



Legislative Assembly of the Northern Territory

Committee Manual Practice and Procedures

November 2024



Committee Manual

Practice and Procedures



Legislative Assembly of the Northern Territory

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1 Introduction

- 1.1 This manual has been prepared for members, staff of the Department of the Legislative Assembly and other interested individuals as a guide to the role and operation of Assembly committees in the Northern Territory. Standing, Sessional and other Orders, relevant legislation, and parliamentary convention have been taken into account in the preparation of this manual. As the Assembly follows the practice of the Australian House of Representatives on any issue where it has not made its own orders, reference is also made to the *House of Representatives Practice*.¹

Role and Function of Committees

- 1.2 Assembly committees undertake functions of the Assembly that can more conveniently be performed by a small group of members. This commonly includes inquiring into and reporting on matters of public importance, such as government activities, difficult issues of public policy, or the merits of a proposed law. They are extensions of the Assembly and operate according to the authority delegated to them.
- 1.3 Inquiries are conducted by gathering information from individuals, organisations, government departments and experts on the matters being investigated. Committees examine evidence, draw reasoned conclusions and write reports that make recommendations to the Assembly and the Government. Committees can improve public accountability of government and contribute towards a better-informed government administration and the development of public policy.
- 1.4 Committees provide opportunities for members of the Legislative Assembly and members of the public to be in personal contact as they take part in committee activities such as hearings, site visits and inspections. This can promote public awareness and debate of the issues being considered by the Assembly and allows more direct public input into parliamentary and policy processes. They also give members the opportunity to exchange views across party lines and reach conclusions and recommendations on matters of public interest referred to the committees.

Types of Committees

- 1.5 The Legislative Assembly of the Northern Territory has three types of committees: standing, sessional, and select. These terms refer to the duration of the life of a committee. Committees can also be categorised by function, with 'domestic committees' concerned with the internal governance of the Assembly, and 'scrutiny committees' concerned with scrutinising the Government and inquiring into matters of interest to the Assembly.

¹ D. R. Elder, (ed) *House of Representatives Practice (Seventh Edition)*, Department of the House of Representatives, Canberra ACT, 2018

Standing Committees

- 1.6 Standing committees are appointed to investigate and report on specific subject areas for the life of an Assembly. Some are required by the Standing Orders of the Legislative Assembly and are appointed at the commencement of each Assembly. The Assembly may also decide to establish additional standing committees over time.
- 1.7 Since the eighth Assembly the Standing Orders have provided for six standing committees:
- **Standing Orders Committee** – inquires into, reports on and reviews possible amendments and additions to the Standing Orders to help the Assembly operate efficiently²
 - **Committee of Privileges** – inquires into and reports on complaints of a breach of parliamentary privilege. A breach is any action which breaks the rules of the Parliament or interferes with the working of the Parliament.³ The Committee of Privileges also acts as the **Committee of Members' Interests** which decides how members must declare their interests, such as shares in a company or the details of savings or investments accounts. Members' interests are held in a register and the committee decides how people can view this register.⁴
 - **House Committee** – advises the Speaker on matters relating to the operation of Parliament House and precincts, and services to members.⁵
 - **Subordinate Legislation and Publications Committee** – examines and reports on all legislative or administrative instruments which are required by law to be tabled in the Assembly and which the Assembly may disallow or disapprove.⁶ As was the case in the 14th Assembly, Sessional Order 9 provides that the duties of the Subordinate Legislation and Publications Committee be assigned to the Legal and Constitutional Affairs Committee.
 - **Public Accounts Committee** – examines the receipts and expenditure of the Northern Territory, statements and reports that must be tabled in the Assembly under the *Financial Management Act 1995* and the *Audit Act 1995*, reports of the Auditor-General and reports by statutory bodies tabled in the Assembly, and any other matter within the executive authority of Ministers of the Territory.⁷
 - **Legal and Constitutional Affairs Committee** – inquires into, reports on and makes recommendations on such constitutional and legal matters as may be

² Legislative Assembly of the Northern Territory, *Standing Orders (in force as of 21 April 2016), 4th Edition, Incorporating Amendments as of 25 July 2023*, <https://parliament.nt.gov.au/business/standing-and-sessional-orders>, p. 50

³ Standing Order 174

⁴ *Legislative Assembly (Disclosure of Interests) Act 2008*, s.3

⁵ Standing Order 175

⁶ Standing Order 176

⁷ Standing Order 177

referred to it by the Attorney-General or a resolution of the Assembly. This may include law reform, parliamentary reform, administrative law, legislative review, inter-governmental relations, and the legal or constitutional relationship between the Northern Territory and the Commonwealth.⁸

- 1.8 In February 2020, the Assembly established the **Standing Committee on the ICAC** pursuant to s. 5 of the *Independent Commissioner Against Corruption Act 2017*. Performing the functions of the Assembly Committee under the Act, the committee examines the annual reports of the Commissioner and Inspector, reports to the Assembly on matters relating to tabled reports which have been referred to the Legislative Assembly by the Commissioner, and examines trends in similar bodies elsewhere, including trends in the legislation and administration of these bodies, to ensure the NT ICAC remains fit for purpose.⁹

Sessional Committees

- 1.9 Sessional committees are appointed for the duration of the current session of the Assembly. As set out in Standing Order 2, a session refers to the series of meetings from:

the calling together of the Assembly after a general election until the Assembly is prorogued, or from the calling together of the Assembly after a prorogation until the Assembly is next prorogued.¹⁰

- 1.10 The terms of reference for sessional committees tend to be reasonably broad and no specific timeframe is set for reporting. For example, the Legislative Scrutiny Committee which considers bills referred by the Assembly is a sessional committee.¹¹

Select Committees

- 1.11 Select committees are established by the Assembly to investigate and report on specific matters. Their terms of reference are generally quite narrow and include a set date for reporting to the Assembly. Select committees cease to exist after their final report is tabled. The 13th Assembly's Select Committee on Opening Parliament to the People was a select committee, as are the annual Estimates committees.

Committee Membership

- 1.12 Membership of committees is determined by the Assembly and will generally reflect the composition of the Assembly. The Assembly appoints members to committees by motion moved on notice.¹² If the motion does not name specific

⁸ Standing Order 178

⁹ The Committee was re-established in the 15th Assembly by resolution of the Assembly on 16 October 2024, <https://territorystories.nt.gov.au/10070/971283>

¹⁰ Standing Order 2

¹¹ Legislative Assembly of the Northern Territory, *Fifteenth Assembly, Sessional Orders and Orders of Continuing Effect (adopted 15 October 2024)*, <https://parliament.nt.gov.au/business/standing-and-sessional-orders>, p.11

¹² Standing Order 179

members, it will specify a mechanism for appointment, such as nomination in writing to the Speaker by the relevant Whip.

