



LEGISLATIVE ASSEMBLY

Office of the Clerk

The Hon Sharon Claydon MP
Chair, Standing Committee on Procedure
House of Representatives
Parliament of Australia
PO Box 6021, Parliament House,
Canberra ACT 2600

Dear Ms Claydon,

Inquiry into disrespectful conduct in the Chamber

Thank you for the opportunity to make a submission to this inquiry.

Measures available to the Speaker of the Legislative Assembly for dealing with disorderly conduct in the Chamber are set out in the Standing Orders and an associated Speaker's Guideline. While disorder is generally dealt with at the time in the Chamber, Members may also raise any concerns with the Speaker informally.

The main sanction for disorderly conduct is a Speaker's direction to leave the Chamber, in most cases for a short period or until a particular item of business concludes. In cases of persistent or more serious disorder the Member may be directed to leave the Chamber until the House adjourns, during which time they are excluded from the Parliamentary precinct and proceedings of the House or its committees. A Member may also be named for disorderly conduct and suspended from service by the House.

Under Standing Order 9(2) provision is made for the Speaker to issue guidelines from time to time in relation to matters not provided for in the standing orders.

In 2024 the Speaker tabled such a Guideline which supplements the Standing Orders to clarify that offensive words include words that are sexist, racist, homophobic or otherwise exclusionary or discriminatory. The use of such language in the Chamber is classed as disorderly.

Detailed responses to the consultation questions are set out in Appendix 1.

Yours sincerely

Helen Minnican
Clerk of the Legislative Assembly



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APPENDIX 1

NSW Legislative Assembly

Submission to the House of Representatives Standing Committee on Procedure: Disrespectful behaviour in the Chamber

1. Do behaviour codes apply to conduct in the Chamber?

In the NSW Legislative Assembly there are no behaviour codes that apply for conduct in the Chamber.

For the purposes of section 9 of the Independent Against Corruption Act 1988 (NSW), at the commencement of a Parliament, the House adopts a Code of Conduct for Members. However, this Code of Conduct covers areas concerning the proper exercise of power, openness and accountability, and upholding the code. It doesn't cover behaviour in the Chamber.

2. Whether Standing Orders or codes contain any provisions that impose positive expectations of behaviours that parliamentarians must uphold in the Chamber. If so, how are such provisions enforced?

The NSW Legislative Assembly Standing Orders contain provisions that cover the use of offensive words or disorderly conduct.

<p>Standing Order 72 - Offensive words not to be used A Member shall not use offensive words against:</p> <ul style="list-style-type: none">(1) The Sovereign or the Governor.(2) Either House or its Members.(3) A member of the judiciary.(4) A statute, unless moving for its repeal.	<p>Prohibits the use of 'offensive words' in constrained circumstances, when used against certain people.</p>
<p>Standing Order 74 – Quarrels not permitted The Speaker may intervene:</p> <ul style="list-style-type: none">(1) When offensive or disorderly words are used by a Member.(2) To prevent a quarrel between Members arising out of debates or proceedings in the House.	<p>Does not have the constraint that SO 72 has. It allows the Speaker to 'intervene when offensive or disorderly words are being used by a Member' or to prevent a quarrel between Members.</p>



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<p>Standing Order 250 – Member named for disorderly conduct</p> <p>A Member may be named by the Speaker for:</p> <ul style="list-style-type: none">(1) Persistently and wilfully obstructing the business of the House.(2) Being guilty of disorderly conduct.(3) Using offensive words, and refusing to withdraw them.(4) Persistently and wilfully refusing to conform to any Standing Order.(5) Persistently and wilfully disregarding the authority of the Chair.	<p>Provides the Speaker with the power to name a Member for certain types of conduct.</p> <p>The consequences of naming are serious and could involve the House resolving to suspend that Member from the service of the House.</p>
<p>Standing Order 249 – Member repeatedly called to order</p> <ul style="list-style-type: none">(1) If a Member's conduct is such that it is necessary for the Speaker to call the Member to order more than three times in any one sitting for any gross breach of the rules, the Speaker may direct the removal of the Member by the Serjeant-at-Arms until the adjournment of that sitting.(2) A Member who is removed from the House shall be excluded from the Parliamentary precincts for the remainder of the sitting and cannot take part in any proceeding of the House or its committees.	<p>If a Member's conduct is disorderly, the Speaker will call the Member to order. If a Member receives more than three calls during any one sitting, the Speaker in accordance with SO 249 may direct the Serjeant-at-Arms to remove the Member from the Chamber. A Member who is removed from the House in such circumstances is not allowed to remain within the Parliamentary precincts for the remainder of the sitting and cannot take part in any proceedings of the House or its committees (SO 249).</p>
<p>Standing Order 249A – Member removed from the Chamber</p> <p>The Speaker may direct a Member who is grossly disorderly to leave the Chamber for up to three hours. The direction shall not be open to debate or dissent.</p>	<p>In accordance with Standing Order 249A, the Speaker has discretion to direct a Member who is grossly disorderly to leave the Chamber for up to three hours. This may be for a set period of time (e.g. one hour) or until the conclusion of certain business (e.g. for the remainder of Question Time). Under 249A, the Speaker does not need to place the Member on a call to order before directing them to leave.</p> <p>Standing Order 249A was first adopted by the 57th parliament in January 2022.</p>

A Member has the right at any time to raise a point of order relating to a breach of the Standing Orders or the practice of the House (SO 93) and the Speaker is responsible for keeping order in the House (SO 49). If a Member considers that another Member's conduct is offensive or disorderly, they may call the Speaker's attention to it by way of a point of order.



