



PARLIAMENT OF AUSTRALIA

# **Raising the Standard**

**Inquiry into recommendations 10 and 27 of  
*Set the Standard: Report on the Independent Review into  
Commonwealth Parliamentary Workplaces***

**House of Representatives**

**Standing Committee on Procedure**

July 2023

CANBERRA

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# Foreword

The release of *Set the Standard* was not only cause for reflection but also an opportunity for action. The Procedure Committee saw a role for itself in helping to implement two of the report's recommendations, by reviewing the practices and procedures of the House with a view to improving safety, respect and inclusiveness and by examining the House's sitting pattern and hours.

The Chamber environment is a unique one. The effectiveness of debate is dependent on the principle of freedom of speech. But this does not imply that the tone and tenor of debate need not be respectful. Indeed, the House has used its constitutional power to make its own rules to proscribe objectionable words and disorderly conduct in its standing orders. A principal role of the Speaker, as Chair of proceedings, is to balance the rights of Members with the need for order.

The Speaker already has considerable power to rule that language and behaviour of the type described in *Set the Standard* is disorderly and to impose sanctions. However, the Committee considers that there is scope to clarify what is unparliamentary and strengthen the Speaker's power to impose sanctions. The Committee considers there is scope to improve Members' understanding of the standing orders and to increase awareness of how to raise concerns so they can be addressed.

Developing the annual sitting program and the order of business is another question of balance. Given Australia's geography and demography, many Members travel long distances to reach Canberra and so are keen to make the most of their time in Parliament House. But, as *Set the Standard* made clear, long days and fatigue are not healthy. Members are juggling responsibilities to their electorates and their families at the same time. The Committee looked at the different factors at play as well as at the changes made over recent Parliaments to improve the span of sitting hours and when Members need to be in Parliament House. It considers that an effective balance has been achieved between the competing priorities but will maintain a watching brief over the rest of the 47th Parliament in case further calibrations can be made.

The Procedure Committee's remit is narrow, focusing on the practices and procedures of the House. Therefore the scope of its inquiry was necessarily confined. However, the Committee is very aware of the other work that has been underway to address other recommendations from *Set the Standard*—such as the development of codes of conduct—and has sought to situate its recommendations within the broader context of implementation across the Parliament.

In looking at the current rules and practices of the House, we were grateful to hear from both very experienced and newer Members, as well as former Speakers and others. Meeting with Speakers of other parliaments was invaluable in helping the Committee understand how other parliaments approached questions of unparliamentary language and disorderly behaviour.

*Set the Standard* built a case for change across Commonwealth parliamentary workplaces. The recommendations in this report aim to create change in the Chamber itself—by strengthening the Speaker’s powers, clarifying expectations and improving Members’ understanding—and to raise the standard in the House.

**Hon Shayne Neumann MP**  
**Chair**

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# Abbreviations

CALD	Culturally and Linguistically Diverse
HR Deb	Parliamentary Debates (Hansard—House of Representatives) References are to date and page.
LGBTIQ+	Lesbian, Gay, Bisexual, Trans/Transgender, Intersex, Queer
SO	Standing Order
VP	Votes and Proceedings of the House of Representatives References are to sessional volume, page and date.





# Members

## ***Chair***

Hon Shayne Neumann MP

Blair, QLD

## ***Deputy Chair***

Mr Ross Vasta MP

Bonner, QLD

## ***Members***

Dr Michelle Ananda-Rajah MP

Higgins, VIC

Mr Colin Boyce MP

Flynn, QLD

Dr Carina Garland MP

Chisholm, VIC

Ms Anne Stanley MP

Werriwa, NSW

Mr Terry Young MP

Longman, QLD





# Terms of reference

To inquire into and report on:

- 1 practices and procedures of the House with a view to:
  - a. eliminating language, behaviour and practices in the parliamentary chambers that are sexist or otherwise exclusionary and discriminatory, and
  - b. improving safety and respect in parliamentary chambers, and
- 2 the Parliamentary sitting calendar and the House and Federation Chamber Orders of Business, with a view to enhancing wellbeing, balance and flexibility for Members and workers in Commonwealth parliamentary workplaces.



# List of recommendations

## Recommendation 1

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3.55 The Committee recommends that standing order 89 be amended as follows:

### 89 Offensive words

**A Member must not use offensive words, including words that are sexist, racist, homophobic and otherwise exclusionary or discriminatory, against:**

- (a) either House of the Parliament or a Member of the Parliament; or
- (b) a member of the Judiciary.

## Recommendation 2

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3.85 The Committee recommends that the House amend standing order 94(a) as follows:

(a) The Speaker can direct a disorderly Member to leave the Chamber for:

(i) one hour; or

(ii) three hours, where there is continued or escalating disorderly conduct.

The direction shall not be open to debate or dissent, and if the Member does not leave the Chamber immediately, the Speaker can name the Member under the following procedure.

## Recommendation 3

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3.115 The Committee recommends that the Department of the House of Representatives review the guidance material and training available to Members to ensure Members are aware:

- words that are sexist, racist, homophobic and otherwise exclusionary or discriminatory are considered offensive words under standing order 89,
- disorderly conduct under standing order 91 includes acts of bullying and sexual harassment in the Chamber, and
- under standing order 92(b), a Member may draw the Speaker's attention to the conduct of a Member.

## **Recommendation 4**

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**3.116** The Committee recommends that the Speaker and the Department of the House of Representatives ensure guidance for members of the Speaker's Panel, and for chairs and deputy chairs of parliamentary committees, is updated to reflect any changes to standing orders made from recommendations in this report.

## **Recommendation 5**

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- 5.17** The Committee recommends that House consider establishing a House Standing Committee on Gender Equality, Diversity and Inclusion to:
- scrutinise the work of the Australian Public Service from a gender, diversity and inclusion perspective
  - scrutinise the potential effects of proposed legislation on gender equality, diversity and inclusion, and
  - inquire into and report on matters related to gender, diversity and inclusion.

