the committee at the meeting and make a dissenting statement relating to the Budget Estimates, but may not vote or be counted for the purpose of any quorum.¹³
- 2.10** In order to inform members of the committee, it is desirable for members wishing to participate in a Budget Estimates hearing to advise the chair in writing prior to the commencement of that hearing. Notice of a members' intention to participate in a hearing should also be submitted by email to the Budget Estimates Secretariat email address prior to the commencement of the hearing.

Quorum

- 2.11** The quorum of a committee is three members. If, after 15 minutes from the scheduled meeting time, a quorum is not present, the meeting is adjourned and the chair of the committee will fix a time for the next meeting of the committee.¹⁴

Absence of a quorum

- 2.12** If, during a meeting of a committee, the absence of a quorum is brought to the attention of the chair by another committee member, after 10 minutes the chair will suspend the proceedings of the committee to a later hour. If at this later time a quorum is not present, the committee will be adjourned to another day, to be fixed by the chair.¹⁵

¹¹ Standing order 211(4)

¹² GPSC Resolution, para 4

¹³ Standing order 218(1), and GPSC resolution para 5

¹⁴ Standing order 214

¹⁵ Standing order 215

Chapter 3 Hearings

Hearings to be held in public

- 3.1 The 2007-2008 Budget Estimates Resolution provides that the GPSCs must hear evidence on the Budget Estimates in public.¹⁶ This prevents the committees from hearing confidential evidence in camera.

Attendance of Ministers and government officers

- 3.2 The 2007-2008 Budget Estimates Resolution provides that:

The committees may ask for explanations from Ministers in the House, or officers of departments, statutory bodies or corporations, relating to the items of proposed expenditure.¹⁷

- 3.3 Ministers who are members of the Legislative Assembly may be invited to give evidence before a GPSC, but cannot be compelled to do so. It is anticipated that Ministers from the Legislative Assembly will attend the initial round of hearings according to the timetable at **Appendix 1**.

- 3.4 Ministers who are members of the Legislative Assembly who attend voluntarily and give evidence before a committee should follow any procedures established by the committee, such as time limits for Government/Opposition/Cross Bench questioning. However, the Minister may decide to leave a hearing at any time, if he or she does not wish to comply with any procedures established by the committee.¹⁸

- 3.5 It is usual for Ministers to bring officers of their choice from departments, statutory bodies or corporations to the initial Budget Estimates hearings. Where a member requests the attendance of a particular witness, the committee should advise the Minister in writing prior to the hearing. After the initial hearings, it is usual that the committee request the attendance of officers from departments, statutory bodies or corporations only, however the Minister may choose to attend.

- 3.6 Although government officers normally appear voluntarily at initial and supplementary hearings, GPSCs have the power to send for and examine persons who are not members, including officers from departments, statutory bodies or corporations.¹⁹

¹⁶ Estimates Resolution, para 4

¹⁷ Estimates Resolution, para 6

¹⁸ Legislative Council, Clerk's Advice, *Advice to General Purpose Standing Committees in relation to Budget Estimates hearings*, September 1999, reproduced in *Budget Estimates Guide 2001-2002*, Appendix D

¹⁹ Standing order 208(c)

Role of ministerial contact officers

- 3.7 Normally, a ministerial contact officer is nominated from each Minister's office to co-ordinate matters between the Minister, his or her department or relevant statutory body or corporation, and the Budget Estimates Secretariat.
- 3.8 The ministerial contact officer will liaise with, and ensure the attendance of, all witnesses from departments, statutory bodies or corporations. Prior to a hearing, a ministerial contact officer should email the Budget Estimates Secretariat to:
- provide a written list of witnesses identified by job title and agency
 - advise of any requests by witnesses in relation to the time of their appearance (for example, a witness request to leave the hearing early to attend another engagement)
 - advise of any witness who requires a holy book other than the Bible for taking the oath.

