

General Purpose Standing Committees

# **Budget Estimates Manual 2008-2009**

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## Clerk's preface

This Manual provides ministers, members and staff with information on the common practices and procedures relevant to the inquiry into the budget estimates. The Manual also details the changes resulting from the resolution referring the 2008-2009 inquiry into the budget estimates.

The material presented in this Manual should be read together with *New South Wales Legislative Council Practice* for a full understanding of the powers of Legislative Council committees.

Lynn Lovelock  
**Clerk of the Parliaments**



# Chapter 1 Introduction

## Powers of the General Purpose Standing Committees<sup>1</sup>

- 1.1 Under paragraph 2(1) of the resolution of the House establishing the General Purpose Standing Committees (GPSCs), the GPSCs may inquire into and report on:
- any matters referred to them by the House
  - the expenditure, performance or effectiveness of any department of government, statutory body or corporation
  - any matter in any annual report of a department of government, statutory body or corporation.
- 1.2 Under standing order 208, GPSCs have the power to:
- adjourn from time to time
  - adjourn from place to place
  - send for and examine persons, papers, records and things
  - 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
  - request the attendance of and examine members of the House.
- 1.3 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)).
- 1.4 Witnesses appearing before the committees have the following immunities:
- 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.

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<sup>1</sup> The five GPSCs were first constituted in 1997. From this time forward, the Budget Estimates and related papers have been referred to the GPSCs for inquiry and report. The GPSCs were reappointed on 10 May 2007, shortly after the commencement of the current 54<sup>th</sup> Parliament. See the resolution establishing the GPSCs (hereafter referred to as the ‘GPSC Resolution’) of 10 May 2007, as amended 28 June 2007, as amended 26 September 2007, as amended 25 June 2008

- 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.

## Portfolio responsibilities

1.5 The portfolio areas allocated to each of the five GPSCs reflect Government ministers' portfolio responsibilities. The portfolios allocated to each GPSC (as at 24 September 2008) are outlined below.<sup>2</sup>

General Purpose Standing Committee No. 1	Roads Ports & Waterways Finance Infrastructure Regulatory Reform The Legislature Treasury Premier Arts
General Purpose Standing Committee No. 2	Health Central Coast Ageing Disability Services Aboriginal Affairs Education and Training Women Community Services
General Purpose Standing Committee No. 3	Police Emergency Services Lands Local Government Mental Health Attorney General Justice Industrial Relations Gaming and Racing Sport and Recreation Juvenile Justice Volunteering Youth

<sup>2</sup> LC Minutes (24/9/2008) 783-785

General Purpose Standing Committee No. 4	Transport Illawarra Planning Redfern Waterloo Fair Trading Citizenship Small Business Science and Medical Research Tourism Hunter
General Purpose Standing Committee No. 5	Energy Mineral Resources Primary Industries State Development Climate Change and the Environment Commerce Water Rural Affairs Regional Development Housing Western Sydney

## Referral of the Budget Estimates 2008-2009

- 1.6 On 5 December 2007, the Legislative Council resolved that ‘the Budget Estimates and related papers for the financial year 2008-2009 presenting the amounts to be appropriated from the Consolidated Fund be referred to the General Purpose Standing Committees for inquiry and report’.<sup>3</sup> The resolution (hereafter referred to as the Budget Estimates Resolution) required each committee to examine the Budget Estimates for the relevant portfolios and report to the House by the first sitting day in March 2009. The Budget Estimates Resolution is outlined below, as updated by subsequent amendments to the allocation of portfolio responsibilities between GPSCs.

### Budget Estimates Resolution 2008-2009

1. That upon tabling, the Budget Estimates and related papers for the financial year 2008-2009 presenting the amounts to be appropriated from the Consolidated Fund be referred to the General Purpose Standing Committees for inquiry and report.
2. That the committees consider the Budget Estimates in accordance with the allocation of portfolios to the committees.
3. That the initial hearings be scheduled as follows:

#### Day One: Monday 13 October 2008

GPSC1	Roads	9.15 am – 11.00 am
GPSC2	Health, Central Coast	9.15 am – 1.00 pm
GPSC1	Ports and Waterways	11.15 am – 1.00 pm
GPSC1	Finance, Infrastructure, Regulatory Reform	2.00 pm – 4.30 pm
GPSC2	Ageing, Disability Services	2.00 pm – 4.30 pm
GPSC1	The Legislature	4.45 pm – 6.00 pm
GPSC2	Aboriginal Affairs	4.45 pm – 6.00 pm

