



LEGISLATIVE COUNCIL

OFFICE OF THE CLERK

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14 November 2025

Ms Sharon Claydon MP  
Chair, Standing Committee on Procedure  
House of Representatives  
Parliament of Australia

Dear Ms Claydon

### **Inquiry into disrespectful behaviour towards other members in the Chamber**

#### **Introduction**

This submission outlines the procedures of the NSW Legislative Council relating to the respectful behaviour of members during proceedings. It details the relevant provisions under the standing orders, related rulings by the President and the Code of Conduct for Members.

Further detail can be found in the enclosed 2024 Report of the Procedure Committee entitled "Updating the standing orders to require respectful behaviour in the Chamber, particularly as they relate to sexism and racism", as well as the publications and documentation referenced in the footnotes.

#### **Standing Order 96(3)**

Standing order 96(3) provides rules for debate in the NSW Legislative Council relating to "offensive words", stating:

A member may not use offensive words against either House of the Legislature, or any member of either House, and all imputations of improper motives and all personal reflections on either House, members or officers will be considered disorderly.<sup>1</sup>

In August 2024, the House adopted a sessional order varying standing order 96(3) for the remainder of the 58th Parliament to include "discriminatory words" in addition to offensive words.<sup>2</sup> The sessional order was introduced following a recommendation from a Procedure Committee inquiry into updating the standing orders to require respectful behaviour in the Chamber, particularly as they relate to sexism and racism.<sup>3</sup>

In its operation, it is the Chair's role to intervene when offensive words are used, or to make a ruling when a point of order is raised by a member.<sup>4</sup> A member can request the withdrawal of an offensive expression, which must usually come from the member aggrieved and at the time the reflection is made.<sup>5</sup>

<sup>1</sup> Standing order 96(3), Standing Rules and Orders of the Legislative Council, p 34.

<sup>2</sup> *Minutes*, NSW Legislative Council, 14 August 2024. See also: Sessional order: Offensive or discriminatory words (SO 96(3)), House—Rules, Resolutions, Officeholders and Ministerial representation, p 3.

<sup>3</sup> Procedure Committee, NSW Legislative Council, *Updating the standing orders to require respectful behaviour in the Chamber, particularly as they relate to sexism and racism* (2024), p viii.

<sup>4</sup> Concise guide to rulings of the President and Chair of Committees, NSW Legislative Council, February 2024, p 20.

<sup>5</sup> Concise guide to rulings of the President and Chair of Committees, NSW Legislative Council, February 2024, p 20.

The Chair will determine whether the words used are offensive or disorderly, and may call upon the member who made the reflection to withdraw their remark or expression without qualification or reservation.<sup>6</sup> In serious cases, the Chair could require a member to make an apology to the House, or manage the disorderly conduct under standing orders 196 or 197 by calling the member to order or naming them.<sup>7</sup> Most often this occurs at the time the offensive words are used, but it is open to the Chair to defer their ruling if desired.

The text of substantive motions are not subject to the rules of debate provided for under standing order 96(3).

### **President's rulings**

As detailed in the Concise guide to rulings of the President and Chair of Committees, Presidents have sought to ensure members maintain respectful behaviour when participating in proceedings, and that the privilege of freedom of speech is used responsibly.

Rulings have generally observed the convention that offensive words within the meaning of standing order 96(3) include "words that are offensive to the common person, or that a member claims to have found offensive".<sup>8</sup> Offensive words must also be offensive in the generally accepted meaning of that word.<sup>9</sup> To support the sessional order relating to discriminatory words discussed above, the Procedure Committee also recommended that rulings "place a greater emphasis on the context in which the words are used, including the tone, manner and intent of the member speaking, as well as the effect of the comments in the Chamber".<sup>10</sup>

While a small number of statements are withdrawn each sitting week by members for being offensive or reflecting on another member, to date the President has not ruled any words as discriminatory under the varied standing order 96(3).

In a recent ruling regarding the use of freedom of speech, the President noted that the immunity attached to members' speech in the Legislative Council is absolute, and that the regulation of rules for debate by members is subject to the control of the House.<sup>11</sup> The President stated:

The House is responsible for regulating members' use of the freedom of speech that they enjoy. The rules of debate are one aspect of that... generally, I note that the Legislative Council has never adopted any further rules or resolutions setting out, amongst other things, the manner in which members are expected to exercise their privilege of freedom of speech.<sup>12</sup>

In the specific matter before the House, the President ruled that in the absence of the House having acted to adopt certain rules regarding members speech, it is "very difficult" for him to take action, such as in relation to the spoken words of members in notices.<sup>13</sup>

On 13 November 2025, the Privileges Committee tabled a report entitled 'Unauthorised disclosure of privileged information by the Honourable Mark Latham MLC – Part 1', which recommended that the House adopt a resolution setting out the manner in which members are expected to exercise their privilege of freedom of speech, modelled on the Senate's resolution on the same topic.<sup>14</sup>

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<sup>6</sup> Concise guide to rulings of the President and Chair of Committees, NSW Legislative Council, February 2024, pp 20-21.