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In addition to the above Standing Orders, on 19 September 2024, the Speaker issued a Guideline pursuant to Standing Order 9(2) to provide guidance on how offensive or disorderly words and unparliamentary language in the Chamber would be addressed. The guideline provides that Members are not to use language, make gestures, or behave in any way in the Chamber that is sexist, racist, homophobic or otherwise exclusionary or discriminatory. Such conduct may be considered offensive and disorderly, in accordance with SO 74. Where a Member refuses to comply with a direction of the Speaker, further action may be taken, including directing the removal of the Member from the House under Standing Order 249 or 249A, or moving that the Member be suspended under SO 250.

The Guideline was issued within the context of recommendations of the [Independent Review of Bullying, Sexual Harassment and Sexual Misconduct in NSW Parliamentary Workplaces](#).

3. The management of allegations or assertions made by parliamentarians about the conduct of other parliamentarians in the Chamber, particularly when the Chair has not heard or observed the incident directly

Allegations or assertions about the conduct of other Members are managed on a case-by-case basis. If the Speaker did not hear or see the incident, they will use their discretion to either invite a Member to withdraw their remarks or to leave the matter at that. The Speaker also has the discretion to review Chamber footage to ascertain what was actually said in the Chamber.

4. Dealing with issues in the Chamber

Issues are generally dealt with at the time in the Chamber. If a Member raises a point of order under SO 72 asserting that another Member has used words directed at them that they find offensive, the Speaker will invite the other Member to withdraw those words. There is a general expectation that a Member will withdraw their words in such circumstances so as to support the orderly conduct of proceedings. However, there is no obligation to do so, and in practice the words are not always withdrawn.

If the Speaker determines that offensive words have been used against a Member, the Speaker may direct the Member to withdraw the offensive words under SO 250 (discussed further below).

5. Training for presiding officers

At the start of each Parliament, the newly elected Speaker, Deputy Speaker, Assistant Speaker and Temporary Speakers (collectively, the Speakers Panel) undertake training on parliamentary procedure, including approaches to managing disorder and other disrespectful behaviour in the chamber.

At the commencement of the 58th Parliament, the new Speakers Panel met at the start of each sitting block. As Panel members became more established in their roles, the Panel now meets as required when issues arise.



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6. Sanctions for disrespectful behaviour in the Chamber

As outlined above in response to Question 2, the standing orders provide the Speaker with several measures for dealing with disorderly conduct.

Under SO 249, after calling a Member to order more than three times in one sitting, the Speaker may direct the Member's removal from the Chamber until the adjournment of that sitting. The Member must leave the parliamentary precinct (including their office at Parliament House) and not take part in any proceeding of the House or its committees.

Standing Order 249A provides a less severe sanction, in permitting the Speaker to direct a Member who is grossly disorderly to immediately leave the Chamber for up to 3 hours. On returning to the Chamber, the Member remains on three calls.

The Speaker may also "name" a Member for disorderly conduct or for refusing to withdraw offensive words when directed by the Speaker to do so (SO 250). The Speaker then puts the question that the Member be suspended from the service of the House for a period between 2 and 8 sitting days (SO 252). The question is not debated, although the Member may give an explanation limited to 5 minutes (SO 251). A Member who has been suspended is excluded from the parliamentary precinct and parliamentary proceedings (SO 253).

There has only been one occurrence in the last seven years of a Member being named and suspended pursuant to SO 250.

Speaker's Guideline

Use of offensive disorderly words, and unparliamentary language

Issued 19 September 2024 pursuant to Standing Order 9(2)

Members are not to use language, make gestures, or behave in any way in the Chamber that is sexist, racist, homophobic or otherwise exclusionary or discriminatory. Such conduct may be considered offensive and disorderly, in accordance with Standing Order 74.

Where a Member has used such language, taking into account the context, tone and manner of the Member speaking, the Speaker may intervene and direct the Member to withdraw the remark, resume their seat or discontinue the behaviour concerned.

Under the authority of the relevant Standing Orders, it is the role and responsibility of the Speaker to deal with any such conduct as matters of disorder. Where a Member refuses to comply with a direction of the Speaker, further action may be taken, including directing the removal of the Member from the House under Standing Order 249 or 249A.

I also note that Standing Order 250(3) provides that a Member may be named by the Speaker for using offensive words, and refusing to withdraw them, with the potential consequence of suspension from the service of the House.