Questions taken on notice during a hearing

- 3.9 The procedures for questions taken on notice during a hearing are as follows:
- The Minister will be advised of the length of time the Committee has resolved for the return of answers to questions on notice taken during the hearing.
 - These questions will be highlighted within the transcript of evidence and forwarded to the Minister by the Budget Estimates Secretariat (see paras 4.15-4.17).
 - Ministerial contact officers delivering any hardcopy material to the Budget Estimates Secretariat should ensure they notify the Secretariat via email at budget.estimates@parliament.nsw.gov.au each time they submit material.
 - The Committee will normally make answers to questions taken during the hearing publicly available. Any requests for confidentiality of answers to questions taken on notice should be made on the covering letter enclosing the answers. Confidential material should be separated from material that can be made publicly available. Answers to the questions taken on notice during the hearing will, once published by the committee, be placed on the committee's website.

Questions on notice lodged after a hearing

- 3.10 The procedure for questions on notice lodged after a hearing are as follows:
- Questions on notice may be placed on the Questions and Answers paper up to two working days after the hearing.
 - Questions to be lodged on the Questions and Answers paper should be emailed to the Budget Estimates Secretariat at budget.estimates@parliament.nsw.gov.au. A signed hard copy must also be lodged with the Secretariat in Room 812.

- Answers to questions taken on notice should be provided to the Clerk of the Parliaments, within 35 calendar days after the question is first published, in accordance with standing order 67.20 (see paras 418-4.25).
- Answers to questions on notice lodged after the hearing will be published as part of the normal Questions and Answers paper.

Meeting procedures

Resolutions for procedures for questioning during hearings

- 3.11** At the first meeting of each of the five GPSCs of the 54th Parliament, the committees resolved that, under section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* (NSW) and the authority of standing orders 223 and 224, the committee authorises the clerk of the committee to publish the answers provided to questions on notice, after these answers have been circulated to committee members.
- 3.12** A deliberative meeting is held prior to the first hearing to consider whether to adopt certain procedures for questioning, specifically:
- that if a Minister is to absent himself/herself from the hearings to attend a division, the committee will continue the examination of the portfolio areas in the Ministers absence
 - that the sequence of questions to be asked be left in the hands of the chair, or alternate between Government, Opposition and Cross Bench members with time in minutes allocated to each
 - substitute member arrangements (see para 2.8)
 - participating member arrangements (see paras 2.9-2.10)
 - time limits for the examination of each portfolio and the order in which portfolios will be examined.

Swearing in witnesses

- 3.13** Under s 10 (2) of the *Parliamentary Evidence Act 1901* (NSW) ‘every witness attending to give evidence before a Committee other than a Committee of the Whole shall be sworn by the chairman of such Committee’. All witnesses from departments, statutory bodies or corporations will be sworn when giving evidence.
- 3.14** Ministers are an exception to the policy of swearing all witnesses, as members of Parliament have previously sworn an oath to that office.

²⁰ Standing order 67(4)-(8)

3.15 If a witness makes more than one appearance before a committee, it is not necessary to swear that witness at each subsequent hearing. The witness need only be reminded at subsequent hearings that he or she is giving evidence on their former oath or affirmation.

Chair's opening statement

3.16 When declaring a committee hearing open the chair normally makes a short statement to:

- advise the media about the rules governing the broadcasting of the committee's public proceedings (see paras 3.35-3.38)
- inform the audience that a staff member from Chamber and Support Services is on duty for the delivery of messages from members of the public gallery
- inform the Minister of the proposed allocated times and order for examination of portfolio areas
- advise of the allocated time for the return of questions taken on notice during a hearing.

3.17 If the hearing is taking place while the Legislative Assembly is sitting, and the Minister is a member of the Legislative Assembly, the chair should ask whether the Minister has a pair in the House and consult the Minister regarding procedures in the event of a division in the Assembly.

3.18 The chair should then declare the proposed expenditure open for examination and call on items of expenditure in the order agreed.

3.19 The chair may ask the Minister if he or she wishes to make a brief opening statement before members ask questions.

Deliberative meeting after the hearing

3.20 Once questioning has concluded the chair should ensure the room is cleared before the committee commences any deliberations. At this deliberative meeting the committee may need to consider the following matters:

- a resolution to make public tabled documents (see paras 3.26-3.31)
- future committee activity, such as supplementary hearings (see paras 3.40-3.42).