- 1.13 With the exception of standing committees concerned with the internal governance of the Assembly such as the Standing Orders and House committees, it is rare for Ministers to be appointed as committee members. Given the role of investigatory committees in scrutinising the Government, it is generally considered inappropriate for Ministers to serve on them. However, during the 12th Assembly the Minister for Community Services was appointed to the Select Committee on Foetal Alcohol Spectrum Disorder, and the Chair of the Committee on the Northern Territory's Energy Future continued as chair after appointment to the Ministry.
- 1.14 Similarly, the Speaker and Deputy Speaker may only be appointed to a committee if a Standing or other order requires the appointment, or if they consent.¹³ For example, Standing Orders require that the Speaker is appointed as a member of the Standing Orders and House committees.¹⁴ During the 11th Assembly the Speaker was nominated and consented to appointment to the Legal and Constitutional Affairs Committee. In the 12th Assembly the Speaker chaired the Select Committee on Foetal Alcohol Spectrum Disorder and in the 13th Assembly was a member of the Standing Committee on the ICAC.
- 1.15 Committee service is a duty that may be conferred by the Assembly. A member's consent is not required for appointment to a committee, and there is no mechanism for a member to resign from a committee although they can seek to be discharged. Changes to membership are made by motions to discharge a member and appoint another member in their place. If the Assembly is not meeting, changes can be made by the relevant Whip, independent members or members of minority parties notifying the Speaker, which is effective immediately and confirmed when the Assembly next meets.¹⁵
- 1.16 Members who have been suspended from the service of the Assembly are ineligible to attend or participate in Assembly committees during the period of their suspension.¹⁶ However, members who have been ordered to leave the Chamber for one hour under Standing Order 49 may still attend committee meetings.

Substitute and Participating Members

- 1.17 Established during the 14th Assembly, Sessional Order 10 provides for the substitution of committee members in the case of illness or inability to attend by a member of any committee, or where a member decides to stand down from a committee for a period of time or for a particular inquiry.

¹³ Standing Order 182

¹⁴ Standing Orders 173 & 175

¹⁵ Standing Orders 179 & 181

¹⁶ Standing Order 54

- 1.18 Where the member is a Government or Opposition member, the relevant Whip may nominate in writing to the Chair, or Deputy Chair if it is the Chair that is standing aside, that another member will attend that committee for a period of time or a particular inquiry. Independent members and members of minority parties may nominate in writing to the Chair or Deputy Chair as the case may be that another member has agreed and will attend that committee for a period of time or particular inquiry with the letter of nomination being signed by both members.
- 1.19 A substitute member has all the rights of the member replaced and counts for quorum. However, a member substituting for the chair or deputy chair does not automatically take on those roles. Rather, the committee is required to elect a new chair or deputy chair.¹⁷
- 1.20 Standing Order 193 also provides that any member can participate in a committee's public sessions and question witnesses unless the committee orders otherwise but may not vote and must withdraw when the committee is deliberating or taking evidence in camera. In addition, a member participating in a committee's meeting while not being a member of the committee does not count for the purpose of quorum.¹⁸

Conflict of Interest

- 1.21 As noted in the *Legislative Assembly (Members' Code of Conduct and Ethical Standards) Act 2008*:

Public confidence in the integrity of parliamentary decision-making is essential to an effective democracy. In order to maintain that confidence, it is essential, especially in a relatively small community, for members to avoid any suggestion that they are exploiting their position to gain an improper personal benefit.¹⁹

- 1.22 Under the *Legislative Assembly (Disclosure of Interests) Act 2008*, members must provide the Clerk with a statement specifying their registrable interests within 28 days of making and subscribing an oath or affirmation as a member,²⁰ including those of their spouse or de facto partner and any dependent children.²¹ Registrable interests under the Act include both pecuniary interests and non-pecuniary interests.²²

Pecuniary Interest

- 1.23 Under Standing Order 183, members are ineligible to sit on a committee if they have a particular direct pecuniary (money-related) interest in a matter under inquiry by the committee. As noted in the *House of Representatives Practice*:

¹⁷ Sessional Order 10

¹⁸ Standing Order 193(2)

¹⁹ *Legislative Assembly (Members' Code of Conduct and Ethical Standards) Act 2008*, Cl 1, Part 2, Schedule: Code of Conduct and Ethical Standards

²⁰ *Legislative Assembly (Disclosure of Interests) Act 2008* s 4

²¹ *Legislative Assembly (Disclosure of Interests) Act 2008* s 3(a) & (b)

²² *Legislative Assembly (Disclosure of Interests) Act 2008* schedule

The interest concerned has been interpreted in the very narrow sense of an interest peculiar to a particular person. If, for example, a member were an owner of bank shares he or she would not, for that reason alone, be under any obligation to disqualify himself or herself from serving on a committee inquiring into the banking industry, as the interest would be one held in common with many other people in the community.²³

- 1.24 In the first instance, it is a matter for individual committee members to judge whether they may have a conflict of interest in an inquiry. Where a member's eligibility to sit on a committee is challenged due to a pecuniary interest, the committee may direct the matter to the Assembly for resolution.²⁴

Non-pecuniary Interest

- 1.25 The *Members' Code of Conduct and Ethical Standards* provides that 'Members must avoid conflicts, or apparent conflicts, between their private interests and their official functions'.²⁵

- 1.26 While Standing Orders make no specific provision regarding non-pecuniary conflicts of interests, whenever a member becomes aware of a potential or actual conflict of interest during the course of an inquiry, it is accepted practice for them to:

make an oral declaration in the form of a statement or written statement on the matter at a meeting of the committee at an early stage of the particular inquiry.²⁶

- 1.27 If the conflict is likely to affect the member's judgement to a significant degree, the member should excuse themselves from further participation in the committee inquiry. It may also mean that the member must be discharged from the committee and a replacement member appointed.²⁷ As with pecuniary interests, factors to consider are the extent to which the actual or potential conflict may affect the member's judgement to a greater extent than most citizens.

²³ D. R. Elder (ed), *House of Representatives Practice (Seventh Edition)*, Department of the House of Representatives, Canberra ACT, 2018, pp. 656-7

²⁴ Standing Order 183

²⁵ *Legislative Assembly (Members' Code of Conduct and Ethical Standards) Act 2008*, clause 2, Part 2, Schedule: Code of Conduct and Ethical Standards,

²⁶ D. R. Elder (ed), *House of Representatives Practice (Seventh Edition)*, Department of the House of Representatives, Canberra ACT, 2018, p. 657

²⁷ D. R. Elder (ed), *House of Representatives Practice (Seventh Edition)*, Department of the House of Representatives, Canberra ACT, 2018, p. 657

2 Work of Committees

Sources

- 2.1 Depending on their terms of reference, Assembly committees can be referred to inquire into a matter by a variety of sources including:
- Acts of Parliament
 - Standing Orders
 - Sessional Orders
 - Resolutions of the Assembly
 - Ministers, the Speaker, or the Administrator
 - Self-referral
- 2.2 At times, Acts of parliament may require that a committee be established. These are 'statutory committees'. Statutory committees generally have a long-term goal and the legislation usually provides for the committee to be appointed at the commencement of each Parliament, as well as stating its terms of reference.
- 2.3 The terms of reference of committees sometimes enable Ministers, the Speaker or the Administrator to refer a matter to a committee. Any member may move a motion for the Assembly to refer a matter to a committee or to establish a committee. A member may also move to refer a petition to the Public Accounts committee to consider whether the petition should be debated.²⁸
- 2.4 Committees may also start their own inquiries if their terms of reference allow them to refer matters for investigation to themselves – see for example the Public Accounts Committee.

