



HON CHRISTOPHER PYNE MP

Federal Member for Sturt

Shadow Minister for Education, Apprenticeships and Training
Manager of Opposition Business, House of Representatives

Julie Owens MP
Chair
Standing Committee on Procedure
Parliament House
Canberra ACT 2600
procedure.committee.reps@aph.gov.au

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Dear Chair,

I write to you on behalf of the Coalition regarding the Procedure Committee's current inquiry into procedural changes implemented in the House of Representatives in the 43rd Parliament.

The Coalition has long supported parliamentary reform.

In 2009 I wrote to the Government seeking changes to enhance parliamentary procedures. Changes included imposing a time limit on answers in Question Time, enhancing the role of backbenchers and an independent Speaker. The Government ignored these proposals.

Following the 2010 Federal Election the Coalition took part in drafting the *Agreement for a Better Parliament* with the intention of changes to make a better Parliament and one that provides a more relevant role for individual MPs.

More specifically, the agreement intended to amend the Standing Orders to establish a more independent Speaker, limit the power of the executive, and increase the ability of Parliament to scrutinize legislation, enhance the role of private member's business and the committee system and make Question Time more useful and relevant.

Although there have been some improvements in the operation of the Parliament, there have also been a number of deficiencies, many of which have been caused by the Government seeking to circumvent recent changes. This paper seeks to highlight a number of these changes and offer possible solutions.

Yours sincerely,

Christopher Pyne MP

Number of Questions

The *Agreement for a Better Parliament* included an expectation that Question Time would comprise of, "... 20 questions each day in the normal course of events."¹ This expectation was not included in the recent changes to the Standing Orders.

As has been the case in recent Parliaments, the intention for the twenty questions would be to allocate ten questions to the Government and ten to Opposition and Independent Members – the Independent Members being allocated a question on a proportional basis.

However, in his statement to the House on 18 November, the Leader of the House Mr Albanese confirmed his intention was to change the structure of question time. His changes have resulted in the Government diminishing accountability and allocating nine questions to itself, nine to the Opposition and one to the Independent Members – thereby reducing the total possible number of questions each day from twenty to nineteen.

This is compounded by the fact that since it has implemented these changes, the Government has not even kept to the nineteen questions committed to by the Leader of the House. A summary of Question Time, shown below, highlights a downward trend in the number of questions.

Date	No. Questions	Monthly Q Average	No. Additional Supps.
28 Sep	NA	September 20 Qs	NA
29 Sep	20		1
30 Sep	20		1
18 Oct	20	October 19.4 Qs	1
19 Oct	20		1
20 Oct	22		0
21 Oct	18		1
25 Oct	20		1
26 Oct	20		1
27 Oct	20		1
28 Oct	15		1
15 Nov	20	November 17.5 Qs	1
16 Nov	16		1
17 Nov	18		1
18 Nov	12		1
22 Nov	19		1
23 Nov	19		1
24 Nov	19		1
25 Nov	17		1

Source: Chamber Research Office, House of Representatives (Averages Added)

The best means to address the issue and to ensure the executive is accountable to the Parliament is to adopt the *Agreement for a Better Parliament* recommendation and enshrine in the Standing Orders an intention for twenty questions during each Question Time session. Although the change would not be a definitive requirement it would set out a strong intention and ensure the Government does not try to lessen the importance of Question Time.

Direct Relevance

The *Agreement for a Better Parliament* sought to address the issue of answers being directly relevant during Question Time and less of an opportunity for political point scoring. The agreement sought to amend the Standing Orders so, "...that answers must be directly relevant to the question, with the Speaker to lead on enforcement of the relevance test."²

Speaker Jenkins has since stated that he believes the intention of the 'relevance' change was for "there be less debate in answers."³

The 'directly relevant' aspect of the agreement was adopted in changes to the Standing Orders and has provided the additional requirement for a Minister answering a question, that being "an answer must be directly relevant to the question."⁴

Speaker Jenkins has provided some guide on his interpretation of the direct relevance of an answer. This includes that an answer must not enter into debate across the table⁵, not argue a case⁶ nor debate the matter⁷, and it cannot wander into the policies of other parties.⁸

The Speaker has highlighted that in light of the changes there is a remaining difficulty that the Government has sought to exploit. There is a difference between a direct answer and an answer being directly relevant^{9&10} - and the Speaker has no power provided to him to address this.¹¹

This has meant that unfortunately, the 'direct relevance' change has not had the intended affect and increasingly argument has crept back into answers. As put by the Speaker, "regrettably, the Standing Order with regard to answers was not changed in that manner. I hope that at some stage it will be."¹²

One way to address the relevance issue is to extend the same requirements on answers as exists with questions.

The current Standing Orders provide far more restriction on questions than answers. The Standing Orders provide that questions must not be debated¹³, not be critical of character or conduct¹⁴, nor contain arguments, inferences, imputations, insults, ironical expressions or hypothetical matter.¹⁵

Extending the Standing Orders to restrict answers will ensure that Question Time does not drift back into an opportunity for the Government to politically point score.

Speaker Jenkins has also stated his support for such a change stating, "...if the Standing Orders had been changed whereby the same rules applied to answers that applied to questions, especially about debate, I think the point about 'direct relevance' might have been solved. It has not been solved, but that would be a much easier way of bringing it to a true question and answer session."¹⁶

Single Relevance Point of Order

A follow on to the relevance issue is that of the single relevance point of order.

The *Agreement for a Better Parliament* included that "The point of order on relevance can only be once per question."¹⁷ This change was adopted in recent changes to the Standing

Orders.¹⁸

The intention of this change was that as Question Time was being amended to ensure it was more about information and less about point scoring, there was less need for on-going points of order.

