

Submission
No 9

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

Organisation: Government Whip

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Government Whip in the Legislative Council

10 May 2024

The Hon. Ben Franklin MLC
President
Chair, Procedure Committee
By Email: procedurecommittee@parliament.nsw.gov.au

Dear Chair,

Re: Submission – Inquiry into procedures for dealing with disorder by members during committee proceedings.

I make this submission on behalf of Government members.

The committee process does and should involve robust questioning and investigation into complex and polarising topics. However, much like other parliamentary business, the maintenance of appropriate standards of order and decorum is an important foundation of committee work.

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

To ensure the integrity and effectiveness of the Legislative Council and committee process - and to prevent any risks to the wellbeing and safety of participants - committee members and witnesses must be treated with dignity, professionalism, respect, and always afforded procedural fairness during the committee process.

To achieve this, the Government submits that committee chairs be provided with an appropriate mechanism to deal with serious disorder during the committee process. In considering such a mechanism, appropriate guidelines should be put in place to ensure this power is only deployed under appropriate circumstances and not applied in an unnecessarily restrictive manner or misused for partisan reasons.



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The following procedure is therefore recommended:

- That committee chairs can put members on a call for disorder under the guidance of the Legislative Council standing and sessional orders; and/or resolution establishing the committee; and/or the procedural fairness resolution. It is important to note that the Legislative Council Practice currently states that house procedure may be used to guide committee proceedings – though the enforcement of these procedures in the committee context is unclear.
- To ensure this power is appropriately utilised, all committee chairs and the committee secretariat would receive training and support regarding the types of behaviour that warrant a member being put on a call.
- Any member would be able to move that the committee dissent to the chair's ruling to put a member on a call. Any such dissent would be considered by the committee at a private deliberative meeting in the usual way.
- When a committee member has been put on three calls, the chair should be bound to resolve the committee into a private deliberative meeting to consider ejecting the member on three calls. The chair should then be bound to propose a motion to the committee that the member is ejected, specifying a timeframe of ejection no later than the end of the hearing. During that period, the member should not be able to be substituted by another member.
- The motion could be subject to any amendments by committee members, and then voted on by the committee.

Such a procedure may also be applied to any participating member of the committee.

Due to the lack of any enforcement mechanism being available in the committee context, it is recommended that if the ejected member refuses to voluntarily leave the hearing or meeting following such a resolution, that the committee may immediately halt its activity and report this to the House. This will necessarily occur when the House next sits.

It is the view of the Government that such a procedure could be trialled by the House in the form of a time-limited sessional order.

Bob Nanva
Government Whip in the Legislative Council