Committee Inquiry Process

Research

- 2.5 Once an inquiry is referred to a committee or a committee decides to undertake an inquiry, the first step is to research the matter. Research is undertaken by the Committee Office to:
- identify the key issues as they relate to the committee's terms of reference
 - identify key stakeholders and those with expertise in the issues under inquiry
 - find options for gathering evidence
 - assist with the development of an inquiry work program

²⁸ Sessional Order 11

Submissions

- 2.6 The second step in the inquiry process is to call for or invite written submissions. Committees may choose to use a number of methods to call for submissions, including media releases, direct and targeted contact through letters and emails, the committees' email subscription service, and via the Assembly's website and Facebook. Print or radio advertisements is also an option but generally not very cost effective for most inquiries.
- 2.7 Submissions should be prepared specifically for the purposes of the inquiry, be relevant to the committee's terms of reference, and include the name and contact information of the author. All submissions received are tabled at a meeting of the committee with copies provided to each committee member. Providing that the documents meet the criteria to be accepted as a submission, the committee will make a formal decision about the receipt of the submission and, where applicable, authorise its publication. As submissions are authorised for publication they are uploaded to the committee page on the Assembly's website.

Hearings, Visits and Site Inspections

- 2.8 In addition to private, or deliberative, meetings where committees deal with procedural and administrative matters (such as considering the publication of submissions, scheduling committee activities like public hearings, and discussing and considering issues, papers and draft reports), Standing Order 189 also provides that committees may conduct proceedings in public. Public meetings, such as public hearings, are generally held when the committee is gathering evidence and wishes to hear from, and engage with, key stakeholders and the wider community.
- 2.9 Public hearings may also take the form of a round table hearing or public forum as a means of bringing together people who wish to contribute to an inquiry. One of the main benefits of this approach is that they can assist the interchange of views amongst witnesses as well as committee members. They are also a less intimidating format for those who are not accustomed to providing evidence to Assembly committees.
- 2.10 A committee may also collect evidence by inspecting a site. Inspections may assist the committee to put into context issues raised by the inquiry. Similarly, a committee may decide to meet with community organisations and professional and business associations for private or public discussions. Wherever possible, transcripts are made of all hearings, regardless of the format. Where this is not possible, such as site inspections, minutes of the proceedings are taken.
- 2.11 In choosing the way to collect evidence, committees need to maximise accessibility and ensure an appropriate level of control. The immunity of words spoken in Parliament extends to 'all words spoken, and acts done in the course of, or for the purposes of or incidental to, the transacting of the business of the

Assembly or of a committee'.²⁹ Care must be taken to ensure this privilege is not abused, such as by persons making vexatious allegations against another person at a round table style meeting. Consideration should also be given to the committee's ability to use evidence obtained through less formal means due to, for example, limits on the ability to record what is said.

- 2.12 Standing Order 228 allows committee proceedings to be broadcast according to rules set by the Speaker and subject to any conditions set by the committee. The Speaker sets out the rules for broadcasting in annual determinations.

Reports

- 2.13 Committees report to the Assembly on the outcome of their inquiries. These reports may take various forms. The most common is a final report. For a complex or long inquiry a committee may submit one or more interim reports. These reports may deal with the committee's method of inquiry, or report on the progress of the inquiry, or the committee's recommendations on particular aspects of the inquiry.

- 2.14 Committees may also report in the form of a discussion paper that identifies key issues and views the committee is seeking further comment on. Standing Order 195 provides for committees to report to the Assembly from time to time. A committee's terms of reference may also require that they table an annual report.

Adopting and Tabling Report

- 2.15 Standing Order 196 sets out the following procedures for a committee's consideration of a draft report:

- (1) The chair of a committee will prepare a draft report and present it to the committee at a meeting convened for report consideration.
- (2) The report may be considered at once if copies have been circulated in advance to each member of the committee. The report will be considered paragraph by paragraph. When consideration of the chapters of the report is completed, the appendices are then considered in order.
- (3) After the draft report has been considered, the whole or any paragraph may be reconsidered and amended.
- (4) A member objecting to any portion of the report may vote against it or move an amendment when the particular paragraph or appendix is under consideration.
- (5) A member protesting about the report or dissenting from all or part of it may add a protest or dissenting report from the main report.

- 2.16 Standing Order 197 further provides that:

If any member, other than the member chairing the committee, submits a draft report to the committee, the committee first decides which report will proceed.

²⁹ *Legislative Assembly (Powers and Privileges) Act 1992*, s 6(2)

- 2.17 While Standing Orders state that a report shall be considered paragraph by paragraph, committees may agree to consider the report by chapter or as a whole. When the report has been considered and all paragraphs, appendices and the title have been agreed to, with or without amendment, the chair will pose the question 'that the draft report (as amended) be adopted.'³⁰
- 2.18 The chair signs a copy of the adopted report for tabling in the Assembly. A copy of relevant minutes of committee meetings is also tabled with the report. When tabling the report the chair may make a statement.³¹ Any member may also move that the report be noted or that the report be adopted.³² Either of these motions allow the report to be debated. If the Assembly adopts the report it is agreeing to all of the recommendations of the report.

Protest or Dissenting Reports

- 2.19 The adopted report represents the opinions of the committee. In instances where not all members agree on the contents of the report, the conclusions and recommendations agreed to by the majority are those of the committee. Standing Order 196(5) allows committee members to add a protest or dissenting report to a committee's report. While the difference between the two is not defined within the Standing Orders, the *House of Representatives Practice* suggests that:

A distinction would be to associate a protest with procedural matters, and dissent with opposition to a committee's conclusions or recommendations.³³

- 2.20 Protests or dissents can only be attached after a committee has agreed to a report and 'must be signed by the member or members protesting or dissenting'.³⁴ A member or group of members who advise that they wish to present a protest or dissenting report do not need authorisation from the committee since this power resides with the individual, not with the committee.
- 2.21 Although the authors of a protest or dissenting report do not have to circulate it to the chair or other members of the committee, not to do so would generally be regarded as discourteous. Moreover, this provision does not preclude 'action by a committee to direct the circulation of dissenting reports to committee members on their receipt by the secretariat'.³⁵
- 2.22 Where a member or members wish to add a protest or dissent it is usual practice for the committee to set a date for dissents to be provided to the secretariat. As is the case with any committee report, a protest or dissenting report must be relevant to the committee's reference. Protests or dissents are attached to the committee's report.

