

Procedure Committee

First report of 2019

The committee reports to the Senate on the following matters.

Parliamentary Code of Conduct

On 29 November 2018, the Senate referred to the committee adoption of a Parliamentary Code of Conduct proposed by the Leader of the Australian Greens, Senator Di Natale. The text of the proposed code is reproduced in Appendix 1. Senator Di Natale's motion proposing the adoption of the code was amended to instead refer it to the committee. The code is similar to one proposed by the Australian Greens and considered by the committee in its first report of 2017.¹ On that occasion, the committee did not agree to adopting the code as an order of the Senate, and similarly did not agree to related amendments proposed to standing order 193.

The committee asked its members to raise the new proposed code with other senators, particularly through their party room meetings. Members continue to report different views about the value and content of such a code and the committee does not recommend its adoption.

The committee draws the attention of all senators to the statements made by the President on 13 August 2018 and 28 November 2018, decrying the use of offensive, unparliamentary epithets in debate and reminding senators that personal abuse has no place in the Senate, particularly if it targets personal attributes, such as race or gender.

Formal business

Background

The committee reports on two matters connected to the consideration of formal business.

First, in 2018, the President referred to the committee concerns about the length and content of notices of motions, identifying 'a significant drift away from both the requirement that notices be succinct and that they not contain extraneous matter'. The President also noted an increase in the number of statements being made by leave at formal business time. The reference asked the committee to consider the adequacy of

1 Senate Standing Committee on Procedure, [First Report](#), December 2017.

rules and practices concerning the format and content of notices of motion, and their consideration as formal business. The President's letter is shown at Appendix 2.

More recently, on 4 December 2018, the Senate referred the following matter to the committee:

That the standing orders relating to the routine of business be reviewed to assess whether a limit should apply to the consideration of formal motions, or other procedural changes be made to limit the time taken for the consideration of formal motions in a sitting week.

In considering these matters the committee noted several trends in the use of the formal business procedure and considered a range of procedural options, as shown in Appendix 3.

The graphs included in Appendix 3 demonstrate the increased use of the procedure (more requests for formality), increased contestability (more divisions; more denials of formality, more suspension motions) and more statements by leave. No doubt that is in part explained by the current composition of the Senate, with its large and diverse crossbench. Even accepting those trends, however, the increases seen in these areas in 2018 – and even more so in the first few sittings of 2019 – far exceed those in previous years.

On 28 November 2018, the committee recommended a temporary order to prohibit debate on suspension of standing order motions connected to formal business, which was adopted the same day. The committee **recommends** that the temporary order be adopted on a permanent basis.

However, the committee is reluctant to recommend adding any further procedural complexity to this process at this stage in the parliamentary cycle. The Senate may wish to consider some of the options referred to this report in the 46th Parliament, should 2018 and the first part of this year prove not to be an outlier in the use of these procedures.

One of the main contributors to the length of time spent on formal business is the number of statements being made by leave. The committee has previously referred to such statements as 'misuse of the procedure' (first report of 2003) and criticised their content and prevalence (first report of 2004, second report of 2011). Nevertheless, senators now see them as a routine part of the formal business process. It is hard to see how the time spent on formal business may be reduced unless senators agree to make fewer such statements.

Again, the Senate may wish to consider these matters further in the next Parliament.

Closing the Gap statement

Indigenous Australian languages

The President referred the above matters to the committee, on 13 March 2019, at the request of the Manager of Opposition Business, Senator O'Neill. Senator O'Neill's letter is reproduced at Appendix 4. Each matter proposes procedural changes.

The first proposal asks that the Senate add to its current practices surrounding consideration of the Prime Minister's annual 'Closing the Gap' statement. Senator O'Neill proposes a short suspension of Senate sittings to enable senators to attend the presentation of the statement in the House of Representatives.

The second proposal is that, where evidence is taken before a Senate committee in an Indigenous Australian language, the Senate requires that the evidence be transcribed in Hansard both in that language and in English.

The committee asks that senators consider these two matters, with the expectation that they will be considered further by the committee in the next Parliament.

Senator Sue Lines

Chair