#### Day Two: Tuesday 14 October 2008

GPSC1	Treasury	9.15 am – 1.00 pm
GPSC3	Local Government	9.15 am – 11.45 am
GPSC3	Mental Health	12.00 pm – 1.00 pm
GPSC1	Premier	2.00 pm – 5.00 pm
GPSC3	Police	2.00 pm – 4.00 pm
GPSC3	Lands	4.15 pm – 5.00 pm
GPSC3	Emergency Services	5.15 pm – 6.00 pm
GPSC1	Arts	5.15 pm – 6.00 pm

#### Day Three: Wednesday 15 October 2008

GPSC2	Education and Training	9.15 am – 1.00 pm
GPSC4	Transport and Illawarra	9.15 am – 1.00 pm
GPSC2	Women	2.00 pm – 2.45 pm
GPSC2	Community Services	3.00 pm – 6.00 pm
GPSC4	Planning, Redfern Waterloo	2.00 pm – 6.00 pm

<sup>3</sup> *LC Minutes (5/12/2007) 423-426*

**Day Four: Thursday 16 October 2008**

GPSC5	Climate Change and the Environment	9.15 am – 11.45 pm
GPSC4	Fair Trading, Citizenship	9.15 am – 1.00 pm
GPSC5	Commerce	12.00 pm – 1.00 pm
GPSC4	Small Business, Science and Medical Research	2.00 pm – 3.45 pm
GPSC5	Primary Industries, Mineral Resources	2.00 pm – 6.30 pm
GPSC4	Tourism, Hunter	4.00 pm – 6.00 pm

**Day Five: Friday 17 October 2008**

GPSC5	Energy	9.15 am – 11.15 am
GPSC3	Attorney General, Justice, Industrial Relations	9.15 am – 1.00 pm
GPSC5	State Development	11.30 pm – 1.00 pm
GPSC3	Gaming and Racing, Sport and Recreation	2.00 pm – 4.00 pm
GPSC5	Water, Rural Affairs, Regional Development	2.00 pm – 4.15 pm
GPSC5	Housing, Western Sydney	4.30 pm – 6.00 pm
GPSC3	Juvenile Justice, Volunteering, Youth	4.15 pm – 6.00 pm

4. That an initial round of supplementary hearings be scheduled as follows:

**Day One: 17 November 2008**

GPSC 1  
GPSC 2

**Day Two: 18 November 2008**

GPSC 1  
GPSC 3

**Day Three: 19 November 2008**

GPSC 4  
GPSC 2

**Day Four: 20 November 2008**

GPSC 4  
GPSC 5

**Day Five: 21 November 2008**

GPSC 5  
GPSC 3

5. That the committees may hold additional supplementary hearings after 21 November 2008 as required.
6. That each scheduled day for the initial round of hearings will begin at 9:15 am and conclude by 6:00 pm except on Thursday 16 October 2008 on which day hearings may conclude by 6:30 pm.
7. The committees must hear evidence in public.
8. 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.
9. There is no provision under this resolution for a Minister to make an opening statement before the committee commences questioning

10. A daily Hansard record is to be published as soon as practicable after each day's proceedings.
11. The committees are to present a final report to the House by the first sitting day in March 2009.
12. Members may lodge questions on notice with the Clerk to the committee during a Budget Estimates hearing and up to two days following.
13. All answers to questions taken on notice during the hearing, and questions on notice lodged up to two days following the hearing, must be provided within 21 days, or as otherwise determined by the committee.

## Chapter 2      Operation of General Purpose Standing Committees

### Committee membership

- 2.1      Each GPSC has seven members, comprising:
- three Government members
  - two Opposition members
  - two Cross Bench members.
- 2.2      The membership of each committee is listed at Appendix 4.

### Substitute members

- 2.3      Substitute members may be appointed by notice in writing to the chair of the relevant committee. Notices of substitutions should be submitted by email to the Budget Estimates Secretariat prior to the commencement of the hearing.
- 2.4      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.<sup>4</sup>

### Participating members

- 2.5      Unless the committee decides otherwise, any member of the House may attend a Budget Estimates hearing and question witnesses but may not vote, move any motion or be counted for the purpose of any quorum or division.<sup>5</sup> Unless the committee decides otherwise, any member of the House may also take part in a private meeting of the committee but may not vote, move any motion or be counted for the purpose of any quorum or division.<sup>6</sup>
- 2.6      It is desirable for a member wishing to participate in either a Budget Estimates hearing or deliberative meeting to advise the Budget Estimates Secretariat by email prior to the commencement of the hearing or meeting.