## **Recommendation 6**

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**5.33** The Committee recommends that, during the next major review of the standing orders, the House consider removing masculine and feminine pronouns from the standing orders, and replacing them with gender-neutral alternatives.



# 1. Introduction

- 1.1 On 30 November 2021, *Set the Standard: Report on the Independent Review into Commonwealth Parliamentary Workplaces (Set the Standard)* was released by the Sex Discrimination Commissioner. The review, which had been commissioned following allegations of sexual assault in Parliament House, examined the culture of Commonwealth parliamentary workplaces with the aim of ensuring the Parliament is safe and respectful and reflects best practice in the prevention and handling of bullying, harassment and sexual assault.
- 1.2 The report made 28 recommendations aimed at fostering safe, diverse and inclusive Commonwealth parliamentary workplaces, as well as shared accountability for change. Two of these recommendations (recommendations 10 and 27) fall within the scope of the Procedure Committee's activities, which is established each Parliament to inquire into and report on the practices and procedures of the House of Representatives. The Committee is focused on the standing orders, parliamentary practice and procedure, and the work of the Chamber.

## Conduct of the inquiry

- 1.3 On 8 September 2022, shortly after the commencement of the 47th Parliament, the House Standing Committee on Procedure agreed to an inquiry into recommendations 10 and 27 of *Set the Standard*:

### **Recommendation 10: Everyday respect in the parliamentary chambers**

The Presiding Officers should review the Standing Orders and unwritten parliamentary conventions, including their application in practice, with a view to:

- eliminating language, behaviour and practices that are sexist or otherwise exclusionary and discriminatory
- improving safety and respect in the parliamentary chambers.

### **Recommendation 27: Review of Parliamentary sitting calendar and Order/Routine of Business**

The Procedure Committees of the House of Representatives and the Senate should review the Parliamentary sitting calendar and the Order/Routine of Business with a view to enhancing wellbeing, balance and flexibility for parliamentarians and workers in Commonwealth parliamentary workplaces.

- 1.4 While recommendation 10 was addressed to the Presiding Officers, the Procedure Committee undertook to complete a review in relation to these matters as it fell within its remit to ‘inquire into and report on the practices and procedures of the House and its committees’.<sup>1</sup>
- 1.5 The Committee was interested in hearing a variety of views on how these recommendations could be implemented. It issued a general call for submissions in October 2022, and invited submissions from Members, former Speakers and Speakers of Australian state jurisdictions. Submissions were also invited from academics working in related fields, such workplace law, gender equity, discrimination law and parliamentary practice and procedure.
- 1.6 The Committee held private briefings with a range of parliamentary office holders, the Clerk and parliamentary colleagues in other jurisdictions between October 2022 and May 2023. The Committee met privately with the Sex Discrimination Commissioner, Ms Kate Jenkins, in the early stages of the inquiry.
- 1.7 The Committee held four public hearings, including two roundtables with former Speakers and invited academics. Two further public hearings were held, one with Dr Sonia Palmieri, an expert in gender-sensitive parliaments, and one with Ms Kate Jenkins, towards the end of her term as Sex Discrimination Commissioner.
- 1.8 A list of the submissions received is at Appendix A. Public hearings and witnesses are listed in Appendix B. Additional documents are listed in Appendix C.

## Acknowledgements

- 1.9 The Committee would like to thank everyone who made a submission, or spoke with the Committee publicly or privately. While the practices and procedures of parliament can often be thought of as dry, the recommendations considered during this inquiry arose from the experiences and trauma of many people working in Commonwealth parliamentary workplaces. Everyone who participated in the inquiry engaged positively and sensitively, with the goal of improving the working environment at Parliament House. The Committee is grateful to the current and former Members—including the current Speaker and former Speakers—as well as colleagues in other jurisdictions, the Commission and academics and other experts who participated in the inquiry.

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<sup>1</sup> Standing order 221.

## Scope of the inquiry

- 1.10 This inquiry focused solely on the two *Set the Standard* recommendations that fell within the Committee's remit (see paragraph 1.2). It did not consider the separate, but related, recommendation that a draft code of conduct for parliamentarians be developed and adopted into the standing orders of the House of Representatives and Senate.<sup>2</sup> Instead, this was considered by a Joint Select Committee on Parliamentary Standards, established in the 46th Parliament and then re-established in the 47th Parliament.<sup>3</sup> The report of that committee, tabled on 29 November 2022, contains proposed Behaviour Standards for Commonwealth Parliamentary Workplaces and a Behaviour Code for Parliamentarians.<sup>4</sup>
- 1.11 The draft code requires parliamentarians to treat all those with whom they come into contact in the course of their parliamentary duties and activities with dignity, courtesy, fairness and respect. The draft code identifies prohibited behaviours and specifies that bullying and harassment, sexual harassment and assault, and discrimination in all its forms including on the grounds of race, age, sex, sexuality, gender identity, disability or religion are unacceptable.<sup>5</sup>
- 1.12 On 9 February 2023, the House of Representatives endorsed the draft Behaviour Standards and Codes presented by the Joint Select Committee on Parliamentary Standards.<sup>6</sup> The parliamentary standards committee recommended the Behaviour Standards and Codes for Parliamentarians be adopted into standing orders once the Independent Parliamentary Standards Commission is established.<sup>7</sup>
- 1.13 While the codes of conduct were out of scope for this inquiry, the relationship between the recommendations of this report and the proposed behaviour standards and code of conduct is discussed in Chapter 3.

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<sup>2</sup> Australian Human Rights Commission, *Set the Standard: Report on the Independent Review into Commonwealth Parliamentary Workplaces*, November 2021, p. 252.

<sup>3</sup> See [www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Parliamentary\\_Standards](http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Parliamentary_Standards).

