

**INQUIRY INTO UPDATING THE STANDING ORDERS TO  
REQUIRE RESPECTFUL BEHAVIOUR IN THE CHAMBER,  
PARTICULARLY AS THEY RELATE TO SEXISM AND  
RACISM**

**Organisation:** Legislative Assembly, Parliament of Victoria

**Date Received:** 2 May 2024

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# Legislative Assembly

2 May 2024

Hon Ben Franklin MLC  
Chair, Procedure Committee  
Legislative Council  
Parliament of NSW

[procedurecommittee@parliament.vic.gov.au](mailto:procedurecommittee@parliament.vic.gov.au)

Dear Chair,

## **Submission to inquiry into rules for respectful behaviour in the Chamber**

I attach my submission to the inquiry, setting out the relevant standing orders and practice of the Legislative Assembly of Victoria. I hope it is helpful to the Committee.

Please come back to me with any queries to \_\_\_\_\_ or \_\_\_\_\_

I wish the Committee well with its work.

Regards

Bridget Noonan

Clerk of the Legislative Assembly and Clerk of the Parliaments

Submission from the Clerk of the Legislative Assembly, Parliament of Victoria on the inquiry into updating the standing orders to require respectful behaviour in the Chamber, particularly as they relate to sexism and racism

**Words spoken in debate**

- 1 The Victorian Legislative Assembly has three main standing orders that govern respectful language in the Chamber:
  - A prohibition against imputations or improper motives (imputations) and personal reflections on members other than by substantive motion — Standing Order 118.
  - A requirement not to use offensive or unbecoming words in relation to other members — Standing Order 119.
  - A process for objecting to words that are personally offensive, objectionable or unparliamentary — Standing Order 120.
- 2 It is possible that a single comment could infringe all these rules. The Speaker has ruled that it is a matter for the Chair to decide what constitutes unparliamentary language and that a member may not circumvent the rules by quoting unparliamentary language.
- 3 Where a member infringes any of these rules, the Chair may intervene or leave it to other members to object via a point of order. The objection must be taken immediately. The approach taken by Chairs varies depending on the severity of the offence, the nature of the debate etc.
- 4 If a member infringes the rule prohibiting **imputations and personal reflections**, the Chair rules the comment out of order. If a member persists in making such comments, the Chair may refuse to hear them any further. Except during question time, it is unusual for the Chair to sit a member down.
- 5 For **objectionable and unparliamentary words**, the Chair may order the member to withdraw the words and may order an apology. The Assembly's practice is for the Chair to require an apology only in extreme circumstances.

- 6 If a member finds words ***personally offensive***, they may ask the Chair to order the words be withdrawn. Only the member who the words were about may request they be withdrawn. Like with objectionable and unparliamentary words, the Chair may order the member to withdraw the words and may order an apology. In this instance also, the Chair only rarely orders an apology.
- 7 A withdrawal and apology must be made without explanation or qualification. Members usually comply. If a member does not comply with the Chair's ruling, the Speaker or Deputy Speaker may order the member to withdraw from the Chamber for up to 90 minutes, for refusing to comply with an order of the Chair.<sup>1</sup> That can be the end of the matter or the Speaker may choose to pursue it further in extreme circumstances, for example by requiring an apology later, inside or outside the Chamber, or naming the member.
- 8 The rule about personally offensive words can be a difficult one for the Chair as members can feel offended during heated debates without SO 120 necessarily being engaged. Speaker's rulings say that when deciding if words are personally offensive the Chair considers:
- If the words were made about an individual or a group. Words used collectively are not deemed personal to a member and the Chair will not ask the member to withdraw them.
  - If the words were politically or personally offensive. Comments that accuse the views or policies of a member as being misguided or wrong may be politically offensive but they are allowed. The Chair will not ask a member who makes politically offensive comments to withdraw them.
  - If the member is offended because they believe the comments are false. The Chair will not ask the member to withdraw simply because another member says those comments are false.
  - If the member is offended because they disagree or have a different perspective. Because disagreement is part of debate, the Chair will not ask for such comments to be withdrawn.