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<sup>4</sup> GPSC Resolution, para 4

<sup>5</sup> Standing order 218(1)

<sup>6</sup> GPSC resolution para 5

## Quorum

- 2.7** 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.<sup>7</sup>
- 2.8** 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 meeting will be adjourned to another day, to be fixed by the chair.<sup>8</sup>

## Chair and deputy chair

- 2.9** 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.
- 2.10** 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 the application of appropriate procedures for moving motions and amendments, for calling divisions and for other methods of resolving disputes between members. The chair may also make rulings on the admissibility of questions.
- 2.11** Although the chair is in control of the 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. The chair may seek agreement from committee members on such matters as allocation of time to members for questions. This helps to avoid dissent and conflict arising during the hearing.
- 2.12** 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.<sup>9</sup>
- 2.13** 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.<sup>10</sup>

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<sup>7</sup> Standing order 214

<sup>8</sup> Standing order 215

<sup>9</sup> Standing order 211(2), (3)

<sup>10</sup> Standing order 211(4)

## Chapter 3 Hearings

### Hearing schedule

- 3.1** The initial round of hearings will be held over five days, 13-17 October 2008 at Parliament House. Each hearing day will commence at 9.15 am and finish at 6.00 pm, except on Thursday 16 October 2008, when hearings may conclude at 6:30 pm. A schedule of hearings is at Appendix 1 and is also available at [www.parliament.nsw.gov.au/budgetestimates](http://www.parliament.nsw.gov.au/budgetestimates).
- 3.2** The initial round of supplementary hearings will be held over five days, 17-21 November 2008. A schedule of the days allocated to each committee is at Appendix 2. Individual committees are responsible for deciding whether to hold supplementary hearings.
- 3.3** The Budget Estimates Resolution provides that the GPSCs must hear evidence on the Budget Estimates in public.<sup>11</sup> This prevents the committees from hearing confidential evidence *in camera*.

### Attendance of ministers and government officers

- 3.4** The Budget Estimates Resolution provides that committees may ask for explanations from ministers in the Legislative Council, as well as government officers.<sup>12</sup> Ministers who are members of the Legislative Assembly are invited to give evidence at the Budget Estimates hearings, but cannot be compelled to do so. It is anticipated that ministers from the Legislative Assembly will attend the initial round of hearings voluntarily, according to the timetable at Appendix 1.
- 3.5** Ministers who are members of the Legislative Assembly who attend voluntarily should follow any procedures established by the committee, such as the allocation of question time between Government/Opposition/Cross Bench members. However, a 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.<sup>13</sup>
- 3.6** It is usual for ministers to bring officers of their choice from departments, statutory bodies or corporations to the initial hearings. Where a committee member requests the attendance of a particular witness, the committee should advise the minister in writing prior to the hearing.
- 3.7** After the initial hearings, it is usual that only officers from departments, statutory bodies or corporations attend the supplementary hearings. However a minister may choose to attend a supplementary hearing if he or she wishes to do so.

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<sup>11</sup> Budget Estimates Resolution, para 7

<sup>12</sup> Budget Estimates Resolution, para 8

<sup>13</sup> 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

- 3.8** 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.<sup>14</sup>

## Hearing procedures

### Swearing in witnesses

- 3.9** 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.
- 3.10** Ministers are an exception to the policy of swearing all witnesses, as members of Parliament have previously sworn an oath to that office.
- 3.11** 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

- 3.12** When declaring a hearing open the chair normally makes a short statement to:
- inform the minister of the proposed allocation of times and order for examination of portfolio areas
  - advise the minister of the timeframe for the return of answers to questions on notice
  - advise the media about the rules governing the broadcasting of the committee’s public proceedings (see paras 3.23-3.26)
  - inform the audience that a staff member is on duty for the delivery of messages from persons in the public gallery.
- 3.13** The chair then declares the proposed expenditure open for examination and calls on items of expenditure in the order agreed.

### Minister’s opening statement

- 3.14** There is no provision under the Budget Estimates Resolution for a minister to make an opening statement before the committee commences questioning.<sup>15</sup>

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<sup>14</sup> Standing order 208(c)

<sup>15</sup> Budget Estimates Resolution, para 9

### **Tabled documents**

- 3.15** Witnesses may request to table documents during a hearing. The committee must then decide whether to accept and publish the documents tabled, under Section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975*. 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.
- 3.16** 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. It is not necessary or desirable for documents that are published and publicly available to be tabled as part of a committee inquiry. However, such documents may be circulated to members for their information.
- 3.17** Members are also able to table documents during Budget Estimates hearings, for example if a member wants to question the witnesses on a matter referred to in a document. If the document identifies an individual, the committee should confirm that the member has the consent of that individual to table the document.

