

The Senate

Procedure Committee

Appropriations and Staffing Committee

Cross-bench committee membership, chairing and order of speakers

Powers of Chair in relation to disorder

Language of matters raised under standing order 75

Changes to standing and other orders relating to estimates hearings

First report of 2015

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President of the Senate

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Deputy President and Chair of Committees, **Chair**

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Leader of the Government in the Senate

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Procedure Committee

First report of 2015

The committee reports to the Senate on the following matters discussed at its meeting on 18 March 2015.

Appropriations and Staffing Committee

In the context of changes to security arrangements at Parliament House over the past few months, the committee considered a proposal to strengthen oversight of security by the Appropriations and Staffing Committee. The proposal was initiated by the Leader of the Opposition in the Senate, Senator the Hon. Penny Wong, and referred to the committee by the President of the Senate, Senator the Hon. Stephen Parry, pursuant to standing order 17(3).

The Appropriations and Staffing Committee, established under standing order 19, already has responsibility to consider "the administration and funding of security measures affecting the Senate and advise the President and the Senate as appropriate". The committee considered that it would be desirable for the terms of reference of the Appropriations and Staffing committee to reflect proposed changes to the terms of reference of the Security Management Board, established under the *Parliamentary Service Act 1999*, by including security "operations". The strengthened focus on security should also be reflected in the name of the committee by amending it to the "Appropriations, Staffing and Security Committee". Finally, the committee considered that the membership of the Appropriations and Staffing Committee would be more inclusive if the Deputy President were also to be included as an *ex officio* member, noting that the standing order already provides for any senator to attend and participate in deliberations.

The committee **recommends** that standing order 19 be amended in the terms set out in Attachment 1, with immediate effect.

Cross-bench committee membership, chairing and order of speakers

This matter was referred to the committee by the President of the Senate pursuant to standing order 17(3) at the request of eight cross-bench senators who considered that current practices in relation to membership and chairing of Senate and joint committees, and the allocation of the call, did not reflect the composition of the Senate since 1 July 2014.

The committee considered the matter at its meeting on 28 October 2014 and the Chair subsequently wrote to the senators drawing their attention to a list of current vacancies on committees and seeking details of their concerns in relation to current practices. Several of the committee vacancies have now been filled.

Further consultation with the cross-bench senators is proposed but, in the meantime, the committee draws attention to the principle of proportionality inherent in the current practices of the Senate.

Powers of the Chair in relation to disorder

This matter was referred to the committee by the President of the Senate pursuant to standing order 17(3) at the request of Senator Williams. Concerned at persistently unruly behaviour by some senators, particularly during Question Time, Senator Williams asked the committee to consider a power for the President to remove senators from the chamber as a means of checking such conduct.

Power to deal with a disorderly senator is currently contained in standing orders 203 and 204. A senator who engages in conduct listed in standing order 203 may be reported to the Senate (or "named") by the President. The reported senator is required to attend in his or her place and make either an explanation or apology. A motion may be moved for the suspension of the senator from the sitting of the Senate for the remainder of the day. Longer periods of suspension apply in the case of second or subsequent offences within a calendar year. The suspension of a senator is therefore a matter for the Senate as a whole.

The committee discussed the proposal at its meetings on 28 October 2014 and 18 March 2015 but, in the absence of consensus, considered that there should be no change to current procedures. The committee considers that persistently unruly behaviour reflects badly on the Senate as a whole and that senators should be mindful of the ensuing reputational damage.

The committee thanks Senator Williams for raising this matter.

Language of matters raised under standing order 75

This matter was referred to the committee by the President of the Senate pursuant to standing order 17(3) at the request of the Leader of the Government in the Senate, Senator the Hon. Eric Abetz. Senator Abetz expressed concern about politically charged or inflammatory language used in some matters raised in accordance with the procedures for Matters of Public Importance and Urgency motions under standing order 75, for example, the proposal raised on 14 May 2014 referring to the "Abbott Government's vicious attack on low and middle income Australians". He drew

attention to protocols on temperate language in place in other Parliaments including in Victoria and Tasmania.

The committee sought information about practices operating in these State Parliaments and thanks the Clerks of the Victorian Houses and the Clerk of the Tasmanian Legislative Council for their assistance.

Only the Victorian Legislative Assembly had a specific protocol governing such matters, but elements of the protocol appeared to reflect the common rules of debate in operation in most jurisdictions, including the Senate. These included limiting discussion to matters that:

- were within the competence of the jurisdiction,
- did not anticipate discussion of matters on the Notice Paper,
- did not infringe sub judice principles,
- did not involve the same question as one already determined in the same session,
- did not relate to the character or conduct of a person whose actions could be challenged only by means of a substantive motion.

In all cases, the language of motions, questions or proposals for discussion was a matter for the judgement of the Presiding Officer in accordance with the practices of the relevant House.

The committee considers that current standing orders and practices are appropriate and that, within this framework, the formulation of matters under standing order 75 should be left to the judgement of individual senators.

The committee thanks Senator Abetz for raising this matter.

Changes to standing and other orders relating to estimates hearings

This matter was referred to the committee by the President of the Senate pursuant to standing order 17(3) at the request of Senator Bernardi who was concerned that a series of changes to estimates procedures agreed to by the Senate on 25 June 2014 had not been examined by this committee first.

The changes provide for any 3 members of a legislation committee to require a spill-over hearing, either on the Friday of an estimates week or on another day. An amendment of standing order 26 allows senators to continue with questions on a

program until all questions have been asked or senators agree to put them on notice. Orders of continuing effect require Senate ministers to table information about the status of answers to questions taken on notice at previous estimates rounds, and strengthen the accountability obligations of officers.

The changes have operated for two rounds of estimates hearings and there is a wide range of views on their effectiveness and value. The committee is aware that they have been the subject of discussion at the Chairs' Committee established under standing order 25(10) and notes the importance of cooperation within committees for managing hearings effectively. The committee notes the different views expressed about the changes and will continue to monitor their operation and report to the Senate as required.

Senator Gavin Marshall
(Chair)

ATTACHMENT 1

Proposed amendment of standing order 19

That standing order 19 be amended as follows:

Name of the committee

- (1) Omit "Appropriations and Staffing" (wherever occurring), substitute.
"Appropriations, Staffing and Security".

Functions of the committee

- (2) Omit paragraph (3)(d), substitute:
 - (d) consider the administration, operation and funding of security measures affecting the Senate and advise the President and the Senate as appropriate; and

Composition of the committee

- (3) Paragraph (4), after "President", insert ", the Deputy President".

