

Submission
No 2

**INQUIRY INTO PROCEDURES FOR DEALING WITH
DISORDER BY MEMBERS DURING COMMITTEE
PROCEEDINGS**

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Mr Ben Franklin LC Member
Chair
Procedure Committee
Legislative Council
NSW Parliament

By email: ProcedureCommittee@parliament.nsw.gov.au

Dear Mr Franklin

Procedure for dealing with disorder by members during committee proceedings

Thank you for the opportunity to make a submission to the committee's inquiry.

The responsibility for maintaining order during Senate committee proceedings largely rests with the committee chair, and while there are rules that can be applied to deal with disorderly conduct by senators during committee proceedings, this is rarely required.

The rules of debate that apply in the Senate also apply in committee proceedings; for example, in relation to offensive language and personal reflections (Senate Standing Order 193). Points of order may be raised and objections to a chair's ruling may be taken. A chair may make a ruling on a question of order, and such a ruling must be based on known rules of the Senate.

A member of a committee may move a motion that the chair's ruling be dissented from and, if this motion is passed, the decision of the committee is substituted for the ruling of the chair, subject to any subsequent decision by the Senate. If the motion of dissent is not passed, the chair's ruling stands (also subject to any later decision by the Senate).

While the standing orders contain no provisions to guide how a committee is to proceed in a case of disorderly conduct by a senator in a committee, such as a senator using offensive words and refusing to withdraw them, committees follow the procedures of the Senate in so far as they are applicable. As noted in [Odgers' Australian Senate Practice](#) at pages 525-526, if a senator is asked to withdraw

offensive words and refuses, the chair may report (“name”) the senator and a motion may be moved that the senator be directed to withdraw from the meeting of the committee. Before that stage is reached, it is within the discretion of the chair to ask a disorderly senator to withdraw from the meeting. If a senator were to refuse to withdraw from a meeting after the committee has ordered his or her withdrawal, the committee would not be able to take any action other than to terminate the meeting and report the matter to the Senate.

An effective device employed by many committee chairs to maintain order is to suspend the hearing for a short time in order for senators to consider their conduct, or to allow time for the committee to meet in private to discuss points of concern, or to decide on a course of action.

Maintenance of order is supported by established processes and practices in committees, under direction and guidance from the chair, such as:

- circulation of proposed submitters and witnesses in advance, giving all members of the committee time to consider the collection of evidence for inquiries
- input into the timing and location of hearings
- time to consider and propose additions or amendments to chair’s draft reports
- effective allocation of the call by the chair during hearings to ensure that senators may ask questions of witnesses
- the use of private meetings for senators to raise issues and discuss and resolve concerns.

In addition, senators employ a range of less formal measures to assist with the orderly conduct of committee proceedings. This incorporates explicit training for chairs, meetings of the Chairs’ Committee, chaired by the Deputy President and Chair of Committees, to discuss matters related to order and the effective conduct of proceedings, as well as development of a range of scripts for committee chairs to use in proceedings to remind senators of their obligations, including the requirement to comply with [Privilege Resolution 1](#) – *procedures to be observed by Senate committees for the protection of witnesses*.

I would be very happy to provide further information if required.

Yours sincerely,

Clerk