### **Documents in the possession of witnesses**

- 3.18** In previous Budget Estimates inquiries the issue has arisen as to whether a committee can compel a witness to immediately provide material in their possession, such as briefing folders, despite an objection from the witness.
- 3.19** 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.
- 3.20** 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.
- 3.21** 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.
- 3.22** 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 sets a time frame for the document to be provided to the committee clerk and establishes procedures for resolving claims of privilege.

**Broadcast of proceedings**

- 3.23** Each GPSC has previously resolved to authorise the broadcasting of its 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).<sup>16</sup>
- 3.24** The Broadcasting Resolution states that a committee may give instructions for the observance of terms and conditions of the Resolution. A committee may also order that part of its proceedings not be recorded or broadcast.<sup>17</sup>
- 3.25** A witness who objects to the broadcasting or televising of proceedings should inform the chair of their objection 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 that the Budget Estimates Resolution requires evidence be heard in public.<sup>18</sup> 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.
- 3.26** The committee should pass a resolution if broadcasting is to be discontinued. A member 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**

- 3.27** A member may move a motion of dissent from a ruling of the chair. In this case, the chair requests that witnesses, members of the public and the media leave the room, and the committee considers the matter in private.
- 3.28** Once the room has been cleared, the dissenting member must state their objection in writing. The chair will inform the committee of the member's grounds for dissent, and the committee will decide whether to uphold the dissent. Once the matter has been decided the witnesses, members of the public and media will be readmitted. Where appropriate, the chair then may advise the audience of the outcome of the dissent motion.

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<sup>16</sup> *LC Minutes* (18/10/2007) 279-181

<sup>17</sup> Broadcasting Resolution, para 4

<sup>18</sup> Budget Estimates Resolution, para 7

**3.29** The dissenting 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.*

*The witnesses and the public are permitted to return. The Chair advises of the outcome of the deliberative meeting.*

## Questions on notice

**3.30** Questions may be placed on notice in one of two ways:

- During a hearing: if a witness is unable to answer a question, 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.

**3.31** The Budget Estimates Resolution provides that answers to all questions on notice must be provided within 21 days, or as otherwise determined by the committee.<sup>19</sup> If there is any variation to the 21-day timeframe for the return of answers to questions on notice, the chair should advise the minister at the beginning of the hearing.

**3.32** Once answers to questions on notice are received they will be published on the committee's website. The minister may request that a particular answer be kept confidential, although the usual practice is for all answers to be made public.

## Questions taken on notice during hearings

**3.33** 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.

<sup>19</sup> Budget Estimates Resolution, para 13

- 3.34** On receipt of the draft transcript of evidence, the Budget Estimates 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.

#### **Written questions on notice**

- 3.35** Members may lodge written questions on notice with the Budget Estimates Secretariat up to two days following the hearing. Written questions on notice will be forwarded to the relevant minister's office. The 21-day time limit also applies to questions submitted in this way.

#### **Supplementary hearings**

- 3.36** Under the Budget Estimates Resolution, the week of 17-21 November 2008 has been set aside for an initial round of supplementary hearings.<sup>20</sup> Individual committees are responsible for making decisions about whether to hold supplementary hearings. The committees may continue to hold additional supplementary hearings after 21 November 2008 as required.<sup>21</sup>
- 3.37** Procedures for supplementary hearings are the same as those for the initial hearings. This includes the 21-day timeframe for the return of answers to questions on notice.

#### **Transcripts of evidence**

- 3.38** A transcript of evidence of the Budget Estimates hearings will be published as soon as practicable after each day's proceedings.<sup>22</sup> Witnesses will be emailed a proof copy of the transcript and asked to make any necessary corrections.

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<sup>20</sup> Budget Estimates Resolution, para 4

<sup>21</sup> Budget Estimates Resolution, para 5

<sup>22</sup> Budget Estimates Resolution, para 10

## Chapter 4 Examination of witnesses

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

### Role of the chair

4.2 After a witness has been sworn (see para 3.9), there is no further 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 that 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.

### Procedures for questioning witnesses

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, committee members 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.
- The chair will determine if questions are in order or are disorderly. If members of a committee member disagree with the decision of the chair, the issue may be determined by a member objecting to the ruling of the chair (see para 3.27-3.29).<sup>23</sup>
- Committees may resolve to restrict questions on a particular portfolio to a specific period of time. However, the committee may later resolve to extend the time for questioning, or alternatively may decide to hold additional hearings.<sup>24</sup>
- Committees have the power to limit the time taken by a witness to answer a question. However, any committee imposing a limit on the time taken by a witness to answer a question should make provision for the witness to apply for an extension of time if required, and any such time limits should be applied somewhat flexibly.<sup>25</sup>

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<sup>23</sup> 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

<sup>24</sup> 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

<sup>25</sup> 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

## Rules governing questions

- 4.4 The Budget Estimates inquiry is a broad-ranging inquiry. Wide latitude is allowed in asking questions on any of the proposed expenditure contained in the 2008-2009 Budget Papers, or on prior expenditure.