³⁰ Standing Order 198

³¹ Standing Order 200

³² Standing Order 200

³³ D. R. Elder, (ed) *House of Representatives Practice (Seventh Edition)*, Department of the House of Representatives, Canberra ACT, 2018, p. 726

³⁴ Standing Order 199(3)

³⁵ D. R. Elder, (ed) *House of Representatives Practice (Seventh Edition)*, Department of the House of Representatives, Canberra ACT, 2018, p. 727

2.23 Alternative methods of recording dissent include:

- moving amendments to the draft report which are to be recorded in the minutes
- submitting an alternative draft report to the committee (SO 277)
- making a statement in the Assembly, with leave, when the report is tabled
- stating the protest or dissent in debate on any motion moved in relation the report

The *House of Representatives Practice* further notes that in extreme circumstances members may record their dissent by seeking discharge (effectively resigning) from the committee.³⁶

Government Response

2.24 Where a committee report recommends that action be taken by the Government, Standing Order 201 requires that the Clerk refer the report to the relevant Minister(s) who must, within six months of a report being tabled, report to the Assembly what action, if any, the Government proposes to take in relation to each of the committee's recommendations.

2.25 If a government response to a committee report has not been tabled within six months of the report being tabled, the relevant Minister is required to present to the Assembly a signed statement stating the reasons for the delay in presentation of the response and make themselves available to appear before the committee to answer questions on the statement.³⁷ While the Standing Order anticipates a written response, the Assembly has accepted responses given in the course of debate.

2.26 Standing Order 201(5) requires the Speaker to provide a report to the Assembly twice each year on the status of Government responses to committee reports. Standing Order 201 does not apply to recommendations from a committee which relate to passing or amending a Bill, as these are recommendations to the Assembly, not the Government.

Specialist Functions

2.27 In addition to conducting inquiries, certain committees perform a range of specialist functions of an on-going nature.

Subordinate Legislation

2.28 As noted previously, Sessional Order 9 provides that the duties of the Subordinate Legislation and Publications Committee be assigned to the Legal and Constitutional Affairs Committee. As set out in Standing Order 176, the

³⁶ D. R. Elder, (ed) *House of Representatives Practice (Seventh Edition)*, Department of the House of Representatives, Canberra ACT, 2018, p. 727

³⁷ Standing Order 201(4)

Subordinate Legislation and Publications Committee is responsible for reviewing and reporting on instruments of a legislative or administrative character and other papers that are required by law to be tabled in the Assembly. In doing so, the committee assists the Assembly by alerting it to any concerns that may warrant disallowance of the instrument. If the committee's examination alerts it to issues it is concerned about but do not warrant disallowance, it will raise the issues directly with the responsible Minister.

Auditor-General Reports

2.29 After a report of the Auditor-General is tabled, the Public Accounts Committee meets with the Auditor-General to discuss any issues raised in the report and identify which issues need follow-up by inviting the chief executive of the relevant agency to a hearing with the committee.

Estimates

2.30 The Estimates Committee is a select committee which has been established each year since 2002. Its primary purpose is to examine and report on the estimates of proposed expenditure contained in the annual Appropriation Bill (Budget) and the government owned corporations' (Power and Water Corporation, Territory Generation, and Jacana Energy) annual statements of corporate intent.

2.31 The Assembly determines the terms of reference for the Estimates Committee each year when establishing the committee. Details of the Estimates process are outlined in the annual *Estimates Committee Information Manual* published by the Committee Office.

2.32 To examine the Appropriation Bill, the Estimates Committee holds hearings with each Minister and the relevant agencies. The hearings are included in the Assembly's meeting schedule and are followed by a meeting of the Assembly to pass the Appropriation Bill. Questions taken on notice during the hearings and their answers are made available on the Assembly's website along with the transcripts of proceedings and the committee's report.

Bill Scrutiny

2.33 As provided for under Sessional Order 14, the Legislative Scrutiny Committee is responsible for inquiring into and reporting on any bill referred to it by the Assembly. In relation to referred bills, the committee is required to determine whether the Assembly should pass or amend the bill, and whether the bill has sufficient regard for the fundamental legislative principles as set out in clause 3(iii) and (iv) of its terms of reference.

3 General Committee Procedures and Issues

Standing Rules and Sessional Orders

- 3.1 Section 30 of the *Northern Territory (Self-Government) Act 1978* (Cth) enables the Legislative Assembly to:
- make standing rules and orders, not inconsistent with a law of the Territory, with respect to the order and conduct of its business and proceedings.³⁸
- These standing rules and orders provide the general framework for the procedures of Assembly committees.
- 3.2 Chapter 16 of the Standing Orders refers to establishing Standing Committees and the general procedures to be followed by Assembly committees, and Chapter 17 details procedures to be followed when summoning and examining witnesses.
- 3.3 The Assembly can pass orders in addition to or superseding the Standing Orders. These orders have effect until the end of the session or until they are superseded.

Powers of Committees

- 3.4 Standing Orders, Sessional Orders, resolutions appointing committees, and enabling Acts give committees their powers. Assembly committees are also subject to the provisions of the *Legislative Assembly (Powers and Privileges) Act 1992*. As noted in section 6:
- proceedings in Parliament means all words spoken and acts done in the course of, or for the purpose of or incidental to, the transacting of the business of the Assembly or of a committee.³⁹
- 3.5 Powers explicitly granted to committees by the Standing Orders include the capacity to:
- elect a chair and deputy chair (SO 186).
 - appoint subcommittees (SO 187).
 - conduct proceedings using approved means (SO 189(1)).
 - conduct proceedings using audio-visual or audio links (SO 189(2)).
 - conduct proceedings at any time or place as it sees fit, except while the Assembly is meeting unless permitted to do so by order of the Assembly (SO 189(3)).
 - invite or summon witnesses and request or require documents to be produced (SO 190).
 - consider and make use of the evidence and records of similar committees appointed during previous Assemblies (SO 191).

³⁸ *Northern Territory (Self-Government) Act 1978* (Cth) s 30

³⁹ *Legislative Assembly (Powers and Privileges) Act 1992*, s 6(2)

- authorise publication of evidence given and documents presented to a committee (SO 194).
 - report from time to time (SO 195).
- 3.6 To determine what authority has been given to a committee it is necessary to consider the Standing and Sessional Orders, the committee's resolution of appointment, the provisions of any enabling Act, and any other amendments, orders or resolutions agreed to by the Assembly after the committee's appointment.