<sup>4</sup> Joint Select Committee on Parliamentary Standards, *Final report*, November 2022, pp. 103-5.

<sup>5</sup> Joint Select Committee on Parliamentary Standards, *Final report*, pp. 104-5.

<sup>6</sup> VP No. 35 480-1 (09.02.2023).

<sup>7</sup> Joint Select Committee on Parliamentary Standards, *Final report*, p. 94.

## Structure of the report

- 1.14 Chapter 2 of the report provides background to the inquiry and the recommendations of *Set the Standard*.
- 1.15 Chapter 3 is focused on everyday respect in the Chamber and discusses the standing orders relating to order and disorder, the role of the Speaker and current sanctions for disorderly conduct. This chapter examines the practice and procedure of other parliaments, sets out the evidence received during the inquiry about language and behaviour in the Chamber, and makes recommendations for amendments to the standing orders. Finally, this chapter looks at the training and guidance materials available to Members.
- 1.16 Chapter 4 considers the sitting calendar and order of business, outlines the history of the days and hours of sittings, and discusses other provisions the House has made to improve the flexibility of the Chamber. This chapter sets out the evidence received and the range of perspectives the Committee heard about the sitting calendar and hours of sittings.
- 1.17 Chapter 5 discusses other proposals that were considered during the inquiry to improve safety and respect in the Chamber.



## 2. Background to the inquiry

### *Set the Standard* report

- 2.1 On 5 March 2021, the Independent Review into Commonwealth Parliamentary Workplaces was established. The review was conducted by the Australian Human Rights Commission (the Commission) and led by the Sex Discrimination Commissioner, Ms Kate Jenkins. The review examined the culture of Commonwealth parliamentary workplaces with the aim of ensuring that the national Parliament is safe and respectful and reflects best practice in the prevention of, and response to, bullying, sexual harassment and sexual assault.
- 2.2 The review received contributions from over 1,700 individuals, including 935 survey responses, 490 interviews and 302 written submissions.<sup>1</sup> On 30 November 2021, *Set the Standard: Report on the Independent Review into Commonwealth Parliamentary Workplaces (Set the Standard)* was tabled in Parliament.<sup>2</sup> The Government welcomed the report and undertook to consult with the Opposition, minor parties and the independents on a way forward to respond to Commissioner Jenkins' review.<sup>3</sup>
- 2.3 On behalf of the parliamentary cross-party leadership taskforce, on 8 February 2022 the Speaker, Hon Andrew Wallace MP, made a statement acknowledging the unacceptable history in Commonwealth parliamentary workplaces and expressed a commitment to working across the parliament to implement all the recommendations.<sup>4</sup> Progress was made on some recommendations; however, on 11 April 2022, the 46th Parliament was dissolved before action could be completed on all items.
- 2.4 On 8 September 2022, the Procedure Committee resolved to undertake an inquiry with terms of reference on two of the recommendations:
  - Recommendation 10 (Everyday respect in the parliamentary chambers), and
  - Recommendation 27 (Review of parliamentary sitting calendar and Order/Routine of Business).

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<sup>1</sup> Australian Human Rights Commission, *Set the Standard: Report on the Independent Review into Commonwealth Parliamentary Workplaces (Set the Standard)*, November 2021, p. 11.

<sup>2</sup> VP No. 158 2383 (30.11.2021).

<sup>3</sup> Morrison, Scott, Simon Birmingham, Marise Payne and Ben Morton, 'Release of Jenkins Report', Joint media release, 30 November 2021; HR Deb (01.12.2021) 11269.

<sup>4</sup> HR Deb (08.02.2022) 1.

## Recommendation 10

- 2.5 The Commission suggested that the review of standing orders should aim to broaden the definition of ‘disorderly’ behaviour to include acts of bullying and sexual harassment witnessed in the Chamber and could consider sexist and otherwise discriminatory or exclusionary language as ‘offensive’, ‘objectionable’ and ‘unparliamentary’.<sup>5</sup>
- 2.6 The Commission proposed that the standing orders should require that the language used in the Chamber does not contribute to the exclusion of women, First Nations people, LGBTIQ+ people, culturally and linguistically diverse people or people with a disability.<sup>6</sup>
- 2.7 These proposals were based on frequent reference to ‘everyday sexism’ and other forms of exclusion the Commission heard during its review. The report noted this sexist and exclusionary behaviour occurs ‘both inside and outside the chamber’.<sup>7</sup>
- 2.8 The Commission identified drivers of bullying, sexual harassment and sexual assault in Commonwealth parliamentary workplaces and set out risk factors for such behaviour, including unclear and inconsistent standards of behaviour.<sup>8</sup>

## Recommendation 27

- 2.9 The *Set the Standard* review noted that one of the unique features of Commonwealth parliamentary workplaces is ‘the long and irregular hours that arise as a result, in part, of the sitting hours of the two chambers of Parliament’. It heard from participants about the impact of these hours and the culture of the Chamber on the wellbeing and safety of people across these workplaces.<sup>9</sup>
- 2.10 It also heard that the operation of the chambers could contribute to and normalise a masculinised and competitive culture, both inside and outside the Chamber. Review participants spoke of the ‘adrenaline-rushing’ and adversarial environment, which contributed to poor behaviour. The review considered that addressing these issues requires a combination of cultural, structural and practical changes, including to the sitting calendar and hours.<sup>10</sup>

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<sup>5</sup> *Set the Standard*, p. 173.

<sup>6</sup> *Set the Standard*, p. 173.

<sup>7</sup> *Set the Standard*, p. 173.

<sup>8</sup> *Set the Standard*, pp. 14-16.

<sup>9</sup> *Set the Standard*, pp. 268-9.

<sup>10</sup> *Set the Standard*, p. 269.