Tabled documents

- 3.21 Committees must decide whether to accept and publish documents tabled by witnesses during hearings. Where a witness is seeking to table a document, the witness should identify the document, indicate whether the document is already publicly available, and state clearly why the document is being provided.
- 3.22 It is preferable that any decision on publication be deferred until after the hearing, to give the committee sufficient time to consider the contents of the document that is to be published on their authority.
- 3.23 Members are also able to table documents during Budget Estimates hearings. If the document identifies an individual, the committee should confirm that the member has the consent of that individual to table the document.
- 3.24 It is not necessary or desirable for documents referred to in evidence that are published and publicly available to be tabled as part of a committee inquiry. However, such documents can be circulated to members for their information if the committee so desires.
- 3.25 A witness should provide nine copies of any document that he or she wishes to table: one for each committee member, one for the committee clerk and one for Hansard.

Authority to publish documents and evidence

- 3.26 Section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* authorises a committee to publish a document received by it or evidence given before it.
- 3.27 Section 6 of the Act provides a defence to any action or proceeding, civil or criminal, arising from the publication of any document that was authorised under section 4.
- 3.28 Standing order 224 states that evidence taken by a committee and documents presented to the committee which have not been reported to the House, may not, except with the permission of the committee, be disclosed or published by any member of the committee or by any other person.
- 3.29 A motion to publish tabled documents will be included on the agenda for each meeting.

Documents in the possession of witnesses

- 3.30 In previous Budget Estimates inquiries the issue has arisen as to whether committees can compel witnesses to immediately provide material in their possession, such as briefing folders, despite an objection from the witness.
- 3.31 It is now well established that the House possesses an implied or inherent common law power to compel the production of State papers from the executive government. The existence of this power was affirmed by the High Court in *Egan v Willis* (1998) 158 ALR 527.

- 3.32** Under standing order 208 the House has delegated to committees the power ‘to send for and examine persons, papers, records and things’. However, if an order by a committee for the immediate provision of material is resisted, the committee itself does not have the power to deal with the consequences of that failure. The committee may, however, report the matter to the House by way of a special report.
- 3.33** Accordingly, it is incumbent on a committee to use the power delegated to it in a measured and considered manner. It is possible that the House would not support an unreasonable or punitive demand by a committee. For example, it would not be fair for a witness who appears voluntarily by invitation to be required to produce a document other than by invitation.
- 3.34** The usual process for a committee to request the production of a document is to pass a resolution mirroring that used by the House. This provides a set time frame (usually 14-21 days) for the document to be provided to the Clerk of the Committee and establishes procedures for resolving claims of privilege.

Broadcasting of proceedings

- 3.35** The five GPSCs have previously resolved to authorise the broadcasting of their proceedings, in accordance with the resolution of the House that permits a committee to authorise the sound recording and television broadcasting of its public proceedings (known as the Broadcasting Resolution).²¹
- 3.36** The Broadcasting Resolution states that a committee may:
- (a) determine terms and conditions, not inconsistent with paragraphs 1(3) and 1(4), for the sound recording and television broadcasting of its proceedings;
 - (b) give instructions for the observance of terms and conditions determined under paragraph (a);
 - (c) order that part of its proceedings not be recorded or broadcast.²²
- 3.37** A witness who wishes to object to the broadcasting or televising of proceedings should inform the chair at the beginning of the hearing. The committee must consider an objection, having regard to the protection of the witness and the public interest in the proceedings, and must bear in mind the Budget Estimates resolution that requires evidence be heard in public.²³ If the committee decides to permit the broadcasting or televising of proceedings despite the objection of a witness, the witness must be informed of the committee’s decision and the reasons for that decision.²⁴

²¹ LC Minutes (11/10/1994) 270-281, hereafter known as the Broadcasting Resolution

²² Broadcasting Resolution, para 2 (2)

²³ Estimates Resolution, para 4

²⁴ Broadcasting Resolution, para 2 (3)

- 3.38 A resolution of the committee should be passed if broadcasting is to be discontinued. Members should move a motion as outlined below:

MOTION FOR DISCONTINUANCE OF BROADCASTING

Member says—

Mr/Madam Chair—

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

Dissent from a ruling of the chair

- 3.39 Where a member dissents from a ruling of the chair during a public hearing, the room is cleared of witnesses, members of the public and media in order to permit debate in private. The member should move a motion as outlined below:

MOTION FOR DISSENT FROM CHAIR'S RULING

Member says—

Mr/Madam chair—

I move: That the Committee dissent from the ruling of the Chair.