Subcommittees

- 3.7 Any committee may appoint a subcommittee of three or more of its members.⁴⁰ However, a committee may not give the subcommittee greater powers than it holds, or powers which they have not been empowered to give.
- 3.8 While a subcommittee may authorise evidence it has received to be published, Standing Orders only allow full committees to 'publish or table reports, discussion papers, media releases or other documents.'⁴¹ Any report of a subcommittee is to be considered by its parent committee, which may adopt that report or use that information in its deliberations

Parliamentary Privilege

- 3.9 Parliamentary privilege refers to the special rights and immunities that apply to the Legislative Assembly, its members and committees which are considered essential for the proper operation of Parliament. These rights and immunities allow the Legislative Assembly to:

meet and carry out [its] proper constitutional role, for committees to operate effectively, for members to discharge their responsibilities to their constituents, and for others involved in the parliamentary process to carry out their duties and responsibilities without obstruction or fear of prosecution.⁴²

- 3.10 Section 12 of the *Northern Territory (Self-Government) Act 1978* (Cth) allows the Legislative Assembly to establish laws declaring the power (other than legislative powers), privileges and immunities of the Legislative Assembly, its members and committees as long as they do not exceed those of the 'House of Representatives, or of the members or committees of that House, respectively'.⁴³ The Act also allows the Legislative Assembly to decide how such privileges and immunities may be exercised or upheld.⁴⁴

⁴⁰ Standing Order 187

⁴¹ Standing Order 194

⁴² D. R. Elder, (ed) *House of Representatives Practice (Seventh Edition)*, Department of the House of Representatives, Canberra ACT, 2018, p. 733

⁴³ *Northern Territory (Self-Government) Act 1978* (Cth), s 12

⁴⁴ *Northern Territory (Self-Government) Act 1978* (Cth), s 12

3.11 The privileges and immunities of the Legislative Assembly are set out in the *Legislative Assembly (Powers and Privileges) Act 1992*. Under this Act, committee proceedings are considered to be proceedings in parliament.⁴⁵

3.12 The privilege of freedom of speech is generally considered the most important privilege of members. Section 6(1) of the *Legislative Assembly (Powers and Privileges) Act 1992* says that to avoid any doubt in relation to this privilege 'the provisions of article 9 of the Bill of Rights 1688 apply in relation to the Assembly.'⁴⁶ Accordingly, article 9 provides that:

the freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament.⁴⁷

Consequently, members cannot be sued or prosecuted for anything they may say in the course of proceedings in the Parliament.

3.13 While members can express themselves as they see fit, it is incumbent upon members not to abuse the privilege. Standing Order 233 says that when speaking in the Assembly or a committee, members are to take the following matters into account:

- (a) the need to exercise their valuable right of freedom of speech in a responsible manner
- (b) the damage that may be done by allegations made in the Assembly to those who are the subject of such allegations and to the standing of the Assembly
- (c) the limited opportunities for persons other than members of the Assembly to respond to allegations made in the Assembly
- (d) the need for members, while fearlessly performing their duties, to have regard to the rights of others
- (e) the desirability of ensuring that statements reflecting adversely on persons are soundly based.

3.14 Witnesses who give evidence to committees have the same protection regarding the privilege of freedom of speech as members and may not be sued or prosecuted for statements made when giving evidence to a committee.⁴⁸ Privilege does not depend on the witness taking the oath, or on whether the witness appears voluntarily or by summons. As noted in Standing Order 207:

All witnesses examined before the Assembly, or any committee, are entitled to the protection of the Assembly in respect of anything that may be said by them in their evidence.

3.15 Under the *Legislative Assembly (Powers and Privileges) Act 1992* it is an offence for anyone to influence, or attempt to influence, a witness in respect of any evidence given or to be given before a committee, or inflict a penalty or injury on a witness,

⁴⁵ *Legislative Assembly (Powers and Privileges) Act 1992*, s 6(2)

⁴⁶ *Legislative Assembly (Powers and Privileges) Act 1992*, s 6(2)

⁴⁷ A.C.T. Legislation Register, 'Bill of Rights 1688',
http://www.legislation.act.gov.au/a/db_1792/default.asp

⁴⁸ *Legislative Assembly (Powers and Privileges) Act 1992*, s 6(2)

or deprive them of a benefit because of evidence they propose to give or have given to a committee.⁴⁹

- 3.16 Privilege also applies to committee documents and files. A number of consequential restrictions on using such documents in court are set out in section 6 of the *Legislative Assembly (Powers and Privileges) Act 1992*.
- 3.17 Section 7 of the Act also provides that committee members shall not be required to attend before a court or tribunal or be arrested or detained in a civil cause on a day on which the committee meets, or in the five days before or after a committee meeting day.⁵⁰ Witnesses are also immune from arrest in a civil cause or attendance before courts, but only on the day that they are required to attend a committee hearing.⁵¹

Contempt

- 3.18 Contempt is related to the concept of privilege and refers to actions which amount to disobedience, or open disrespect of the orders of a committee given in the proper exercise of its authority. However, section 5 of the *Legislative Assembly (Powers and Privileges) Act 1992* imposes the following qualification which must be taken into account in the consideration of possible contempt:

Conduct (including the use of words) does not constitute an offence against the Assembly unless it amounts, or is intended or likely to amount, to an improper interference with the free exercise by the Assembly or a committee of its authority or functions, or with the free performance by a member of the member's duties as a member.⁵²

- 3.19 Under the Act, the Assembly may impose fines or terms of imprisonment for offences against the Assembly.⁵³ Offences specified in the Act can also be prosecuted in the courts. For example, it is an offence for a person who is summonsed to appear before a committee to refuse or fail, without reasonable excuse, to appear at the time and place specified in the summons; take an oath if required, produce documents specified in the summons, answer questions, or give false or misleading evidence, including submitting documents known to be falsified.⁵⁴
- 3.20 Unauthorised disclosure of committee evidence may be an offence under section 22 of the Act.⁵⁵ Further, unauthorised disclosure of a committee's 'evidence, documents, proceedings and reports' is prohibited by Standing Order 194 and may be deemed an offence against the Assembly under section 25 of the Act.⁵⁶ Any unauthorised disclosure of committee material, particularly evidence which

⁴⁹ *Legislative Assembly (Powers and Privileges) Act 1992*, s 20

⁵⁰ *Legislative Assembly (Powers and Privileges) Act 1992*, s 6

⁵¹ *Legislative Assembly (Powers and Privileges) Act 1992*, s 7(3)

⁵² *Legislative Assembly (Powers and Privileges) Act 1992*, s 5

⁵³ *Legislative Assembly (Powers and Privileges) Act 1992*, s 25

⁵⁴ *Legislative Assembly (Powers and Privileges) Act 1992*, s 21

⁵⁵ *Legislative Assembly (Powers and Privileges) Act 1992*, s 22

⁵⁶ *Legislative Assembly (Powers and Privileges) Act 1992*, s 25

has been taken in private, may damage the confidence and trust of witnesses and compromise the committee's ability to gather evidence.

- 3.21 Insofar as it affects the committee's operations, the committee will deal with any contempt arising, such as by requiring a person causing disturbance to withdraw, or taking action to encourage or compel a reluctant witness. However, should the committee not be able to resolve the matter, or if it considers that an offence has been committed that should be dealt with, the committee may report the situation to the Assembly, which may then refer it to the Committee of Privileges for investigation.