2.11 The Commission heard a range of views from participants about sitting hours:

There was some agreement among participants in the Review that the long hours are necessary to provide all parliamentarians with the opportunity to represent their constituents, debate and pass legislation. The Commission also heard, however, that they were unproductive and inefficient—particularly in the Senate—and have a detrimental effect on safety and wellbeing.<sup>11</sup>

2.12 The Commission considered that the following principles should guide a review of the parliamentary sitting calendar and the order of business:

- predictability
- agency
- flexibility
- effectiveness, and
- compassionate leadership.<sup>12</sup>

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<sup>11</sup> *Set the Standard*, p. 270.

<sup>12</sup> *Set the Standard*, p. 270.





## 3. Everyday respect in the Chamber (Recommendation 10)

- 3.1 As part of the inquiry, the Committee reviewed how the standing orders could be changed to improve safety and respect and address exclusionary or discriminatory language and behaviour in the Chamber.
- 3.2 The Committee considered the current standing orders and the sanctions available to the Speaker, examined the practice and procedure of other jurisdictions and the availability and relevance of training and guidance materials. It heard evidence from Members and parliamentary office holders, former Speakers, Presiding Officers of state parliaments, the Sex Discrimination Commissioner and other academics and practitioners.

### Language and behaviour

#### Standing orders relating to order and disorder

- 3.3 The Constitution provides the authority for each House of the Parliament to make the rules and orders with respect to the order and conduct of business and proceedings.<sup>1</sup> These are ultimately set out in the standing orders.
- 3.4 The standing orders relating to disorder (standing orders 88 to 96) detail the behaviours that are considered disorderly and the actions available to the Speaker or occupant of the Chair to enforce order in the House.
- 3.5 Standing order 88 prohibits Members from referring disrespectfully to the Sovereign, the Governor-General or a State Governor.
- 3.6 Standing order 89 prohibits Members from using 'offensive words' against a Member of the Parliament, either House or a member of the judiciary.
- 3.7 Standing order 90 states that all imputations of improper motives to a Member and personal reflection on other Members shall be considered highly disorderly.

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<sup>1</sup> Australian Constitution, section 50(ii).

- 3.8 Under standing order 91, a Member's conduct is considered disorderly if the Member has used 'objectionable words', which they have refused to withdraw, or been considered by the Speaker to have behaved in a disorderly fashion.<sup>2</sup>

## Managing language and behaviour in the Chamber

- 3.9 Standing order 60 states that order in the House shall be kept by the Speaker or the occupier of the Chair of the House at the time. Similarly, order in the Federation Chamber is kept by the Deputy Speaker or the occupant of the Chair of the Federation Chamber at the time (standing order 187).<sup>3</sup>

- 3.10 This responsibility was encapsulated in the submission from Hon Milton Dick MP, Speaker of the House of Representatives:

The Speaker has an important duty to apply the Standing Orders in the Chamber. It is also the Speaker's duty to uphold the dignity of the House and ensure that Members treat each other with respect and courtesy, while engaging in healthy, democratic debate.<sup>4</sup>

- 3.11 Standing order 92 empowers the Speaker to intervene when a Member's conduct is considered offensive or disorderly. This standing order also allows the Speaker to determine if a Member's conduct is offensive or disorderly when it is brought to their attention by another Member. Earlier this year, the Speaker reminded Members of this process:

... I want to reiterate to all members: if you believe you have been spoken about in a way that is disrespectful or indeed if any member believes another member has been spoken about in a way that is disrespectful, the time to raise that issue is when it happens. At the discretion of the chair, action may be taken at the time when a comment is brought to the attention of the chair.<sup>5</sup>

- 3.12 Exactly what constitutes 'offensive', 'objectionable' and 'unparliamentary' language is not defined in the standing orders and is a matter for the Speaker to determine.<sup>6</sup> In her submission, the Clerk of the House, Ms Claressa Surtees, noted:

It is the Speaker, or indeed the Member acting as Chair at the time objection is raised, who determines whether words used are offensive or disorderly. The Speaker's judgement depends on the nature of the words, as well as their

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<sup>2</sup> Standing order 91 also prohibits the Members from persistently and wilfully obstructing the House, persistently and wilfully refusing to conform to a standing order, wilfully disobeying an order of the House or persistently and wilfully disregarding the authority of the Speaker.

<sup>3</sup> In this report, any references to the role of the Speaker should be considered to include the Deputy Speaker or other member of the Speaker's panel occupying the Chair.

<sup>4</sup> Hon Milton Dick MP, Speaker of the House of Representatives, *Submission 7*, p. [1].

<sup>5</sup> HR Deb (27.03.2023) 2356.

<sup>6</sup> Under standing order 3(e) the Speaker is responsible for ruling whenever any question arises as to the interpretation or application of a standing order, having regard to previous rulings and to the established practices of the House. A Member who disagrees with a ruling by the Speaker can object and move a motion of dissent (standing order 87).

context. The Speaker may be guided by relevant precedents and rulings by former Speakers, such as those cited in *House of Representatives Practice*.<sup>7</sup>

- 3.13 The fact that the Speaker is able to take into account the nature and context of the words spoken in the Chamber allows for a degree of flexibility in their rulings. As the Clerk stated:

While it could be argued that the current absence of specific types of ‘offensive’ or ‘objectionable’ words in the standing orders is a concern, it does mean that the Speaker is not restricted if faced with unanticipated circumstances and can take context into account.<sup>8</sup>

- 3.14 This discretion was highlighted in the submission from the Speaker:

When ruling on matters such as the use of unparliamentary language and adverse reflections on Members, the Speaker uses the appropriate levels of discretion as provided for in the Standing Orders and draws on precedent and the rulings of predecessors.<sup>9</sup>

- 3.15 The Committee heard that, while the standing orders regarding offensive, objectionable and unparliamentary language have not changed for some time,<sup>10</sup> Speakers have been able to make rulings based on changing standards of behaviour:

Speakers’ rulings over time have changed. In the same way that standards of dress have evolved since the first sitting of Australia’s Parliament, what constitutes acceptable language and behaviour has also evolved. For example, some inherently sexist language or behaviour may once have been somewhat tolerated but is no longer considered acceptable in contemporary Australia or in today’s Parliament. Similar comparisons can be made regarding actions that discriminate or are exclusionary based on race, disability, or sexual orientation.<sup>11</sup>

- 3.16 While the flexibility afforded to Speakers to reflect changing standards of behaviour in their rulings is necessary, the issue identified by the Commission—that the standing orders ‘do not adequately promote a safe and respectful environment’<sup>12</sup>—was emphasised as an area of concern throughout the inquiry. As the Speaker stated, ‘this flexibility can also be a barrier in supporting the Speaker to rule on certain conduct or disorder’.<sup>13</sup>

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<sup>7</sup> Ms Claressa Surtees, Clerk of the House of Representatives, *Submission 2*, pp. 1-2.

<sup>8</sup> Surtees, *Submission 2*, p. 2.

<sup>9</sup> Dick, *Submission 7*, p. [1].

<sup>10</sup> The most recent change was in 2004 when the standing orders were revised and renumbered at the start of the 41st Parliament.

<sup>11</sup> Dick, *Submission 7*, p. [1].

<sup>12</sup> Australian Human Rights Commission, *Set the Standard: Report on the Independent Review into Commonwealth Parliamentary Workplaces (Set the Standard)*, November 2021, p. 173.

<sup>13</sup> Dick, *Submission 7*, p. [1].

- 3.17 Adjunct Professor Hon Dr Ken Coghill charged the Speaker with setting the standard of behaviour in the Chamber:

... the Speaker, or the President of the Senate in that case, should set the tone in the rulings which are made, and not necessarily wait for someone to take objection to words that are issued, but in fact to themselves set the standard by the ways in which they pull up members for language which is unacceptable.<sup>14</sup>

- 3.18 The former Speakers all agreed it is the responsibility of the Speaker to keep order in the Chamber. As Hon Peter Slipper remarked:

What we should be doing is recognising the fact that a lot of the responsibility for avoiding the issues, which have brought about this inquiry, is to recognise that the Speaker has ultimate authority in the House.<sup>15</sup>

- 3.19 While Mr Harry Jenkins agreed, he clarified that the support of the House for the Speaker's rulings is a critical factor in a Speaker's ability to manage disorder:

If a Speaker really, truly thinks that they will be given absolute support, there probably is more that can be done [to maintain order].<sup>16</sup>

- 3.20 Ms Anna Burke stated that Members' understanding and adherence to the standing orders, as well as their respect for the decisions of the Speaker, are 'vitaly important ... so that, if you actually tell them that it is unparliamentary language and they are to withdraw, they do withdraw, and you don't end up in a debate about what it is that's unparliamentary'.<sup>17</sup>

## Specifying certain words as offensive

- 3.21 A core focus for the Committee during this inquiry was identifying potential changes to the standing orders that could help eliminate language, behaviour and practices that are sexist or otherwise exclusionary and discriminatory.

- 3.22 As mentioned above, in *Set the Standard*, the Commission suggested the definition of 'disorderly' behaviour in the standing orders could be broadened to include acts of bullying and sexual harassment witnessed in the Chamber. The report suggested sexist and otherwise discriminatory or exclusionary language should be specified as offensive, objectionable and unparliamentary.<sup>18</sup>

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<sup>14</sup> Adjunct Professor Hon Dr Ken Coghill, Treasurer, The Accountability Round Table, Transcript of evidence, 2 December 2022, pp. 1-2.

<sup>15</sup> Hon Peter Slipper, Private capacity, Transcript of evidence, 17 November 2022, p. 2.

<sup>16</sup> Mr Harry Jenkins AO, Private capacity, Transcript of evidence, 17 November 2022, p. 3.

<sup>17</sup> Ms Anna Burke AO, Private capacity, Transcript of evidence, 17 November 2022, p. 4.

<sup>18</sup> *Set the Standard*, p. 173.

3.23 During this inquiry, the Committee received evidence in support of greater clarification to the standing order on offensive words. Standing order 89 states:

**89 Offensive words**

A Member must not use offensive words against:

- (a) either House of the Parliament or a Member of Parliament; or
- (b) a member of the Judiciary.

3.24 In her submission, Dr Sonia Palmieri advised that amending the standing orders to specify that sexist, racist, homophobic and otherwise exclusionary language is offensive or unparliamentary would ‘allow both Members and the Speaker (including members of the Speaker’s Panel) to call immediate attention to the use of these forms of unparliamentary language’.<sup>19</sup> Dr Palmieri suggested that examples of unparliamentary language under a revised standing order could ‘include derogatory or discriminatory references to Members’ gender, sexuality, race, disability or age’.<sup>20</sup> In her view, an explicit reference to sexist, racist, homophobic and otherwise exclusionary language in the standing orders would state ‘very clearly that we don’t accept that kind of language—that that kind of language not only sets an incredibly bad tone but also is no longer what the Australian community should be using’.<sup>21</sup>

3.25 Professor Michelle Tuckey, an expert in workplace bullying and organisational psychology, is of the view that the standing orders would be improved by ‘using language that’s more contemporary and more clearly points to core issues’.<sup>22</sup>

3.26 Ms Burke noted the challenge involved in identifying appropriate standards of language and behaviour in the standing orders without becoming overly prescriptive. She strongly advised not including a list of offensive terms in the standing orders.<sup>23</sup> Mr Jenkins agreed, advising the Committee not to suggest a list of offensive terms, and commenting on such attempts in other Parliaments:

... it was fallacy, because then they’d always be adding [terms], or there’d be a debate on what’s not on the list.<sup>24</sup>

3.27 Mr Slipper acknowledged that the current rules against offensive language were likely ‘strong enough’ and would cover the types of language under consideration.<sup>25</sup> However, to assist the Speaker, Mr Slipper was of the view that standing orders should be ‘strengthened to emphasise that sexist or otherwise exclusionary or discriminatory behaviour won’t be tolerated’.<sup>26</sup>

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<sup>19</sup> Dr Sonia Palmieri, *Submission 1*, p. 2.