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<sup>1</sup> Standing Order 124.

- 9 In all circumstances, the Chair tries to avoid repeating the words or asking the member to repeat them. The Chair usually accepts the assertion that the member said the offending words. However, in some circumstances, the Chair may ask the member to confirm they said those words before asking them to withdraw the words. When the Chair asks for confirmation, it is not an opportunity for the member to debate the issue or argue that no offence was meant. Instead the member can only confirm or deny the allegation that they said the words. The Chair then accepts this at face value.

### **Rules concerning civility**

- 10 The Legislative Assembly has only a handful of standing orders about civility more generally. These focus on respect for the Chair and include addressing all remarks to the Chair, sitting down in silence with the Chair stands and deferring to the Chair when passing in front of the table.<sup>2</sup>
- 11 The legislated members' code of conduct includes requirements that members must:
- 'treat all persons with respect and have due regard for their opinions, beliefs, rights and responsibilities'
  - 'ensure that their conduct as a Member does not bring discredit upon the Parliament' and
  - 'be fair, objective and courteous ... without detracting from the importance of robust public debate in a democracy, in their dealings with other Members.'<sup>3</sup>
- 12 A wilful contravention of the code of conduct is a contempt of Parliament.<sup>4</sup> However the Privileges Committee has issued guidance that, in relation to complaints of breaches of the three requirements listed in paragraph 11, it 'will not consider matters that occur during debates or are directly related to sittings of the House' unless the House refers the matter to the Committee. The Committee notes that such behaviour should be dealt with by the House.<sup>5</sup> It is therefore unlikely the Committee will investigate a complaint about sexist or racist behaviour in the Chamber.

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<sup>2</sup> Standing Orders 103, 116 and 117

<sup>3</sup> *Members of Parliament (Standards) Act 1978* (Vic) ss 6(d) and 13(1) and 13(3).

<sup>4</sup> *Members of Parliament (Standards) Act 1978* (Vic) s 31.

<sup>5</sup> Privileges Committee, Legislative Assembly, Victoria, *Report on certain complaints under Part 3 of the Members of Parliament (Standards) Act 1978*, March 2022, p 2. Alleged breaches in other circumstances may be referred by the Speaker who may then refer the matter to the Committee.

- 13 Neither the House or the Standing Orders Committee has specifically reviewed the House's practices in relation to sexism or racism.
- 14 The relevant standing orders and rulings from the Chair are attached as an appendix.

**118 — Imputations and personal reflections**

Imputations of improper motives and personal reflections on the Sovereign, the Governor, a judicial officer or members of the Assembly or the Council are disorderly other than by substantive motion.

**119 — No offensive language against other members**

A member must not use offensive or unbecoming words in relation to another member.

**120 — Objection to words**

If a member objects to words used in debate:

- (1) The objection must be taken immediately.
- (2) If the words relate to a member of the House and that member finds them personally offensive, the Chair will order the words to be withdrawn and may require an apology.
- (3) If the Chair considers that any other words used are objectionable or unparliamentary, the Chair may order the words to be withdrawn and may require an apology.
- (4) A withdrawal, and an apology, must be made without explanation or qualification.

Selected rulings

*Restriction on imputations and personal reflections*

**Quoting.** A member may not read to the House a letter containing language which a member would not be allowed to use in relation to another member.

*Hansard, 13 October 1927, p 1926 (Snowball)*

*Timing of objection*

**Objections must be raised immediately.** As a general rule, members should immediately raise with the Chair words found offensive, objectionable or unparliamentary. However, the Chair can exercise discretion to enable the matter to be raised at a later stage of the proceedings.

*Hansard, 18 April 1991, p 1420 (Coghill)*

*Personally offensive words*

**Determining what may be personally offensive.** In determining what is personally offensive the Chair actively assesses whether remarks were made about the individual personally, or whether the comments were points in debate subsequently to be refuted or challenged. In particular, the Chair may take into consideration:

- (1) The distinction between things members find politically offensive and personally offensive. Debate can involve characterising the views or policies of opponents as misguided or wrong. That is different from making disparaging comments about opponents personally.
- (2) That statements are not offensive merely on the basis that they are alleged to be false.
- (3) That disagreeing with what someone says is not the same as being personally offended by it. Disagreement is part of debate and questions of clarification, accuracy and balance are issues to refute in the course of debate.