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

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

The Chair then informs the Committee of the member's objection.

Debate may ensue.

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

When the witnesses and public return the Chair advises of the outcome of the deliberative meeting.

Supplementary hearings

- 3.40 Under the 2007-2008 Budget Estimates Resolution, the GPSCs may hold supplementary hearings as required.²⁵ Individual committees are responsible for making decisions about future hearing dates. If a committee wishes to hold supplementary hearings after answers to Questions on Notice are received, the Committee will need to seek an extension from the House of the Budget Estimates reporting date, currently 30 November 2007, before

²⁵ Estimates Resolution, para 9

scheduling hearings. This is because the reporting date in the Estimates Resolution is less than 35 days after the last Budget Estimates hearing for many portfolios (see table below).

Hearing	Date written questions on notice are due	Date answers to questions on Q&A paper are due
15 October	5pm 17 October	21 November
19 October	5pm 23 October	27 November
22 October	5pm 24 October	28 November
26 October	5pm 30 October	4 December

- 3.41 If a committee were to resolve to restrict questions on a particular portfolio to a specific period of time, the committee might later resolve to change its view on this matter, and extend the time for questioning or hold additional hearings.²⁶
- 3.42 Procedures for supplementary Budget Estimates hearings are largely the same as those for the initial hearings. A motion for a further hearing will be provided on the meeting agenda.

Transcripts of evidence

- 3.43 A transcript of evidence of the Budget Estimates hearings will be published as soon as practicable after each day's proceedings.²⁷
- 3.44 Hardcopies of proof transcripts will be provided to committee members and the Minister who attended the hearing. In addition, proof transcripts will be available on each committee's website.
- 3.45 Ministers will be asked to distribute electronic copies of proof transcripts to those witnesses from departments, statutory bodies or corporations who accompanied them to the hearing, with a request to return the corrected transcripts by a specified date.
- 3.46 The usual rules regarding corrections to Hansard transcripts apply. The transcript is regarded as a record of oral evidence, with its normal differences from written expression. The transcript should show what was said, therefore alterations may be made only if they are necessary to correct the record.

²⁶ Legislative Council, Clerk's Advice, *Advice to General Purpose Standing Committees in relation to Budget Estimates hearings*, September 1999, reproduced in *Budget Estimates Guide 2001-2002*, Appendix D

²⁷ Estimates Resolution, para 7

Chapter 4 Examination of witnesses

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

Questioning witnesses

4.2 There is no formal procedure for the examination of witnesses. In general, the chair is responsible for maintaining order in the committee and in the order of questioning. The chair should ensure that questions are relevant to the terms of reference and the information sought is necessary for the purpose of the inquiry. The chair is to ensure the fair, respectful and appropriate treatment of witnesses during hearings.

4.3 The following is an overview of the procedures for questioning witnesses during hearings:

- witnesses generally attend voluntarily and will be sworn prior to questioning.
- the chair, all members of the committee, and any participating members, are permitted to ask questions of the Minister, or officers of departments, statutory bodies or corporations, relating to the items of proposed expenditure.
- committees have the power to limit the time taken by a witness to answer a question. However, it is hoped that any committee resolving to impose a limit on the time taken by a witness to answer a question would make provision for a witness to apply for an extension of time if required, and that any such time limits would be applied somewhat flexibly.²⁸
- the chair will determine if questions are in order or are disorderly. Where a committee disagrees with the decision of the chair the issue may be determined in the usual manner (see para 3.41).²⁹

Rules governing questions

4.4 Due to the broad nature of the Budget Estimates inquiries, wide latitude is allowed in asking questions on any of the proposed expenditure contained in the Budget Papers or prior expenditure.