<sup>20</sup> Palmieri, *Submission 1*, p. 2.

<sup>21</sup> Dr Sonia Palmieri, Private capacity, Transcript of evidence, 13 February 2023, p. 3.

<sup>22</sup> Professor Michelle Tuckey, Professor of Work and Organisational Psychology, University of South Australia, Transcript of evidence, 2 December 2022, p. 3.

<sup>23</sup> Burke, Transcript of evidence, 17 November 2022, p. 2.

<sup>24</sup> H. Jenkins, Transcript of evidence, 17 November 2022, p. 3.

<sup>25</sup> Slipper, Transcript of evidence, 17 November 2022, p. 7.

<sup>26</sup> Slipper, Transcript of evidence, 17 November 2022, p. 2.

- 3.28 Noting that the standing orders do not refer specifically to language or behaviour that is sexist or otherwise exclusionary or discriminatory, the current Speaker recommended revisions to the standing orders ‘so that they explicitly include that this type of conduct is highly disorderly’.<sup>27</sup> He believes that a change like this would be ‘advantageous to the Chair in ruling on such matters’.<sup>28</sup>

## A forum for debate

### ‘Robust debate’ and ‘political theatre’

- 3.29 While there was a strong focus on the need for respectful and appropriate behaviour, evidence received by the Committee during this inquiry also stressed the need for robust debate in Parliament. The House of Representatives is a forum for the passionate contest of ideas, and this is essential for a healthy democracy. As the Speaker noted in his submission:

It is a challenge for the Speaker to uphold the values and expectations of contemporary Australia. This challenge is made more complex in a setting that has a long and entrenched history, is bound by rules and, by its very nature, is a meeting place of challenging ideas and robust debate.<sup>29</sup>

- 3.30 The Sex Discrimination Commissioner, Ms Kate Jenkins, acknowledged the need for robust debate when she met with the Committee:

... our report is at pains to recognise that the business of parliament involves opposing views, disagreements and robust debates, and, as we have in courts, we think that you can still be respectful and not discriminatory while engaging in the natural work of the parliament.<sup>30</sup>

- 3.31 *Set the Standard* highlighted a distinction between robust debate and unacceptable behaviour. It acknowledged that ‘[w]hile the parliamentary chambers are designed for robust debate, those spaces must also be safe and respectful’.<sup>31</sup>

- 3.32 Members of Parliament agreed with this view. Hon Keith Pitt MP, the Member for Hinkler, wrote that while the ‘ability to debate one’s point of view, and the point of view of one’s electorate, is essential for a parliamentarian’, ‘disrespectful behaviour does not need to play a part and should be addressed by the Speaker’.<sup>32</sup>

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<sup>27</sup> Dick, *Submission 7*, p. [2].

<sup>28</sup> Dick, *Submission 7*, p. [2].

<sup>29</sup> Dick, *Submission 7*, p. [1].

<sup>30</sup> Ms Kate Jenkins, Sex Discrimination Commissioner, Australian Human Rights Commission, Transcript of evidence, 27 March 2023, p. 3.

<sup>31</sup> *Set the Standard*, p. 173.

<sup>32</sup> Hon Keith Pitt MP, *Submission 5*, p. [2].

3.33 *Set the Standard* emphasised that the standard of language and behaviour in the Chamber affects the standard of language and behaviour in other parts of the Commonwealth parliamentary workplace. The Sex Discrimination Commissioner told the Committee her review heard evidence that:

... some of the behaviours in the chambers—and some use the word ‘masculinised’, which is very robust but aggressive and not respectful—did somehow create a sense that this could happen anywhere [in Commonwealth parliamentary workplaces]. So, it’s not a completely isolated scenario. It’s not quite as carved off conceptually [as] we might think.<sup>33</sup>

3.34 This was similarly highlighted in the submission from Dr Palmieri, which called for cultural change through structural reforms and suggested the ‘norms and practices in the chamber ... (inadvertently) seep out into other areas of the parliamentary workplace’.<sup>34</sup>

3.35 In her submission, Ms Kylea Tink MP, the Member for North Sydney, acknowledged that ‘lively debate and the contesting of ideas is an important function of any modern democracy’, but called on the Parliament to ‘move beyond the current “staged show” filled with jeering to what it was designed to be – a chamber for robust, respectful, debate and discussion’.<sup>35</sup>

3.36 The Committee previously examined the ‘theatrical’ nature of parliament and ‘robust debate’ as part of its inquiry into Question Time in the 46th Parliament.<sup>36</sup> In her submission, Dr Palmieri noted that some of the behaviour described in the Committee’s Question Time report and *Set the Standard* can be ascribed to political theatre, including ‘various expressions of anger, (mock) hatred, or other confronting behaviour that is generally believed unacceptable in most other workplaces’.<sup>37</sup> According to Dr Palmieri, this ‘theatrical’ behaviour, which is generally seen as unacceptable in other workplaces, is tolerated in Parliament ‘because of an assumption that (all) Members can – and will – switch off their theatricality as soon as they leave the chamber’.<sup>38</sup> Dr Palmieri wrote that, based on the evidence presented in *Set the Standard*, this assumption ‘may be fair in most cases, but not all’.<sup>39</sup>

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<sup>33</sup> K. Jenkins, Transcript of evidence, 27 March 2023, p. 8.

<sup>34</sup> Palmieri, *Submission 1*, p. 1.

<sup>35</sup> Ms Kylea Tink MP, *Submission 4*, p. [2].