***In Camera* Evidence**

- 3.22 The usual practice is to hold all hearings in public as this promotes public accountability and allows the committee to freely use any evidence gathered. However, a committee may choose to hear all or part of a hearing in private; also referred to as taking evidence '*in camera*'.⁵⁷
- 3.23 Witnesses must be given the opportunity to ask to give evidence in private and to state their reasons for the request. The committee will consider these requests and give reasons if they are denied. Whether evidence is taken in private is wholly up to the committee, which will typically consider the public interest and any disadvantage that the witness or another party may suffer if the evidence is disclosed.
- 3.24 When a witness asks for evidence to be given in private during a public hearing, the chair must suspend the hearing while the committee decides the matter. In practice, a committee may decide to hear a witness in private without discussion in a private meeting. However, the chair may request that all visitors (everyone except committee members and the secretariat) leave the room while the committee discusses the request in private. The chair may ask that the witness also leave the room or ask them to speak to the committee on the matter.
- 3.25 If the committee agrees to take evidence in private, the chair must formally end the public hearing and ensure that everyone except the committee, witness and secretariat staff leave the room. The chair will also advise media representatives to remove any recording equipment from the room. The doors should be closed and precautions taken to ensure no unauthorised person enters the room. Hansard staff must be advised that the public hearing has come to a close and to begin a separate *in camera* transcript.
- 3.26 Where evidence is taken in a private session, the committee must inform the witness that while it is only in the most extraordinary circumstances that the committee will table in the Assembly or publish evidence given in private without consent, it is within the power of the committee to do so and the Assembly has the power to order the production and publication of such evidence.⁵⁸

⁵⁷ Standing Order 189(1)(b)

⁵⁸ Standing Order 210(8)

Sub Judice Convention

- 3.27 Committees are bound by the *sub judice* convention, which means they do not publicly discuss matters that are to be considered by a court. This is to prevent committee proceedings interfering with the course of justice. The *sub judice* convention is imposed by the Assembly on itself and there is no legislation or Standing Order specifically on the matter.⁵⁹ The convention applies differently to various types of proceedings depending on the risk that discussion may interfere with the judicial process. Discussion is normally avoided on criminal matters from the time charges are laid, particularly if the matter might go before a jury. For civil matters, discussion is normally avoided if proceedings have commenced.⁶⁰
- 3.28 Although the convention is not traditionally applied to quasi-judicial bodies, such as royal commissions, decisions are made on a case-by-case basis. The principal distinctions that have been recognised to date are that:
- Matters ... which are concerned with the conduct of particular persons should not be referred to in proceedings if, in the opinion of the chair, there is a likelihood of prejudice being caused as a result of the references in the [committee].
 - Matters ... dealing with broader issues of [Territorial] importance should be able to be referred to in proceedings unless, in the opinion of the chair, there are circumstances which would justify the convention being invoked to restrict reference in the [committee].⁶¹
- 3.29 Where a witness or member raises matters relevant to current or future legal proceedings, the chair may intervene, whether or not a point of order is made, to advise that matters subject to the convention should not be discussed. The decision whether or how to apply the *sub judice* convention is one for the chair. However, the chair will usually take into consideration the views of the committee. The committee may also choose to take the evidence in private to avoid the risk of interfering with judicial proceedings.⁶²

Prorogation

- 3.30 Prorogation terminates a session of the Assembly and puts it into a period of recess. The next session of the Assembly starts on the first meeting day following a prorogation and concludes in the same manner. Both prorogation and commencement of the next session are proclaimed by the Administrator.
- 3.31 While the Government may ask the Administrator to prorogue the Assembly at any time during the four-year parliamentary term, it generally only occurs prior to a general election. Since the commencement of the first Assembly in 1974, there

⁵⁹ D. R Elder (ed), *House of Representatives Practice (Seventh Edition)*, Department of the House of Representatives, Canberra ACT, 2018, p. 714

⁶⁰ D. R Elder (ed), *House of Representatives Practice (Seventh Edition)*, Department of the House of Representatives, Canberra ACT, 2018, p. 521

⁶¹ D. R Elder (ed), *House of Representatives Practice (Seventh Edition)*, Department of the House of Representatives, Canberra ACT, 2018, p. 524

⁶² D. R Elder (ed), *House of Representatives Practice (Seventh Edition)*, Department of the House of Representatives, Canberra ACT, 2018, p. 714

have only been two prorogations, other than those immediately prior to a general election. Both occurred during the fourth Assembly.

Effects of Prorogation

- 3.32 With prorogation all proceedings of the Parliament are suspended, all business on the Assembly's Notice Paper lapses, Sessional Orders cease to have effect and the Assembly may not meet until the time appointed by the Administrator.⁶³ Prorogation also brings to an end all sessional and select committees and any referrals made by the Assembly to standing committees.
- 3.33 Standing committees (which are appointed for the life of the Assembly) continue to exist after prorogation (unless the Assembly is dissolved for a general election), although they cannot meet and transact business until a new session has commenced.⁶⁴ Any matter referred by the Assembly to a standing committee must be referred again to be continued, although referrals from other sources can be continued without being referred by the Assembly.
- 3.34 If select and sessional committees are to continue their activities in the new session, the committees and their membership must be re-appointed by a decision of the Assembly and their terms of reference renewed.⁶⁵

⁶³ D. R Elder (ed), *House of Representatives Practice (Seventh Edition)*, Department of the House of Representatives, Canberra ACT, 2018, p.234

⁶⁴ Acts of Parliament can empower a committee to operate during a prorogation, but this has not occurred in the Northern Territory.

⁶⁵ D. R Elder (ed), *House of Representatives Practice (Seventh Edition)*, Department of the House of Representatives, Canberra ACT, 2018, p.654

4 Operational Processes

Roles and Responsibilities

4.1 The chair, deputy chair and secretariat staff work in partnership with each other and the committee to achieve the best outcomes for the committee. The role and primary responsibilities of the chair, committee members and the committee secretary are summarised below.

Responsibilities of the Chair

4.2 The chair, and in their absence the deputy chair, has exclusive procedural authority for the conduct of a committee, subject to the Standing, Sessional and other orders of the Assembly. As set out in the *House of Representatives Practice*, committee chairs:

- undertake a leadership role in achieving committee effectiveness;
- conduct proceedings in an orderly and fair manner;
- ensure the standing orders, and any other relevant requirements of the House or the Parliament are applied appropriately
- on behalf of the committee, and subject to its direction, direct such administrative tasks as are necessary for the effective operation of the of the committee;
- in giving administrative directions the chair should have cognisance of the possible views of committee members and consult with other committee members as necessary. Strategic planning decisions affecting the conduct of the committee's business such as the selection of witnesses, timetabling of hearings and report presentation arrangements must not be made without consulting the committee;
- ensure that witnesses before the committee are treated fairly and respectfully;
- as far as possible, ensure all committee members have equal opportunity to contribute to the proceedings of the committee;
- ensure equal and timely access to evidence, correspondence and information provided to, or commissioned by, the committee for all committee members;
- respond promptly and comprehensively to any concerns raised by committee members;
- ensure that the committee receives advice from the secretary in relation to matters of procedure and availability of resources to meet the proposed work plans for the committee.⁶⁶