4.5 It is an accepted principle that questions should be relevant to the matter that has been referred to a committee for inquiry and report.³⁰ In the case of the Budget Estimates inquiry,

²⁸ Legislative Council, Clerk's Advice, *Advice to General Purpose Standing Committees in relation to Budget Estimates hearings*, September 1999, reproduced in *Budget Estimates Guide 2001-2002*, Appendix E

²⁹ Legislative Council, Clerk's Advice, *Advice regarding questioning in Budget Estimates with respect to Committee's other terms of reference and the content of questions*, June 2001, reproduced in *Budget Estimates Guide 2002-2003*, Appendix E

this refers to the estimates of expenditure from the Consolidated Fund and other matters covered by the budget papers. The estimates of expenditure relate to the activities of departments, which in many cases reflect the implementation of policy. For this reason, the Budget and related papers contain information relating to departmental activities and implementation of policy. Similarly, information from other sources, such as annual reports of departments, reports by the Audit Office and policy announcements by Ministers or other government officials relate to expenditure from the Consolidated Fund and would be considered relevant to the Budget Estimates inquiry.³¹

- 4.6 It should be noted that the Budget Estimates inquiry might be one of several inquiries before a particular committee. The purpose of Budget Estimates hearings is to inquire into and report on the conduct of government and government policies for expenditure of public monies authorised by Parliament. In exercising this role, there is bound to be a degree of overlap with current committee inquiries.
- 4.7 Questions asked as part of the Budget Estimates should not attempt to debate the unreported proceedings of other committee inquiries. However, this does not prevent members from asking any questions that deal with the subject matter of an inquiry. There is a significant difference between debating the unreported proceedings of a committee and asking questions on the general subject of an inquiry before a committee.³²
- 4.8 Convention dictates that public servants should not be required to justify government policy as this is the role of the Minister. If the Minister is not present, the chair may remind public servants about this convention. As stated in Odgers' *Australian Senate Practice*:

The rule relating to the giving of opinions on matters of policy is designed to avoid public servants becoming involved in discussion or disputation with committee members about the merits of government policy as determined by ministers. Public servants may explain government policy, describe how it differs from alternative policies, and provide information on the process by which a particular policy was selected, but may not be asked to express opinions on the relative merits of alternative policies.³³

³⁰ For further discussion see Odgers, *Australian Senate Practice*, 11th ed, 'Chapter 16 – Committees: Estimates Committees', <www.aph.gov.au/senate/pubs/odgers/chap1618.htm> (accessed 3 August 2007)

³¹ Legislative Council, Clerk's Advice, *Advice regarding questioning in Budget Estimates with respect to Committee's other terms of reference and the content of questions*, June 2001, reproduced in *Budget Estimates Guide 2002-2003*, Appendix E

³² Legislative Council, Clerk's Advice, *Advice regarding questioning in Budget Estimates with respect to Committee's other terms of reference and the content of questions*, June 2001, reproduced in *Budget Estimates Guide 2002-2003*, Appendix E

³³ Odgers, *Australian Senate Practice*, 11th ed, 'Chapter 17 – Witnesses: Public servants as witnesses', <www.aph.gov.au/senate/pubs/odgers/chap1709.htm> (accessed 3 August 2007)

Objections to questioning

- 4.9** If a witness objects to a question or a particular line of questioning, a ruling may be sought from the chair. If a witness has raised an objection to answering a question the witness should be invited by the committee to state the ground upon which the objection is taken.
- 4.10** The following list indicates a number of typical reasons a witness may cite, and on which the chair should rule:
- The question seeks adverse reflection on another person.
 - The question is not relevant to the committee's inquiry, ie outside the terms of reference.
 - The disclosure of information required by the question would be prejudicial to the privacy or the rights of other persons, particularly parties in legal proceedings.
 - The question asks for an opinion from an officer of a department, statutory body or corporation on a matter of government policy.
 - The question raises issues relating to public interest immunity, the sub judice convention and statutory secrecy provisions.
- 4.11** Unless the committee determines immediately that the question should not be pressed, the committee should then consider, in private, whether it will insist upon an answer to the question, having regard to the:
- basis of the objection
 - relevance of the question to the committee's inquiry
 - importance to the inquiry of the information sought.

Immunity of witnesses

- 4.12** The immunities for witnesses appearing before the committees are:
- The privilege under article 9 of the Bill of Rights adopted in New South Wales by the *Imperial Acts Application Act 1969* which provides that the freedom of speech and of debates or proceedings in Parliament ought not be impeached or questioned in any court or place outside of Parliament. Since committees are a creature of the House, their proceedings are covered by this article.
 - The defense of absolute privilege given by section 27 of the *Defamation Act 2005* in relation to publication in the course of an inquiry under the authority of a House of Parliament.