<sup>36</sup> Standing Committee on Procedure, *A window on the House: Practices and procedures relating to Question Time*, March 2021.

<sup>37</sup> Palmieri, *Submission 1*, p. 2.

<sup>38</sup> Palmieri, *Submission 1*, p. 2.

<sup>39</sup> Palmieri, *Submission 1*, p. 2.

- 3.37 Commenting on interjections during debates, Dr Coghill noted the language used 'is very often an attempt to intimidate the member who's speaking'.<sup>40</sup> Ms Kate Jenkins highlighted the effect such debate tactics can have on potential candidates for public office:

... diverse candidates can look, they can see conduct and they can feel, 'I do not want to put myself forward.' And we did hear accounts of people saying, 'I was fearful to go into that place. It did not look like a place that would be welcoming.'<sup>41</sup>

- 3.38 Former Speakers of the House of Representatives were critical of the theatrical aspects of many debates in Parliament. Mr Jenkins noted that such debating tactics may be more focused on media attention or political colleagues than on the wider community:

Sometimes it's appalling theatre, bad theatre, but if it were theatre that had a purpose that was not directed at those that sit in a gallery behind the speaker, or to those that sit beside the person who is doing the acting, if it were actually theatre that were pitched towards the people of Australia, that would help. You could still have robustness, you could still have passion, but it's to get the collective mindset.<sup>42</sup>

- 3.39 Mr Slipper was of the view that parliamentary debates will always have some aspect of theatre to them, but pointed out that this could be done in a way that did not offend, intimidate or harass anyone participating:

I believe it is possible to have colour, light and flair and for someone to shine, but it is important that the standing orders be applied fairly, firmly, consistently and constantly and that every member be treated exactly the same ... You can have a parliament that is theatre as long as the theatre plays within the rules. If the rules are breached, then the person who breaches the rules goes out, and that adds to the theatre.<sup>43</sup>

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<sup>40</sup> Coghill, Transcript of evidence, 2 December 2022, p. 3.

<sup>41</sup> K. Jenkins, Transcript of evidence, 27 March 2023, p. 3.

<sup>42</sup> H. Jenkins, Transcript of evidence, 17 November 2022, p. 8.

<sup>43</sup> Slipper, Transcript of evidence, 17 November 2022, p. 8.

## A note on parliamentary privilege

- 3.40 Parliamentary privilege, including the privilege of freedom of speech, is considered essential for the proper operation of the Parliament. To allow Members to fulfil their legislative, scrutiny and representative roles, they are immune from prosecution or lawsuit for what they say during proceedings of Parliament.<sup>44</sup>
- 3.41 However, this privilege does not mean that Members are not accountable to the House itself for their statements and actions. *House of Representative Practice* notes it is incumbent upon Members not to abuse this privilege, and any statements should be within the rules and standards of the House.<sup>45</sup>
- 3.42 Mr Pitt's submission highlighted the important balance that must be struck during debates. While observing that the maintenance of order requires the Speaker to ensure that appropriate language is used in the Chamber, he considered that this in no way should be used to take away a parliamentarian's ability to speak their mind, especially under parliamentary privilege.<sup>46</sup>
- 3.43 Ms Burke suggested that guidance and training for Members could assist them to understand when the privilege of freedom of speech applies, and when it does not:
- ... you've got this great thing called parliamentary privilege, but don't abuse it. You need to understand where the line is drawn. Maybe there needs to be some guidance around that, some education ...<sup>47</sup>

## References to Members and directing remarks to the Speaker

- 3.44 Standing order 64 states that Members should not be referred to by their name, but rather by their ministerial title, parliamentary office or the name of their electoral division. Standing order 65 requires Members to address their remarks to the Speaker.
- 3.45 As *House of Representatives Practice* notes, the purpose of these rules is to make debate less personal and avoid the direct confrontation of Members addressing one another as 'you'.<sup>48</sup> Mr Jenkins emphasised the value of this, stating:
- ... the fact that the debate goes through the chair is so important. It's there to de-personalise the whole debate ... to defuse the heat in the debate and to make sure, if you're going to allow robust debate, that it's not personalised; it's about the issues. The strength and argy-bargy is not the problem if it's all about the contest of ideas; it's when it gets so personalised.<sup>49</sup>

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<sup>44</sup> *Parliamentary Privileges Act 1987*.

<sup>45</sup> *House of Representatives Practice*, 7<sup>th</sup> ed., 2018, p. 733 and p. 735.

<sup>46</sup> Pitt, *Submission 5*, p. 2.

<sup>47</sup> Burke, Transcript of evidence, 17 November 2022, p. 5.

<sup>48</sup> *House of Representatives Practice*, p. 514.

<sup>49</sup> H. Jenkins, Transcript of evidence, 17 November 2022, p. 6.

