



PARLIAMENT *of* AUSTRALIA
HOUSE *of* REPRESENTATIVES

OFFICE OF THE CLERK OF THE HOUSE

PO Box 6021, Parliament House, Canberra ACT 2600 | Phone: (02) 6277 4111 | Fax: (02) 6277 2006 | Email: clerk.reps@aph.gov.au

12 November 2015

Mr James Rees
Inquiry Secretary
House of Representatives Standing Committee on Procedure

Dear Mr Rees

INQUIRY INTO THE PROVISIONS FOR NURSING MOTHERS

Thank you for your letter of 21 October 2015 inviting me to make a submission to the Committee's inquiry into the adequacy of provisions for nursing mothers in the House of Representatives.

Current standing orders and resolutions of the House

Standing Order 257(b) provides:

No Member may bring a visitor into any part of the Chamber, or that part of the room where the Federation Chamber is meeting, which is reserved for Members.

'Visitor' is defined in standing order 2 as 'visitor means a person other than a Member or parliamentary official'.

Thus it is clear that if a Member who was nursing a child brought the child into the Chamber, the child would be, strictly speaking, 'a visitor' and hence not entitled to be in the Chamber. What action a Speaker might take in those circumstances is a moot point and a Speaker might consider it best not to draw attention to the matter. In fact, this has been the experience on the few occasions it has occurred. However, this is not a satisfactory situation either for the Chair or for the breastfeeding Member.

In 2007, a former Committee on Procedure considered options for nursing mothers. Although the Committee did not recommend a system of proxy voting for nursing mothers, a resolution was adopted by the House in February 2008 to permit nursing mothers to exercise a proxy vote in a division through their relevant Whip. This was a very significant step for the House to take as it permitted a vote of a Member to be recorded in a division without the Member being present in the Chamber. Because of the significance of this step, the resolution provides that it should not be extended or adapted to apply to Members who are not able to be present in the Chamber for other

reasons. The resolution relating to proxy voting addresses the issue of breastfeeding Members attending divisions, but does not address issues of a limitation on participation at other times in the House.

Other jurisdictions

A recent query posed through the Australia and New Zealand Association of Clerks-at-the-Table (ANZACATT) elicited responses from Australian and New Zealand jurisdictions, which are summarised in attachment 1. You will see that there are four jurisdictions that permit nursing mothers to have their children in the Chamber – three do so by standing order provision and the fourth by a Speaker's ruling. In relation to the standing order provisions, it is done simply by providing that an infant being breastfed by a member of the House is not a visitor for the purposes of the relevant standing order.

Adequacy of current provisions

I note that the Chair of the Committee, Dr Southcott MP, stated in updating the House of the Committee's inquiry, that:

The committee is also aware that the practices and procedures of the House should meet changing community expectations with regard to encouraging women to breastfeed, supporting women's participation in the workplace, and balancing work and family.

I fully support Dr Southcott's comments. I believe the adoption of the resolution relating to nursing mothers to permit them to exercise a proxy vote is an example of the House adapting its procedures. As far as I am aware, the resolution for proxy voting generally has worked successfully. It is dependent on Whips and Members being aware of its provisions so that they are in a position to use them. Other than ensuring there is good awareness of the resolution, I do not see a need to change the provisions.

I recognise there is an issue where a Member who is a nursing mother may see a need to have her child in the Chamber (including the Federation Chamber) during proceedings other than during divisions which are provided for in the resolution for proxy voting. I appreciate that with the current standing orders, the Chair (and the Member) are placed in a difficult position if the standing orders are to be strictly adhered to. For this reason I suggest the Committee considers recommending a change to the standing orders to permit Members who are nursing mothers to bring their infants into the Chamber to be breastfed. Although I support such a change, I believe it is important that it be done in conjunction with the resolution regarding proxy voting, as I can understand Members may not necessarily wish to bring their young children into the Chamber, and in particular during divisions, a time when there might be considerable noise and activity.

Please let me know if I can provide any further assistance to the Committee.

Yours sincerely

A handwritten signature in blue ink that reads "David Elder". The signature is written in a cursive, slightly stylized font.

DAVID ELDER
Clerk of the House

Breastfeeding exception to the prohibition of strangers in Australian and New Zealand Parliaments

Question—The NSW Legislative Council makes an exception to the prohibition of strangers on the floor of the house for a "member breastfeeding an infant". We have been asked to consider whether this can be widened to enable a member with an infant under four years old to take that infant on to the floor when voting in a division. Are there any standing orders or resolutions of your House which have a similar provision?

	Breastfeeding exception?	Comments (incl existing or proposed extension to infants in care of member)
ACT Legislative Assembly	Yes—SO 210	No other provisions to enable "strangers" on to the floor of the Chamber.
Commonwealth House of Representatives	No—but voting by proxy permitted	House of Representatives adopted a <u>resolution</u> on 13 February 2008 (continuing until amended or rescinded 'in this or a subsequent parliament') that allows a Member who is a nursing mother to vote in divisions by proxy, by giving her proxy to the Chief Government or Chief Opposition Whip. This has been used a number of times, including in this parliament - there are currently a number of members with infants.
Commonwealth Senate	Yes—SO 175(3)	The Procedure Committee considered in its Third report of 2009, but did not recommend, an extension to senators caring for an infant briefly, provided the business of the Senate is not disrupted. "In the view of the majority of the committee, it would create an undesirable inroad on the principle that the floor of the Senate is reserved for senators and officers in immediate attendance on the Senate, and would create uncertainty as to the scope of the proposed exemption."
NSW Legislative Assembly	No	There have been instances of an "infant presence" on the floor of the Chamber with no points of order being raised. If corporate memory serves, these instances occurred during divisions.
NSW Legislative Council	Yes—SO 196(4)	Considering whether this can be widened to enable a member with an infant under four years old to take that infant on to the floor when voting in a division.
NT Legislative Assembly	No	Members with small children present tend to leave them in the government or opposition lobbies adjacent to the Chamber when required.
NZ House of Representatives	No	A room very near the Chamber has been provided for members' babies.
Queensland Legislative Assembly	No	
SA House of Assembly	No	Members with small children present have voted in divisions from the Chamber galleries.
Tasmania House of Assembly	No	
Victoria Legislative Assembly	Yes—Speaker's Ruling, <u>Hansard</u> , 18 March 2003, p 248	In 2009, the Standing Orders Committee recommended (recommendation 7) that members with childcare responsibilities at Parliament House be allowed to sit in the lower public galleries with their children during divisions and have their vote counted from there, but this recommendation was not taken up by the House.
Victoria Legislative Council	No	
WA Legislative Assembly	No	