Questions on notice

- 4.13 Questions may be placed on notice in one of two ways:
- During a hearing: if a witness is unable to answer a question during a hearing, the witness may undertake to provide the answer at a later time.
 - After a hearing: Members may lodge written questions with the committee clerk during or up to two days after a hearing for inclusion on the Questions and Answers paper.

4.14 There are different procedures in relation to each type of Question on Notice.

Questions taken on notice during hearings

- 4.15 It is important for the chair to confirm with a witness during the hearing that he or she has agreed to take a question on notice.
- 4.16 On receipt of the draft transcript of evidence, the secretariat will identify questions taken on notice during the hearing, highlight them within the transcript and send them to the witness through the relevant Minister's office.
- 4.17 The time for return of answers to Questions taken on Notice during the hearing will be determined by the committee at the first deliberative meeting prior to the first Budget Estimates hearing (see para 3.9).

Written questions on notice

- 4.18 The procedure for written questions on notice has changed since last year. Under the 2007-2008 Budget Estimates Resolution, members may lodge written questions on notice with the Budget Estimates Secretariat up to two days following the hearing.³⁴ The secretariat will then lodge the questions with the Procedure Office for inclusion on the Questions and Answers paper published on each sitting day.
- 4.19 In past years, up to 5,000 written questions on notice have been lodged relating to Budget Estimates in a two week period. Due to the significant impact of this workload, members must provide an electronic copy of all written questions on notice to the Budget Estimates Secretariat. Members are asked to proofread their questions prior to lodgement, as the secretariat will not be able to check questions for typographical or grammatical errors before forwarding them to the Procedure Office for publication.
- 4.20 Written questions on notice should be sent to budget.estimates@parliament.nsw.gov.au. The subject line of the email should specify the committee number, the hearing date, and the relevant portfolio area, for example: 'GPSC 1: Monday 28 August: Premier, State

³⁴ LC Minutes (28/7/2007) 215

Development, Citizenship'. If an amended version(s) of the questions on notice is later sent, the subject line should specify the version number.

- 4.21** As with normal questions on notice lodged through the House, a signed hard copy of Budget Estimates Questions on Notice will need to be provided to the Budget Estimates Secretariat, located in Room 812, in addition to an electronic version.
- 4.22** The Budget Estimates Secretariat will not accept Questions on Notice after the two day deadline has lapsed.
- 4.23** Written questions on notice must follow the format of questions lodged on the Questions and Answers paper in the House, namely using the numbered outline view instead of bullet points, as shown below:

Money contributed by parents to public schools

1. (a) Does the Department of Education and Training keep any records of the amount of money that parents contribute to public schools, such as:
 - (i) Nominal school fees?
 - (ii) Additional school fees for special purposes, for example specialist teachers for music, sport, languages?
 - (iii) Library fund contributions?
 - (iv) Fundraising monies for school asset acquisition?
- (b) If so, can details of those figures be provided?
- (c) If not, is any such information provided to the department by individual public schools that could be collected?
- (d) Has this ever been considered in the past?
- (e) If so, when and by whom?

- 4.24** A copy of standing order 67 dealing with written questions is at **Appendix 3**.

Return of answers to questions on notice

- 4.25** This year the Budget Estimates resolution agreed to by the House determines that questions on notice are to be lodged within two days of the hearing. Under standing order 67, Ministers are provided 35 days to respond to Questions on notice.
- 4.26** Each Committee must, however, set the date requesting the return of questions taken on notice at the hearing.

Chapter 5 Conclusion of inquiry

Reporting date

5.1 The GPSCs are required to report to the House on the Budget Estimates by Friday 30 November 2007.³⁵ If committees wish to hold supplementary hearings after answers to questions on notice have been received, they may need to extend the reporting date.

Report content

5.2 Budget Estimates reports are brief, containing details of hearings and witnesses, a list of key issues examined for each portfolio, and the minutes of proceedings.

