



Procedures for the Protection of Witnesses

The Legislative Assembly's Standing Order 210 sets out the procedures for committees to follow when dealing with prospective witnesses and the rights and responsibilities that apply to witnesses appearing before committees.

Unless otherwise ordered the following procedures will be followed by Committees of the Assembly when dealing with witnesses and prospective witnesses:

- (1) a witness will be invited to attend a Committee meeting to give evidence: A witness will be summoned to appear (whether or not the witness was previously invited to appear) only where the Committee has made a decision that the circumstances warrant the issue of a summons.
- (2) where the Committee desires that a witness produce documents relevant to the Committee's inquiry, the witness will be invited to do so, and an order that documents be produced will be made (whether or not an invitation to produce documents has previously been made) only where the Committee has made a decision that the circumstances warrant such an order.
- (3) a witness will be given reasonable notice of a meeting at which the witness is to appear, and supplied with a copy of the Committee's terms of reference, a statement of the matters expected to be dealt with during the witness's appearance, and a copy of these procedures: where appropriate, a witness may be supplied with a transcript of relevant evidence already taken.
- (4) a witness will be given an opportunity to make a submission in writing before appearing to give oral evidence.
- (5) reasonable opportunity must be available for a witness to raise any matters of concern to the witness relating to the witness's submission or the evidence the witness is to give before the witness appears at a meeting.
- (6) a witness will have reasonable access to any documents that the witness has produced to the Committee.
- (7) a witness will be offered, before giving evidence, the opportunity to make application, before or during the hearing of the witness's evidence, for any or all of the witness's evidence to be heard in private session, and will be invited to give reasons for any such application. If the application is not granted, the witness will be notified of reasons for that decision.
- (8) the Committee may table in the Assembly or publish evidence given in private session after consideration of the circumstances and deliberating that the circumstances are so extraordinary as to warrant such disclosure. Before giving any evidence in private session, a witness will be informed that it is within the power of the Committee to authorise publication of such evidence and that the Assembly also has the power to order the production and publication of such evidence.
- (9) a Member, in a protest or dissent added to a report, may not disclose evidence taken in camera unless so authorised by the Committee.
- (10) should the Committee consider it essential that evidence given or information received in private session is published or that it is essential that such evidence or information be included in the Committee's report the Chairman or Secretary of the Committee must make every effort to discuss the matter with the relevant witness in an effort to minimise any potential damage to the witness which may flow from that publication or usage.
- (11) Chairman will take care to ensure that all questions put to witnesses are relevant to the Committee's inquiry and that the information sought by those questions is necessary for the purpose of that inquiry. Where a Member of the Committee requests discussion of a ruling of the Chairman on this matter, the Committee will deliberate in private session and determine whether any question which is the subject of the ruling is to be permitted.
- (12) where a witness objects to answering any question put to the witness on any ground, including the ground that the question is not relevant or that the answer may incriminate the witness, the witness will be invited to state the ground upon which objection to answering the question is taken. Unless the Committee

determines immediately that the question should not be pressed, the Committee will then consider in private session whether it will insist upon an answer to the question, having regard to the relevance of the question to the Committee's inquiry and the importance to the inquiry of the information sought by the question: If the Committee determines that it requires an answer to the question, the witness will be informed of that determination and the reasons for the determination, and will be required to answer the question only in private session, unless the Committee determines that it is essential to the Committee's inquiry that the question be answered in public session; and where a witness declines to answer a question to which the Committee has required an answer, the Committee will report the facts to the Assembly.

- (13) where a Committee has reason to believe that evidence about to be given may reflect adversely on a person, the Committee will give consideration to hearing that evidence in private session.
- (14) where a witness gives evidence reflecting adversely on a person and the Committee is not satisfied that that evidence is relevant to the Committee's inquiry, the Committee will give consideration to expunging that evidence from the transcript of evidence, and to forbidding the publication of that evidence.
- (15) where evidence is given which reflects adversely on a person and action of the kind referred to in paragraph (14) is not taken in respect of the evidence, the Committee will provide reasonable opportunity for that person to have access to that evidence and to respond to that evidence by written submission and appearance before the Committee.
- (16) a witness may make application to be accompanied by counsel and to consult counsel in the course of a meeting at which the witness appears. In considering such an application, the Committee will have regard to the need for the witness to be accompanied by counsel to ensure the proper protection of the witness. If an application is not granted, the witness will be notified of reasons for that decision.
- (17) a witness accompanied by counsel will be given reasonable opportunity to consult counsel during a meeting at which the witness appears.
- (18) an officer of a department of the Territory or of the Commonwealth may not be asked to give

opinions on matters of policy and be given reasonable opportunity to refer questions asked of the officer to superior officers or to a Minister.

- (19) reasonable opportunity will be afforded to witnesses to make corrections of errors of transcription in the transcript of their evidence and to put before the Committee additional material supplementary to their evidence and
- (20) where the Committee has any reason to believe that any person has been improperly influenced in respect of evidence which may be given before the Committee, or has been subjected to or threatened with any penalty or injury in respect of any evidence given, the Committee will take all reasonable steps to ascertain the facts of the matter: Where the Committee considers that the facts disclose that a person may have been improperly influenced or subjected to or threatened with penalty or injury in respect of evidence which may be or has been given before the Committee, the Committee will report the facts and its conclusions to the Assembly.

Further Information

For further information contact the Committee
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