### Questions must be relevant

- 4.5 Questions should be relevant to the matter that has been referred to a committee for inquiry and report.<sup>26</sup> In the case of the Budget Estimates inquiry, this refers to the estimates of expenditure from the Consolidated Fund and other matters covered by the budget papers.
- 4.6 The estimates of expenditure relate to the activities of government agencies, which in many cases reflect the implementation of policy. For this reason, the Budget Papers and related documents contain information about departmental activities and implementation of policy. Similarly, information from a number of other sources relate to the expenditure from the Consolidated Fund and are relevant to the Budget Estimates inquiry, such as reports by the Audit Office and policy announcements by ministers or other government officials.<sup>27</sup>

### Questions relating to current committee inquiries

- 4.7 The Budget Estimates inquiry might be one of several inquiries before an individual 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 necessarily a degree of overlap with current committee inquiries.
- 4.8 Questions asked during the Budget Estimates hearings should not attempt to debate the unreported proceedings of other committee inquiries. However, this does not prevent members from asking 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.<sup>28</sup>

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<sup>26</sup> For further discussion see Odgers, *Australian Senate Practice*, 11<sup>th</sup> ed, 'Chapter 16 – Committees: Estimates Committees', <[www.aph.gov.au/senate/pubs/odgers/chap1618.htm](http://www.aph.gov.au/senate/pubs/odgers/chap1618.htm)> (accessed 3 August 2007)

<sup>27</sup> 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

<sup>28</sup> 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

### Questions on government policy

- 4.9** Convention requires that public servants should not be required to justify government policy, because 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.<sup>29</sup>

### Objections to questioning

- 4.10** If a witness objects to a question, or a particular line of questioning, a ruling may be sought from the chair. If a witness objects to answering a question the witness should be invited by the committee to state the ground upon which the objection is taken.
- 4.11** The following list indicates a number of typical reasons a witness may cite, and on which the chair should rule to determine whether the witness is required to answer the question:
- The question seeks adverse reflection on another person.
  - The question is not relevant to the committee's inquiry, ie. the question is 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 or statutory secrecy provisions.
- 4.12** Unless the chair determines immediately that the question should not be pressed, the chair should request that witnesses, members of the public and the media leave the room, to allow the committee to consider the matter in private. The committee should consider 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.

<sup>29</sup> Odgers, *Australian Senate Practice*, 11<sup>th</sup> ed, 'Chapter 17 – Witnesses: Public servants as witnesses', <[www.aph.gov.au/senate/pubs/odgers/chap1709.htm](http://www.aph.gov.au/senate/pubs/odgers/chap1709.htm)> (accessed 3 August 2007)

## Chapter 5      Role of committee members

**5.1**      This section provides information for committee members on the matters to be considered at the deliberative meetings before and after the Budget Estimates hearings, and the procedures for questions on notice.

### **Deliberative meeting before the hearing**

**5.2**      A short deliberative meeting will be held at the start of each day to deal with procedural matters. Meetings will be scheduled each day at 9am, 15 minutes prior to the advertised commencement time for the hearing.

**5.3**      At the deliberative meeting before the hearing, the committee should consider the following matters:

- allocation of question time. Members should decide whether the sequence of questions will be left in the hands of the chair, or whether a specified period of time will be allocated to Government/Opposition/Cross Bench members
- if a committee is to consider more than one portfolio in a particular hearing, members should decide time limits for the examination of each portfolio and the order in which portfolios will be examined
- return date for answers to questions on notice, if not within 21 days (see paras 5.11-5.12)
- publication of answers to questions on notice (see para 5.13)
- any advice of substitute members (see paras 2.3-2.4)
- any advice of participating members (see paras 2.5-2.6).

### **Deliberative meeting after the hearing**

**5.4**      Once questioning has concluded the committee should hold a short deliberative meeting to consider the following matters:

- publication of any tabled documents (see paras 3.15-3.17)
- future committee activity, such as whether to hold supplementary hearings for the portfolio examined during the hearing (see paras 3.36-3.37).