5.3 The standing orders require that the report of a committee, as far as practicable, should reflect a unanimity of opinion within the committee, and it is the responsibility of committee members to seek to achieve this. Where unanimity is not practicable, the committee's report should reflect the views of all members.³⁶ Any member of the committee may append to the report a brief statement of dissent, provided that:

- the member has sought to have his or her opinions included in the report agreed to by the committee
- the statement of dissent is relevant to the committee's report and the terms of reference of the inquiry
- the statement does not contain any matter which would unreasonably adversely affect or injure a person, or unreasonably invade a person's privacy
- the statement of dissent is signed by the member or members making it
- the statement of dissent is not more than 1,000 words in length.³⁷

Tabling reports

5.4 At the conclusion of the inquiry the committee will table the following:

- committee report (including minutes of proceedings)
- answers to questions taken on notice
- tabled documents
- transcripts of evidence.

³⁵ Estimates Resolution, para 10

³⁶ Standing order 228 (3)

³⁷ Standing order 228 (4)

- 5.5** On tabling of a committee report a motion may be moved without notice "That the House take note of the report".³⁸
- 5.6** If the House is not sitting when a committee wishes to report, a committee is authorised to present its report to the Clerk of the Parliaments.³⁹ A report presented to the Clerk is deemed to have been laid before the House and published by order or under authority of the House. The tabling of the report is announced to the House on the next sitting day and is recorded in the minutes of the proceedings.

³⁸ Standing order 232(1)

³⁹ Standing order 231

Appendix 1 Timetable: Budget Estimates hearings

Monday, 15 October 2007

Time	Portfolios	Committee No.	Room
9am – 1pm	Water Utilities, Emergency Services	3	814/815
9am – 1pm	Planning, Redfern Waterloo, Arts	4	Jubilee
2pm – 4:30pm	Fair Trading, Youth, Volunteering	2	Jubilee
2pm – 4:30pm	Housing, Tourism	5	814/815
5pm – 9pm	Transport, Finance	4	Jubilee
5pm – 9pm	Premier, Citizenship	1	814/815

Friday, 19 October 2007

Time	Portfolios	Committee No.	Room
9am – 1pm	Energy, Primary Industries, Mineral Resources, State Development	5	814/815
9am – 1pm	Attorney General, Justice	3	LC Chamber
1:30pm – 4pm	The Legislature	1	814/815
5pm – 9pm	Local Government, Aboriginal Affairs (Mental Health)	3	814/815
5pm – 9pm	Community Services	4	Jubilee

Monday, 22 October 2007

Time	Portfolios	Committee No.	Room
9am – 1pm	Ageing, Disability	2	814/815
9am – 1pm	Climate Change, Environment	5	Jubilee
1:30pm – 4pm	Juvenile Justice, Western Sydney	1	Jubilee
1:30pm – 4pm	Small Business, Regulatory Reform, Ports (and Waterways)	4	814/815
5pm – 9pm	Police, Illawarra	3	814/815
5pm – 9pm	Education and Training, Industrial Relations, Assistant Finance, Central Coast	2	Jubilee

Friday, 26 October 2007

Time	Portfolios	Committee No.	Room
9am – 1pm	Treasury, Infrastructure, Hunter	1	814/815
9am – 1pm	Lands, Rural Affairs, Regional Development	5	Jubilee
1:30pm – 4pm	Gaming and Racing, Sport and Recreation	3	Jubilee
1:30pm – 4pm	Women, Science and Medical Research	4	814/815
5pm – 9pm	Roads, Commerce	1	Jubilee
5pm – 9pm	Health	2	814/815

Timetable for each committee

General Purpose Standing Committee No. 1

Date	Time	Portfolios	Room
Monday 15 October	5pm-9pm	Premier, Citizenship	814/815
Friday 19 October	1:30pm-4pm	The Legislature	814/815
Monday 22 October	1:30pm-4pm	Juvenile Justice, Western Sydney	Jubilee
Friday 26 October	9am-1pm	Treasury, Infrastructure, Hunter	814/815
Friday 26 October	5pm-9pm	Roads, Commerce	Jubilee

General Purpose Standing Committee No. 2

Date	Time	Portfolios	Room
Monday 15 October	2pm-4:30pm	Fair Trading, Youth, Volunteering	Jubilee
Monday 22 October	9am-1pm	Ageing, Disability	814/815
Monday 22 October	5pm-9pm	Education and Training, Industrial Relations, Assistant Finance, Central Coast	Jubilee
Friday 26 October	5pm-9pm	Health	814/815