<sup>7</sup> Standing orders 196 and 197, Standing Rules and Orders of the Legislative Council, p 67, and Concise guide to rulings of the President and Chair of Committees, NSW Legislative Council, February 2024, pp 20-21.

<sup>8</sup> Susan Want and Jenelle Moore, edited by David Blunt, Annotated Standing Orders of the New South Wales Legislative Council, (Federation Press, 2018), pp 306-307.

<sup>9</sup> Concise guide to rulings of the President and Chair of Committees, NSW Legislative Council, February 2024, p 20.

<sup>10</sup> Procedure Committee, NSW Legislative Council, *Updating the standing orders to require respectful behaviour in the Chamber, particularly as they relate to sexism and racism* (2024), p viii.

<sup>11</sup> Hansard, NSW Legislative Council, 6 August 2025, pp 60-61 (President).

<sup>12</sup> Hansard, NSW Legislative Council, 6 August 2025, pp 60-61 (President).

<sup>13</sup> Hansard, NSW Legislative Council, 6 August 2025, pp 60-61 (President).

<sup>14</sup> Privileges Committee, NSW Legislative Council, *Unauthorised disclosure of privileged information by the Honourable Mark Latham MLC – Part 1* (2025), p 38.

## Code of Conduct for Members

Standards of behaviour during proceedings are also guided by the Code of Conduct for Members (the Code), which states that:

A Member must treat their staff and each other and all those working for Parliament in the course of their parliamentary duties and activities with dignity, courtesy and respect, and free from any behaviour that amounts to bullying, harassment or sexual harassment.<sup>15</sup>

This clause of the Code was introduced in March 2022 alongside the establishment of an Independent Complaints Officer (ICO) at NSW Parliament, whose role is to receive and investigate complaints about breaches of the Code. Importantly, the ICO cannot investigate complaints about members' conduct and behaviour during proceedings of the House.

However, a possible consequence of breaches of the Code may include a member bringing a substantive motion against another member regarding that member's conduct. Under standing order 200, the House may take action against a member for unworthy conduct committed inside or outside the House if such action is necessary to protect the House and the performance of its functions.<sup>16</sup> Such a motion would be subject to a vote of the House, on whether or not to express an opinion in relation to the conduct of the member concerned. References may also be made to the Privileges Committee for inquiry and report.

## Procedure Committee 2024 report

The Legislative Council Procedure Committee undertook an inquiry into updating the standing orders to require respectful behaviour in the Chamber particularly as they relate to sexism and racism in 2024.

The terms of reference were referred to the Procedure Committee as part of a broader resolution, which noted the recommendation 3.5 of the 2021-2022 Broderick review of bullying, sexual harassment and sexual misconduct in New South Wales parliamentary workplaces, which stated that members should "lead discussion on updating the standing orders to require respectful behaviour in both Houses, particularly as they relate to sexism and racism".<sup>17</sup>

The committee examined the procedural, ethical and legal frameworks for the regulation of respect in the NSW Legislative Council and other legislatures around the world.<sup>18</sup> It also explored the obligations members have to meet community expectations on standards of behaviour, as well as the use of parliamentary privilege and the immunity attached to freedom of speech.<sup>19</sup> The Chair's determination of what constitutes disrespectful behaviour was another focus of the inquiry.<sup>20</sup>

The committee made two recommendations, to amend standing order 96(3) and in relation to Presidents' rulings, as discussed above.<sup>21</sup>

## Privileges Committee inquiry

On 5 August 2025, the House referred to the Privileges Committee (as part of its inquiry into the unauthorised disclosure of privileged information by the Honourable Mark Latham MLC), the following terms of reference:

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<sup>15</sup> Code of Conduct for Members, paragraph 10.

<sup>16</sup> Standing order 200, Standing Rules and Orders of the Legislative Council, p 67.

<sup>17</sup> Elizabeth Broderick & Co, *Leading for Change: Bullying, Sexual Harassment and Sexual Misconduct in NSW Parliamentary Workplaces 2022*, (2022), p 78.

<sup>18</sup> Procedure Committee, NSW Legislative Council, *Updating the standing orders to require respectful behaviour in the Chamber, particularly as they relate to sexism and racism* (2024), ch 3.

<sup>19</sup> Procedure Committee, NSW Legislative Council, *Updating the standing orders to require respectful behaviour in the Chamber, particularly as they relate to sexism and racism* (2024), chs 2 and 3.

<sup>20</sup> Procedure Committee, NSW Legislative Council, *Updating the standing orders to require respectful behaviour in the Chamber, particularly as they relate to sexism and racism* (2024), ch 4.

<sup>21</sup> Procedure Committee, NSW Legislative Council, *Updating the standing orders to require respectful behaviour in the Chamber, particularly as they relate to sexism and racism* (2024), p viii.

(b) The Privileges Committee inquire into and report on:

- (i) any threats made from members within Parliament towards other members or staff within Parliament,
- (ii) the progress made by the Government and political parties in implementing the recommendations of the Broderick Report and any changes since the review that have contributed to making NSW Parliament a safer and more respectful working environment.

The committee has resolved to progress this aspect of the terms of reference as 'Part 2' of the inquiry, to be commenced at a later date.

Yours sincerely

~~Steven Reynolds~~  
Clerk of the Parliaments