### **Lodging written questions on notice**

**5.5**      The Budget Estimates Resolution provides for written questions on notice to be lodged by members of the Legislative Council with the clerk to the committee up to two working days after the hearing.<sup>30</sup>

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<sup>30</sup> Budget Estimates Resolution, para 12

- 5.6** Questions will be accepted until 5pm on the second working day after the hearing. Members will be advised of the deadline for lodging written questions on notice for each hearing.
- 5.7** Questions will not be accepted after the deadline. Any late questions must instead be lodged on the Questions and Answers paper in the House.
- 5.8** Questions must be provided by email to:
- budget.estimateds@parliament.nsw.gov.au. The subject line should specify the committee number, the hearing date, and the portfolio, eg: ‘GPSC 1: 13 October: Roads’. If an amended version(s) of the questions on notice is later sent, the subject line should specify the version number.
- 5.9** Members should proofread questions prior to lodgement. The Secretariat will not check questions for typographical or grammatical errors before forwarding them to the relevant minister.

#### **Format for written questions on notice**

- 5.10** Written questions on notice should 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?

#### **Return date for answers to questions on notice**

- 5.11** Under the Budget Estimates Resolution, answers taken on notice during the hearings, and written questions on notice, must be provided within 21 days, or as otherwise determined by the committee.<sup>31</sup>

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<sup>31</sup> Budget Estimates Resolution, para 13

- 5.12** When deciding whether to extend the period for the return of answers to questions on notice, committees should consider whether they wish to hold supplementary hearings in the week of 17-21 November. If the return period is extended, the answers may not be received before supplementary hearings are held.

**Publication of answers to questions on notice**

- 5.13** To ensure that the answers to questions on notice are made available as expeditiously as possible, the committee should authorise the committee clerk to publish the answers to questions on notice, after these answers have been circulated to committee members.

## Chapter 6 Role of ministerial contact officers

- 6.1 Each ministers' officer has nominated a contact officer to co-ordinate matters between the minister, his or her department (or relevant statutory body or corporation), and the Budget Estimates Secretariat.
- 6.2 This section provides information for ministerial contact officers on responsibilities before the hearing, questions on notice and transcripts of evidence.

### Responsibilities before the hearing

- 6.3 Before each hearing, the ministerial contact officer is responsible for:
- providing a written list of witnesses identified by job title and agency
  - advising 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)
  - advising of any witness who requires a holy book other than the Bible for taking the oath.
- 6.4 The list of witnesses should be emailed to [budget.estimateds@parliament.nsw.gov.au](mailto:budget.estimateds@parliament.nsw.gov.au) by 12 pm on Thursday 9 October.
- 6.5 The ministerial contact officer will liaise with, and ensure the attendance of, witnesses from departments, statutory bodies or corporations.
- 6.6 If a witness proposes to table any documents with the committee during the hearing, the ministerial contact officer should ensure that there are nine copies of each document (one for each committee member, one for the committee clerk and one for Hansard).

### Questions on notice

- 6.7 Any questions taken on notice during a hearing will be highlighted within the transcript of evidence and forwarded to the minister by email (see paras 3.30-3.34).
- 6.8 Committee members have up to two working days after a hearing to submit written questions. At the earliest, questions will be provided to a minister on the third working day after the hearing. Answers will be due 21 days from the date on which the questions are sent to the minister.
- 6.9 Answers to questions on notice will be automatically published on the committee's website, unless there is a clear request that a particular answer be kept confidential. If there was a request for confidentiality, the committee would meet to consider whether to accede to the request.
- 6.10 A request for confidentiality should be made on the cover letter enclosing the answers. Confidential material should be clearly identified, and separated from material that can be made public.

- 6.11** Answers to questions on notice must be provided by email and in hard copy, to:
- Email – budget.estimateds@parliament.nsw.gov.au
  - Hard copy – delivered to the Secretariat in Room 812, Parliament House
- 6.12** Ministerial contact officers should ensure that they notify the Secretariat via email each time they deliver hard copy material.

### **Transcripts of evidence**

- 6.13** Electronic copies of proof transcripts will be emailed to ministers. Proof transcripts will also be available on each committee's website.
- 6.14** Ministers will be asked to distribute electronic copies of proof transcripts to the witnesses who accompanied them to the hearing. Ministers and other witnesses will be asked to make any necessary corrections to the proof transcript, and to return the corrected transcripts by a specified date. 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.

## Chapter 7 Conclusion of inquiry

### Reporting date

- 7.1 The GPSCs are required to report to the House on the Budget Estimates by the first sitting day in March 2009.<sup>32</sup> A committee may request that the House extend this reporting date.

### Report content

- 7.2 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.

- 7.3 The report of a committee, as far as practicable, should reflect unanimity of opinion within the committee, and it is the responsibility of committee members to seek to achieve unanimity of opinion. Where unanimity is not practicable, the committee's report should reflect the views of all members. 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 no more than 1,000 words in length.<sup>33</sup>

### Tabling reports

- 7.4 At the conclusion of the inquiry the committee will table the committee report (including minutes of proceedings), answers to questions on notice, tabled documents and transcripts of evidence.