Unfortunately as the Government has begun to circumvent the direct relevance of an answer, the entitlement to a single point of order has become an issue. Once the point of order has been made Ministers are increasingly attempting to answer on a point scoring tangent in full knowledge that there is little recourse available to the Opposition.

Should the Government adopt changes to direct relevance as outlined above the need to extend the opportunity to take a point of order would be diminished. Should the Government refuse any change, then the option of removing it would follow such refusal.

Creation of a backbench question session

The House of Representatives Standing Committee on Procedure has had a longstanding concern over the issue of Member participation. In their discussion paper 'Question time in the House of Representatives', released in June 1995, the Committee noted concern that Government backbench Members have a greater opportunity to ask questions than non-Government backbench Members.

The creation of a dedicated backbencher question session to follow the Matter of Public Importance each day could be one way to ensure both greater equity and involvement of all Members in the House. Each session would provide all backbench Members with an opportunity to question the Government on local issues.

There are aspects of the New Zealand model that may be useful in creating the question session. The New Zealand model¹⁹ provides that each day, Members of the House submit written questions to the Clerk by 10.30am on the day the question is intended to be asked. The lodgement of very specific questions in anticipation of them being asked enables a far more detailed and informative response. Twelve of these questions are selected on the basis of a Parties proportional representation in the House. These questions are then asked orally and must relate to the portfolio of the Minister asked.

In an Australian context, backbenchers could lodge questions with the Clerk in the morning of the day they intend being asked. To ensure that the Parliaments time is effectively used, each backbench question session should relate to specific portfolio areas, allowing Ministers to alternate attendance and be fully informed in providing their response.

Personal Misrepresentations

The Standing Orders currently provide only a singular remedy for a Member being misrepresented, that being the opportunity to take a Personal Explanation.²⁰

The current provisions are seriously inadequate and allow the Government to knowingly continue making false accusations about Members.

The most glaring recent example is that of the Treasurer Mr Swan who has repeatedly alleged that Mr Turnbull opposed the Government's whole banking guarantee policy.²¹

These claims continue to be made, despite the fact that Mr Turnbull has on numerous occasions taken a personal explanation following the misrepresentations made by the Treasurer.^{22,23,24&25}

These sledging tactics were again highlighted by Minister Burke and his allegations relating to Mr Turnbull's personal investments.²⁶

Speaker Jenkins has stated that the opportunity for personal explanations highlights an "anomaly" in the Standing Orders and that the Procedures Committee has "regrettably" not addressed the issue.²⁷

One option to resolve the misrepresentation issue could be to add a clause to Standing Order 68 with the intention of: 'Where a misrepresentation is alleged to occur and has been made by another Member, the aggrieved Member is afforded an immediate opportunity to respond.'

¹ Agreement for a Better Parliament – Parliamentary Reform, September 2010, Section 4.3

² Agreement for a Better Parliament – Parliamentary Reform, September 2010, Section 4.5

³ Speaker Jenkins, *Hansard – House of Representatives*, 28 October 2010; Page: 2062

⁴ House of Representatives Standing and Sessional Orders, October 2010, Standing Order 104 (a)

⁵ Speaker Jenkins, *Hansard – House of Representatives*, 20 October 2010; Page: 941

⁶ Speaker Jenkins, *Hansard – House of Representatives*, 20 October 2010; Page: 938

⁷ Speaker Jenkins, *Hansard – House of Representatives*, 20 October 2010; Page: 938

⁸ Speaker Jenkins, *Hansard – House of Representatives*, 21 October 2010; Page: 1145

⁹ Speaker Jenkins, *Hansard – House of Representatives*, 19 October 2010; Page: 676

¹⁰ Speaker Jenkins, *Hansard – House of Representatives*, 24 November 2010; Page: 3620

¹¹ Speaker Jenkins, *Hansard – House of Representatives*, 28 October 2010; Page: 2062

¹² Speaker Jenkins, *Hansard – House of Representatives*, 28 October 2010; Page: 2054

¹³ House of Representatives Standing and Sessional Orders, October 2010, Standing Order 100 (a)

¹⁴ House of Representatives Standing and Sessional Orders, October 2010, Standing Order 100 (c)

¹⁵ House of Representatives Standing and Sessional Orders, October 2010, Standing Order 100 (d)

¹⁶ Speaker Jenkins, *Hansard – House of Representatives*, 24 November 2010; Page: 3628

¹⁷ Agreement for a Better Parliament – Parliamentary Reform, September 2010, Section 4.7

¹⁸ House of Representatives Standing and Sessional Orders, October 2010, Standing Order 104 (b)

¹⁹ Standing Orders of the New Zealand House of Representatives, S.O. 372, 374, 63, 375 and 378

²⁰ House of Representatives Standing and Sessional Orders, October 2010, Standing Order 68

²¹ Wayne Swan, *Hansard – House of Representatives*, 25 November 2010; Page: 3820

²² Malcolm Turnbull, *Hansard – House of Representatives*, 16 June 2009; Page: 6009

²³ Malcolm Turnbull, *Hansard – House of Representatives*, 18 August 2009; Page: 8190

²⁴ Malcolm Turnbull, *Hansard – House of Representatives*, 19 October 2009; Page: 10105

²⁵ Malcolm Turnbull, *Hansard – House of Representatives*, 20 October 2009; Page: 10245

²⁶ Tony Burke, *Hansard – House of Representatives*, 22 November 2010; Page: 3183

²⁷ Speaker Jenkins, *Hansard – House of Representatives*, 25 November 2010; Page: 3820