⁶⁶ D. R Elder (ed), *House of Representatives Practice (Seventh Edition)*, Department of the House of Representatives, Canberra ACT, 2018, p. 681

Responsibilities of Members

4.3 The effectiveness of any committee is reliant upon the preparation and participation of its members. In this regard, the *House of Representatives Practice* notes the following responsibilities of committee members:

- support the chair and deputy chair in achieving committee effectiveness;
- understand the role of parliamentary committees and be prepared for committee meetings by reading papers beforehand;
- contribute to the formation of a committee view on matters relevant to an enquiry;
- provide a quorum to enable the committee to hold a properly constituted meeting in [Darwin] and elsewhere;
- treat witnesses with respect and courtesy at all times;
- understand their obligations in relation to parliamentary privilege;
- understand the obligations of the secretariat to the committee as a whole, and
- ensure the security of committee documents in their possession, especially draft reports.⁶⁷

Responsibilities of the Committee Secretary

4.4 While the committee secretary mainly provides support to and through the chair, they are available to assist all members of the committee with advice and support. As such, committee secretaries:

- provide impartial, non-partisan advice and support services to the committee. The secretary must provide advice and services to assist the committee as a whole and not so as to favour an individual member or members of the committee;
- consult appropriately and as necessary with senior staff of the [Department of the Legislative Assembly] ... to ensure the highest quality of advice is available to the committee;
- provide equal and timely access to evidence, correspondence and information provided to, or commissioned by, the committee to all committee members;
- manage resources responsibly to enable the committee to carry out its functions effectively. Provide advice to the committee on the availability of resources to meet its proposed work plan.⁶⁸

Meeting Procedures

4.5 The first meeting of a committee may be held when members have been appointed by a decision of the Assembly. Standing Order 185 states that:

Notice of meetings will be given by the secretary for the committee:

⁶⁷ D. R Elder (ed), *House of Representatives Practice (Seventh Edition)*, Department of the House of Representatives, Canberra ACT, 2018, p. 681

⁶⁸ D. R Elder (ed), *House of Representatives Practice (Seventh Edition)*, Department of the House of Representatives, Canberra ACT, 2018, p. 681

- (1) if there is no chair of the committee, at the direction of the Clerk
- (2) pursuant to resolution of the committee
- (3) at the direction of the chair of the committee, or
- (4) upon a request by a majority of the committee.

4.6 A committee may conduct proceedings at any time or place it sees fit, except while the Assembly is meeting.⁶⁹ Since Assembly meeting days are one of the more convenient times for committees to meet as all members are in Darwin at that time, it is common practice for meetings to be held during the lunch suspension.

4.7 Prior to the first meeting, the committee secretary is responsible for preparing the agenda, and any associated briefing notes, that addresses basic procedural and planning issues. Unless the Assembly has appointed the chair, the committee secretary presides at the first meeting for the election of the chair. Following election, the chair assumes control of the meeting and conducts the election of a deputy chair before proceeding with the meeting.

4.8 Ideally, basic procedures for the conduct of a committee's proceedings should be established during the first meeting. Matters to be considered include the following:

- **Statements to the media:** It is common practice for a committee to authorise its chair to be the sole spokesperson for the committee and to make statements on its behalf where these statements relate to matters of fact, committee operations and non-controversial matters.
- **Meeting times and papers:** Establishing a set time for meetings ensures that members are able to schedule their commitments around the meetings. The committee may also determine how far in advance of a meeting members would expect to receive the papers for the meeting.
- **Publication of submissions and transcripts:** The committee may find it convenient to make decisions about the publication of submissions and transcripts under particular circumstances, for example, for all transcripts of public hearings to be published after witnesses have had three business days to make any corrections.

4.9 While visitors may attend public hearings, they are not permitted to attend private, or deliberative, meetings of the committee.⁷⁰ As noted previously, any member of the Assembly, even though they may not be a member of the committee, may participate in its meetings and question witnesses unless the committee orders otherwise. However, they are not allowed to vote and must withdraw when the committee is taking evidence in private or deliberating.⁷¹

⁶⁹ Standing Order 189(3)

⁷⁰ Standing Order 193(1)

⁷¹ Standing Order 193(2)

- 4.10 The Standing Orders do not say anything about moving motions and voting in committees other than Standing Order 186(3) which provides that 'the member chairing will have both a deliberative and a casting vote'.
- 4.11 In a similar manner to the Assembly, voting on a motion is usually determined on the voices and the minutes only record whether the motion was agreed to or negated. If two members who disagree with the result call for a division, each member's vote will be recorded in the minutes. A single dissenting member can, however, have his or her dissent recorded in the minutes.
- 4.12 The formality of committee proceedings varies between committees and some matters may be decided by a consensus of the meeting. However, resolutions are necessary whenever the committee makes a formal decision on any matter; such as authorising publication of submissions, establishing a subcommittee, or adopting a report.

Quorum

- 4.13 A quorum is the number of members that must be present for a committee meeting to proceed. Standing Order 184(1) provides that:
- A quorum for a committee is three members, unless the Assembly orders otherwise. If at any time a quorum is not present, the member chairing will suspend the proceedings until a quorum is present or will adjourn the committee.
- 4.14 Standing Order 184(2) also states that if a quorum is not achieved within 15 minutes from the time appointed for the meeting 'any member present may depart after recording their name with the secretary, who shall convene a meeting for another time.'
- 4.15 If there is a quorum present at a meeting but there is no chair or deputy chair present, Standing Order 186(5) states that 'the members present will elect another member to act as chair at the meeting.'

Minutes

- 4.16 Standing Order 188 requires that:
- (1) The secretary records the proceedings of the committee or subcommittee in the Minutes of Proceedings. The minutes are then confirmed by the committee or subcommittee and signed by the member chairing.
 - (2) Documents presented to the committee or subcommittee will be recorded in the Minutes of Proceedings.
- 4.17 The minutes of a committee meeting should record the following information:
- the time, date and place of the meetings.
 - names of members, witnesses and other visitors participating in the meeting, and any apologies.
 - every motion, amendment or resolution moved by the committee and the name of the mover and any seconder.

- on any division, the names of members voting on a question as well as an indication of the side of the question on which they voted.
 - documents formally received and any action taken in relation to them.
 - the date, time and place of the next meeting.
- 4.18 The chair signs minutes of a preceding meeting after they have been confirmed by the committee.

Committee Records

- 4.19 The minutes and transcripts of committee meetings, and all committee files, records and documents presented to it, are confidential and may not be disclosed or published to any person other than a member of the committee or a parliamentary officer assigned to the committee unless they have been:
- reported to the Assembly; or
 - authorised for publication by the Assembly; the committee or the subcommittee.⁷²

Any breach of this confidentiality may be dealt with by the Assembly as a contempt.