- 7.5 If the House is not sitting when the committee wishes to report, the committee may present its report to the Clerk of the Parliaments.<sup>34</sup> 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 proceedings.

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<sup>32</sup> Budget Estimates Resolution, para 11

<sup>33</sup> Standing order 228 (4)

<sup>34</sup> Standing order 231

## Appendix 1 Initial hearings schedule

\*\*Final as at 24 September 2008

### Monday 13 October

Time	Portfolio	GPSC	Room
9:15 am-11 am	Roads	1	814/815
11:15 am-1 pm	Ports and Waterways	1	814/815
9:15 am-1 pm	Health, Central Coast	2	Jubilee
2 pm-4:30 pm	Finance, Infrastructure, Regulatory Reform	1	814/815
4:45 pm-6 pm	The Legislature	1	814/815
2 pm-4:30 pm	Ageing, Disability Services	2	Jubilee
4:45 pm-6 pm	Aboriginal Affairs	2	Jubilee

### Tuesday 14 October

Time	Portfolio	GPSC	Room
9:15 am-1 pm	Treasury	1	814/815
9:15 am-11:45 am	Local Government	3	Jubilee
12 noon-1 pm	Mental Health	3	Jubilee
2 pm-5 pm	Premier	1	814/815
5:15 pm-6 pm	Arts	1	814/815
2 pm-4 pm	Police	3	Jubilee
4:15 pm-5 pm	Lands	3	Jubilee
5:15 pm-6 pm	Emergency Services	3	Jubilee

**Wednesday 15 October**

Time	Portfolio	GPSC	Room
9:15 am-1 pm	Education and Training	2	814/815
9:15 am-1 pm	Transport, Illawarra	4	Jubilee
2 pm-2:45 pm	Women	2	814/815
3 pm-6 pm	Community Services	2	814/815
2 pm-6 pm	Planning, Redfern Waterloo	4	Jubilee

**Thursday 16 October**

Time	Portfolio	GPSC	Room
9:15 am-1 pm	Fair Trading, Citizenship	4	Jubilee
9:15 am-11:45 am	Climate Change and the Environment	5	814/815
12 noon-1 pm	Commerce	5	814/815
2 pm-3:45 pm	Small Business, Science & Medical Research	4	Jubilee
4 pm-6 pm	Tourism, Hunter	4	Jubilee
2 pm-6:30 pm	Primary Industries, Mineral Resources	5	814/815

**Friday 17 October**

Time	Portfolio	GPSC	Room
9:15 am-1 pm	Attorney General, Justice, Industrial Relations	3	814/815
9:15 am-11:15 am	Energy	5	Jubilee
11:30 am-1 pm	State Development	5	Jubilee
2 pm-4 pm	Gaming and Racing, Sport and Recreation	3	814/815
4:15 pm-6 pm	Juvenile Justice, Volunteering, Youth	3	814/815
2 pm-4:15 pm	Water, Rural Affairs, Regional Development	5	Jubilee
4:30 pm-6 pm	Housing, Western Sydney	5	Jubilee

## Appendix 2 Initial hearings schedule by committee

\*\*Final as at 24 September 2008

### General Purpose Standing Committee No. 1

Date	Time	Portfolio	Room
13 October	9:15 am-11 am	Roads	814/815
13 October	11:15 am-1 pm	Ports and Waterways	814/815
13 October	2 pm-4:30 pm	Finance, Infrastructure, Regulatory Reform	814/815
13 October	4:45 pm-6 pm	The Legislature	814/815
14 October	9:15 am-1 pm	Treasury	814/815
14 October	2 pm-5 pm	Premier	814/815
14 October	5:15 pm- 6pm	Arts	814/815

### General Purpose Standing Committee No. 2

Date	Time	Portfolio	Room
13 October	9:15 am-1 pm	Health, Central Coast	Jubilee
13 October	2 pm-4:30 pm	Ageing, Disability Services	Jubilee
13 October	4:45 pm-6 pm	Aboriginal Affairs	Jubilee
15 October	9:15 am-1 pm	Education and Training	814/815
15 October	2 pm-2:45 pm	Women	814/815
15 October	3 pm-6 pm	Community Services	814/815