*Hansard, 28 November 2017, pp 3994–5 (Brooks)*



**Words used directly or generally.** Under [SO 120](#) a member wishing to object to words must do so immediately, and if they relate to that member and that member finds them personally offensive, the Chair will order that the words be withdrawn and may require an apology.

As no two situations are the same it is not possible to be prescriptive about what should happen in each situation. There will always be an element of judgement and discretion the Chair needs to exercise. However, broadly, there are two scenarios:

- (1) A member reflects directly on another member, either by name or in such a way to clearly identify that member. In that situation the presumption is that the words will be withdrawn. However, to guard against frivolous points of order, if the Chair is not satisfied that any reflections have taken place, they can refuse to uphold the point of order.
- (2) A member makes comments generally about other members. Words in this context do not have the same impact as those made directly against one member. In this situation the presumption is that a member cannot seek a withdrawal as the remarks have been made collectively. However, to guard against inappropriate comments being made, the Chair too has discretion in this situation. If the Chair considers the remarks are more than criticism and it is reasonable to view them as a personal attack on an individual member, the Chair can seek a withdrawal.

*Hansard, 7 December 2011, p 6119 (Smith)*

**Member cannot seek withdrawal for another member.** A member may not ask on behalf of another member for a withdrawal of personally offensive words relating to that other member.

*Hansard, 20 March 1997, p 194 (Plowman)*

*Objectionable or unparliamentary words*

**Chair's discretion.** It is up to the Chair to determine what is unparliamentary language.

*Hansard, 29 October 1997, p 793 (Plowman)*

**Chair's role.** If a Chair hears unparliamentary language they may intervene and caution a member. Alternatively members may take a point of order to bring it to the Chair's attention.

*Hansard, 28 November 2017, p 3994 (Brooks)*

**Unparliamentary language – must not quote.** Unparliamentary language is not acceptable and quoting such language from another source does not make it acceptable. Members need to be selective and perhaps substitute other words.

*Hansard, 16 November 1994, p 1831 (Deputy Speaker McGrath) and 20 March 2019, p 1133 (Brooks)*

**'Lying', 'telling lies', 'lied', 'liar' etc unparliamentary.** Any variation of the word lying when used about members, such as telling lies, lied or liar is unparliamentary (in addition to being an [imputation](#)) and will not be tolerated by the Chair.

*Hansard, 11 October 2011, p 3556 (Smith)*

Note: This is a long-standing practice. For example, in 1967 the Deputy Speaker noted that the word 'liar' was unparliamentary. *Hansard, 25 October 1967, p 1313.*

*Withdrawing words*

**Withdrawal without qualification.** A withdrawal of words must be without qualification.

*Hansard, 28 October 1988, p 367 (Coghill); 11 September 1996, p 136 (Plowman)*

Note: This ruling applies to the withdrawal of [personally offensive words](#) under SO 120(2) and to [objectionable and unparliamentary words](#) under SO 120(3).

**Comment must not be repeated.** Where a member has been asked to withdraw words, the member should simply withdraw the comment and not repeat it.

*Hansard, 21 June 2007, p 2175 (Lindell)*

**Imputations cannot be withdrawn.** An imputation cannot be withdrawn, but imputations are disorderly and not allowed.

*Hansard, 23 August 2017, p 2473 (Brooks)*

**Chair's concern over continued requests — cut and thrust of debate.** The Deputy Speaker noted his concern about continual requests for the withdrawal of words that are part of the cut and thrust of debate. When members take exception to words used in the House, they limit parliamentary vocabulary, which stifles good and productive debate.

*Hansard, 14 September 1994, p 293 (Deputy Speaker McGrath)*

**Speaker may request withdrawal without point of order.** Without a point of order being raised, the Speaker has ruled words unparliamentary and asked for them to be withdrawn.

*Hansard, 17 November 1993, p 1862 (Delzoppo)*