General Purpose Standing Committee No. 3

Date	Time	Portfolios	Room
Monday 15 October	9am-1pm	Water, Utilities, Emergency Services	814/815
Friday 19 October	9am-1pm	Attorney General, Justice	LC Chamber
Friday 19 October	5pm-9pm	Local Government, Aboriginal Affairs (Mental Health)	814/815
Monday 22 October	5pm-9pm	Police, Illawarra	814/815
Friday 26 October	1:30pm-4pm	Women, Science and Medical Research	814/815

General Purpose Standing Committee No. 4

Date	Time	Portfolios	Room
Monday 15 October	9am-1pm	Planning, Redfern Waterloo, Arts	Jubilee
Monday 15 October	5pm-9pm	Transport, Finance	Jubilee
Friday 19 October	5pm-9pm	Community Services	Jubilee
Monday 22 October	1:30pm-4pm	Small Business, Regulatory Reform, Ports (and Waterways)	814/815
Friday 26 October	1:30pm-4pm	Women, Science and Medical Research	814/815

General Purpose Standing Committee No. 5

Date	Time	Portfolios	Room
Monday 15 October	2pm-4:30pm	Housing, Tourism	814/815
Friday 19 October	9am-1pm	Energy, Primary Industries, Mineral Resources, State Development	814/815
Monday 22 October	9am-1pm	Climate Change, Environment, Water	Jubilee
Friday 26 October	9am-1pm	Lands, Rural Affairs, Regional Development	Jubilee

Appendix 2 Committee membership

General Purpose Standing Committee No. 1

Revd the Hon Fred Nile MLC (<i>Chair</i>)	Christian Democratic Party (Fred Nile Group)
The Hon Kayee Griffin MLC (<i>Deputy Chair</i>)	Australian Labor Party
Dr John Kaye MLC	The Greens
The Hon Matthew Mason-Cox MLC	Liberal Party
The Hon Melinda Pavey MLC	The Nationals
The Hon Penny Sharpe MLC	Australian Labor Party
The Hon Ian West MLC	Australian Labor Party

General Purpose Standing Committee No. 2

The Hon Robyn Parker MLC (<i>Chair</i>)	Liberal Party
The Hon Christine Robertson MLC (<i>Deputy Chair</i>)	Australian Labor Party
The Hon Tony Catanzariti MLC	Australian Labor Party
The Hon Greg Donnelly MLC	Australian Labor Party
The Hon Marie Ficarra MLC	Liberal Party
Revd the Hon Dr Gordon Moyes MLC	Christian Democrat Party
Ms Lee Rhiannon MLC	The Greens

General Purpose Standing Committee No. 3

The Hon Amanda Fazio MLC (<i>Chair</i>)	Australian Labor Party
The Hon John Ajaka MLC (<i>Deputy Chair</i>)	Liberal Party
The Hon Greg Donnelly MLC	Australian Labor Party
The Hon Trevor Khan MLC	The Nationals
Ms Lee Rhiannon MLC	The Greens
The Hon Roy Smith MLC	Shooters Party
The Hon Helen Westwood MLC	Australian Labor Party

General Purpose Standing Committee No. 4

The Hon Jenny Gardiner MLC (<i>Chair</i>)	The Nationals
The Hon Lynda Voltz MLC (<i>Deputy Chair</i>)	Australian Labor Party
The Hon David Clarke MLC	Liberal Party
The Hon Kayee Griffin MLC	Australian Labor Party
Ms Sylvia Hale MLC	The Greens
The Hon Roy Smith MLC	Shooters Party
The Hon Henry Tsang MLC	Australian Labor Party

General Purpose Standing Committee No. 5

Mr Ian Cohen MLC (<i>Chair</i>)	The Greens
The Hon Richard Colless MLC (<i>Deputy Chair</i>)	The Nationals
The Hon Robert Brown MLC	Shooters Party
The Hon Tony Catanzariti MLC	Australian Labor Party
The Hon Charlie Lynn MLC	Liberal Party
The Hon Lynda Voltz MLC	Australian Labor Party
The Hon Helen Westwood MLC	Australian Labor Party

Appendix 3 Written Questions

Standing Order 67⁴⁰

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

⁴⁰ Standing Order 67 (1) – (9)