- 4.20 The Assembly has authorised the release of committee evidence after five years under Standing Order 188(3):
- (3) The Speaker may permit any person to examine and take extracts from evidence submitted to, or documents and records of, committees of the former Legislative Council, and/or the Legislative Assembly, which are in the custody of the Legislative Assembly and which have been in its custody for at least 5 years: provided that such evidence was not taken in camera or that such documents and records are not of a confidential or restricted nature; and the speaker reports to the Assembly each disclosure of evidence and/or documents and records permitted taken and the name of the person or persons to whom disclosure has been made.

Witnesses

- 4.21 Witnesses are usually invited to give evidence at a public hearing on the basis of their written submission or their expertise in the area under inquiry. Standing Orders, particularly Standing Orders 210 and 232 and the *Legislative Assembly (Powers and Privileges) Act 1992* inform the procedures to be followed by committees when dealing with witnesses.
- 4.22 Witnesses usually provide evidence to Assembly inquiries voluntarily as an opportunity to have their opinions heard. As noted previously, witnesses appearing before committees receive the protection of parliamentary privilege and must not deliberately or recklessly mislead the committee.

⁷² Standing Order 194(2)

Summoning Witnesses and Requiring Documents

- 4.23 On occasion, a committee may be investigating a matter where it needs to hear from a witness who is reluctant to appear, or obtain documents that the owner does not wish to disclose. Committees and subcommittees have the power to 'invite or summon witnesses and to request or require documents to be produced as determined by the committee or subcommittee'.⁷³ A committee cannot summon a member of the Assembly.⁷⁴ A person under summons cannot refuse to answer a question or produce a document without reasonable excuse.⁷⁵
- 4.24 Section 18(1) of the *Legislative Assembly (Powers and Privileges) Act 1992* provides that a summons may be issued under the hand of the clerk attending the committee (Executive Director Parliamentary Support or committee secretary).⁷⁶
- 4.25 In some cases witnesses, while willing to appear before a committee, will request that a summons is issued. For instance, there have been times where witnesses have been concerned that answering questions might be against contractual confidentiality requirements. A summons made it clear they were being compelled to provide any such information.⁷⁷
- 4.26 Should a committee wish to call a member, including Ministers, to give evidence, the provisions of Standing Order 205 apply:
- If a committee desires the attendance of a member as a witness, the chair will, in writing, request them to attend; but should they refuse to attend, or to give evidence or information as a witness to the committee, the committee informs the Assembly therewith, and will not request the member to attend the committee again.
- 4.27 While witnesses are not generally examined on oath, committees are authorised to do so if it is considered necessary to ensure the truthfulness of their evidence. If the committee decides that a witness is to take an oath, the administration, form and content of the oath must comply with the provisions of the *Oaths, Affidavits and Declarations Act 2010*.

Questioning

- 4.28 Standing Order 210(11) requires the chair to 'take care to ensure that all questions put to witnesses are relevant to the committee's inquiry'.⁷⁸ Furthermore, committees may not ask Northern Territory or Commonwealth Government officers for their opinions on matters of policy. They should, however, be given reasonable opportunity to refer such questions to superior officers or to a Minister.⁷⁹

⁷³ Standing Order 190

⁷⁴ *Legislative Assembly (Powers and Privileges) Act 1992*, s 18; see also Standing Order 202

⁷⁵ *Legislative Assembly (Powers and Privileges) Act 1992*, s 21

⁷⁶ *Legislative Assembly (Powers and Privileges) Act 1992*, s 18(1)

⁷⁷ D. R Elder (ed), *House of Representatives Practice (Seventh Edition)*, Department of the House of Representatives, Canberra ACT, 2018, p. 695

⁷⁸ Standing Order 210(11)

⁷⁹ Standing Order 210(18)

4.29 Where a witness objects to answering a question on any ground, the committee will invite them to state their reasons. Unless the committee decides that the question should not be pressed, the committee may consider in private session whether it will insist upon an answer to the question, keeping in mind 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 decides that it needs an answer to the question, the witness will be advised of that and the reasons for it. They will then be required to answer the question only in private session, unless the committee decides that it is essential to the inquiry that the question be answered in public session.⁸⁰

Transcript of Evidence

4.30 Committee proceedings are recorded and a transcript is produced. All witnesses are provided with a transcript of their evidence and given an opportunity to check the transcript and notify the secretariat of any errors.⁸¹ When transcripts have been checked by witnesses and authorised for publication they will be uploaded to the committee's page on the Assembly's website. While it is unusual for transcripts of *in camera* evidence to be published, witnesses are advised that the committee and the Assembly is authorised to do so if they see fit.⁸²

4.31 If a witness gives evidence that reflects adversely on a person and the committee is not satisfied that it is relevant to the inquiry, the committee must consider removing the evidence from the transcript and forbidding publication of that evidence. However, should the committee choose not to remove or forbid the publication of such evidence, then the committee must give the person referred to in the evidence a reasonable opportunity to have access to the evidence and respond to it by way of written submission and appearance before the committee.⁸³

⁸⁰ Standing Order 210(12)

⁸¹ Standing Order 210 (19)

⁸² Standing Order 210 (8)

⁸³ Standing Order 210 (15)

5 Committee Administration

Role of the Committee Office

- 5.1 The Committee Office, under the management of the Executive Director Parliamentary Support, provides support to the Assembly's scrutiny committees to assist them to perform their functions. Scrutiny committees include the Public Accounts Committee, Legal and Constitutional Affairs Committee, Subordinate Legislation and Publications Committee and the Standing Committee on the ICAC. The Committee Office also provides support to select and sessional committees.
- 5.2 The Office of the Clerk is responsible for providing support to the Assembly's domestic committees which relate specifically to the operations of the Assembly. Domestic committees include the Standing Orders Committee, House Committee, Committee of Privileges and Committee of Members' Interests.
- 5.3 Each committee is supported by a secretariat that consists of a committee secretary, research and administrative support. Where necessary, the Department of the Legislative Assembly may also appoint specialist advisers, or enlist the services of seconded officials from government departments to assist with an inquiry. For example, an independent legal advisor provides technical support to the Subordinate Legislation and Publications Committee regarding the review of subordinate legislation.
- 5.4 As set out in the *House of Representatives Practice*, committee secretariats have four main functions:
- advising on committee procedure and practice;
 - providing administrative and clerical support;
 - undertaking research and analytical work related to the terms of reference and content of particular inquiries; and
 - preparing an initial draft of the chair's report.⁸⁴
- 5.5 Although committee staff are required to provide administrative and procedural support and advice to all members, this is restricted to work that is specifically associated with the role of the committee. Committee staff cannot undertake work that serves the political or electoral interests of individual members.
- 5.6 All committee members can expect secretariat staff to be professional, courteous and non-partisan. While the committee secretary is the main point of contact for both members and their staff, the Executive Director Parliamentary Support is also available to provide high level procedural advice. Similarly, the Clerk and Deputy Clerk are also available to answer any questions or provide advice.

⁸⁴ D. R Elder (ed), *House of Representatives Practice (Seventh Edition)*, Department of the House of Representatives, Canberra ACT, 2018, p. 679

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