**General Purpose Standing Committee No. 3**

<b>Date</b>	<b>Time</b>	<b>Portfolio</b>	<b>Room</b>
14 October	9:15 am-11:45 am	Local Government	Jubilee
14 October	12 noon-1 pm	Mental Health	Jubilee
14 October	2 pm-4 pm	Police	Jubilee
14 October	4:15 pm-5 pm	Lands	Jubilee
14 October	5:15 pm-6 pm	Emergency Services	Jubilee
17 October	9:15 am-1 pm	Attorney General, Justice, Industrial Relations	814/815
17 October	2 pm-4 pm	Gaming and Racing, Sport and Recreation	814/815
17 October	4:15 pm-6 pm	Juvenile Justice, Volunteering, Youth	814/815

**General Purpose Standing Committee No. 4**

<b>Date</b>	<b>Time</b>	<b>Portfolio</b>	<b>Room</b>
15 October	9:15 am-1 pm	Transport, Illawarra	Jubilee
15 October	2 pm-6 pm	Planning, Redfern Waterloo	Jubilee
16 October	9:15 am-1 pm	Fair Trading, Citizenship	Jubilee
16 October	2 pm-3:45 pm	Small Business, Science and Medical Research	Jubilee
16 October	4 pm-6 pm	Tourism, Hunter	Jubilee

**General Purpose Standing Committee No. 5**

<b>Date</b>	<b>Time</b>	<b>Portfolio</b>	<b>Room</b>
16 October	9:15 am-11:45 am	Climate Change and the Environment	814/815
16 October	12 noon-1 pm	Commerce	814/815
16 October	2 pm-6:30 pm	Primary Industries, Mineral Resources	814/815
17 October	9:15 am-11:15 am	Energy	Jubilee
17 October	11:30 am-1 pm	State Development	Jubilee
17 October	2 pm-4:15 pm	Water, Rural Affairs, Regional Development	Jubilee
17 October	4:30 pm-6 pm	Housing, Western Sydney	Jubilee

## Appendix 3 Supplementary hearings schedule

\*\*Each committee will decide whether to hold supplementary hearings in the week 17-21 November. The timetable for this week will therefore not be known until the initial round of hearings is completed.

### Monday 17 November

Committee	Time	Portfolio
General Purpose Standing Committee No. 1	TBA	TBA
General Purpose Standing Committee No.2	TBA	TBA

### Tuesday 18 November

Committee	Time	Portfolio
General Purpose Standing Committee No. 1	TBA	TBA
General Purpose Standing Committee No. 3	TBA	TBA

### Wednesday 19 November

Committee	Time	Portfolio
General Purpose Standing Committee No. 4	TBA	TBA
General Purpose Standing Committee No. 2	TBA	TBA

### Thursday 20 November

Committee	Time	Portfolio
General Purpose Standing Committee No. 4	TBA	TBA
General Purpose Standing Committee No. 5	TBA	TBA

### Friday 21 November

Committee	Time	Portfolio
General Purpose Standing Committee No. 5	TBA	TBA
General Purpose Standing Committee No. 3	TBA	TBA

## Appendix 4 Committee membership

### General Purpose Standing Committee No. 1

Revd the Hon Fred NILE MLC (Chair)	CDP
The Hon Kayee GRIFFIN MLC (Deputy Chair)	ALP
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	ALP
The Hon Ian WEST MLC	ALP

### General Purpose Standing Committee No. 2

The Hon Robyn PARKER MLC (Chair)	Liberal Party
The Hon Christine ROBERTSON MLC (Deputy Chair)	ALP
The Hon Tony CATANZARITI MLC	ALP
The Hon Greg DONNELLY MLC	ALP
The Hon Marie FICARRA MLC	Liberal Party
Rev the Hon Dr Gordon MOYES MLC	CDP
Ms Lee RHIANNON MLC	The Greens

### General Purpose Standing Committee No. 3

The Hon Amanda FAZIO MLC (Chair)	ALP
The Hon John AJAKA MLC (Deputy Chair)	Liberal Party
The Hon Greg DONNELLY MLC	ALP
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	ALP

**General Purpose Standing Committee No. 4**

The Hon Jenny GARDINER MLC (Chair)	The Nationals
The Hon Lynda VOLTZ MLC (Deputy Chair)	ALP
The Hon David CLARKE MLC	Liberal Party
The Hon Kayee GRIFFIN MLC	ALP
Ms Sylvia HALE MLC	The Greens
The Hon Roy SMITH MLC	Shooters Party
The Hon Henry TSANG MLC	ALP

**General Purpose Standing Committee No. 5**

Mr Ian COHEN MLC (Chair)	The Greens
The Hon Rick COLLESS MLC (Deputy Chair)	The Nationals
The Hon Robert BROWN MLC	Shooters Party
The Hon Tony CATANZARITI MLC	ALP
The Hon Charlie LYNN MLC	Liberal Party
The Hon Lynda VOLTZ MLC	ALP
The Hon Helen WESTWOOD MLC	ALP