## Practice and procedure in other parliaments

- 3.46 The practices and procedures of the House of Representatives originate in the Westminster system of parliament, a tradition it shares with many other parliaments. However, while these parliaments may share a common heritage, each parliament's practice and procedure has evolved differently. As part of this inquiry, the Committee reviewed the standing orders and practice of state and territory parliaments, as well as those of certain Commonwealth jurisdictions, to assess if any practices might be suitable for adoption. The Committee met with the Speakers of the Victorian and Queensland Legislative Assemblies to discuss the application of standing orders in their jurisdictions.
- 3.47 While the United Kingdom House of Commons has no specific standing order on offensive or objectionable words, there is longstanding parliamentary practice about the use of unparliamentary language. *Erskine May* states that the Speaker will intervene when there is 'abusive and insulting language of a nature likely to create disorder'<sup>50</sup> and provides three broad categories of expressions 'which are regarded with particular seriousness, generally leading to prompt intervention from the Chair and often a requirement on the Member to withdraw the words'. These are:
- the imputation of false or unavowed motives
  - the misrepresentation of the language of another and the accusation of misrepresentation, and
  - charges of uttering a deliberate falsehood.<sup>51</sup>
- 3.48 The other jurisdictions examined all have a standing order prohibiting the use of certain words during parliamentary debates. While not identical, the key terms in the various standing orders examined as part of this inquiry are highly similar<sup>52</sup>:
- 'objectionable words' (Australian Senate, Western Australian Legislative Council)
  - 'offensive words' (Australian Capital Territory Legislative Assembly, New South Wales Legislative Council, Victorian Legislative Council, Western Australian Legislative Assembly, Western Australian Legislative Council, Canadian House of Commons)
  - 'offensive or disorderly words' (New South Wales Legislative Assembly, Northern Territory Legislative Assembly, New Zealand House of Representatives)
  - 'offensive or unbecoming words' (Queensland Legislative Assembly<sup>53</sup>, South Australian House of Assembly, Tasmanian House of Assembly, Victorian Legislative Assembly)
  - 'objectionable or offensive words' (South Australian Legislative Council)
  - 'disrespectful or offensive language' (Canadian House of Commons)

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<sup>50</sup> *Erskine May's treatise on the law, privileges, proceedings and usage of Parliament*, 25<sup>th</sup> ed., 2019, p. 495.

<sup>51</sup> *Erskine May's treatise on the law, privileges, proceedings and usage of Parliament*, p. 497.

<sup>52</sup> Some jurisdictions have multiple entries due to the structure of their standing orders.

<sup>53</sup> The Queensland Legislative Assembly standing orders prohibit 'unbecoming or offensive words'.

- ‘personal, sharp or taxing speeches’ (Canadian Senate), and
  - ‘personally insulting or offensive speeches’ (United Kingdom House of Lords).
- 3.49 A table summarising the references to offensive or unparliamentary language in the standing orders of other jurisdictions is included at Appendix D.

## Committee comments

- 3.50 Robust debate is a fundamental tenet of parliamentary democracy. The Chamber should always be a forum for the frank exchange of ideas. The parliamentary privilege of freedom of speech is the most valuable and essential privilege, as it enables Members to acquit their role as representatives. However, robust debate does not include, and never has included, the use of offensive language or disorderly conduct, such as acts of bullying and sexual harassment. The Committee notes that this includes interjections to debate as well as other ‘side conversations’ in the Chamber. Interjections are regarded as disorderly,<sup>54</sup> and ‘conversations, comments or other communications’ between Members which do not form part of a ‘proceeding of parliament’ may not be covered by the privilege of freedom of speech.<sup>55</sup>
- 3.51 Words that are sexist, racist, homophobic or otherwise exclusionary or discriminatory are unacceptable in Parliament. Such words meet the definition of offensive words under standing order 89 and should not be used about other Members during debates. Successive Speakers have made their views on this clear. For example, in the current Parliament, the Speaker has upheld three points of order relating specifically to words specifically identified as offensive,<sup>56</sup> as well as further two points of order regarding reflections on Members.<sup>57</sup> On each occasion, the Member withdrew the comment in question. On other occasions Members have withdrawn comments that were ruled simply to be ‘unparliamentary’. The Committee notes that, on three occasions, the Speaker also asked the Member to withdraw a comment that he himself had been unable to hear.<sup>58</sup>
- 3.52 On this basis, an argument could be made that no changes to the standing orders are needed, and that Speakers can continue to rule on offensive language based on the context in which it is used and community and parliamentary standards. Further, standing order 91 provides for the Speaker to determine that certain behaviour is disorderly. In addition, the Behaviour Standards and Codes for Parliamentarians, once adopted into the standing orders, will contain specific prohibitions against bullying, harassment, sexual harassment and discrimination in the Chamber. The Committee expects the codes will also inform Speakers’ ruling about disorderly conduct and unparliamentary behaviour.

<sup>54</sup> *House of Representatives Practice*, p. 527.

<sup>55</sup> *House of Representatives Practice*, pp. 738-9.

<sup>56</sup> HR Deb (07.11.2022) 2414, HR Deb (10.11.2022) 2909, HR Deb (11.05.2023) 3120.

<sup>57</sup> HR Deb (11.05.2023) 3123, HR Deb (01.06.2023) Proof 64.

<sup>58</sup> HR Deb (06.03.23) 1227, HR Deb (20.3.2023) 1774, HR Deb (01.06.2023) Proof 50.

- 3.53 While acknowledging these arguments, the Committee agrees with evidence received during this inquiry that changing the standing orders to specify that sexist, racist, homophobic or otherwise exclusionary language is offensive would further strengthen the Speaker's ability to rule such language out of order, set expectations about the tone of parliamentary debate and also indicate to the community that these words are not acceptable in any environment.
- 3.54 The Committee therefore recommends that standing order 89 be amended to state specifically that sexist, racist, homophobic and otherwise exclusionary language is regarded as offensive.

### **Recommendation 1**

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- 3.55 The Committee recommends that standing order 89 be amended as follows:**

**89 Offensive words**

**A Member must not use offensive words, including words that are sexist, racist, homophobic and otherwise exclusionary or discriminatory, against:**

- (a) either House of the Parliament or a Member of the Parliament; or**
- (b) a member of the Judiciary.**

## Sanctions

- 3.56 The Committee considered how unparliamentary language and behaviour could be managed and addressed through the use of sanctions.
- 3.57 Standing orders 94 to 96 outline the sanctions available to the Speaker in dealing with disorderly conduct, including the use of offensive words. These range from a direction to leave the Chamber for one hour, to the ‘naming’ of a Member, which results in a motion for the suspension of that Member from the service of the House for a period of time.
- 3.58 Usually, before sanctioning a Member, the Speaker will first call a Member to order or warn them, though there is no obligation for the Speaker to do so. Members who use unparliamentary language are most often requested to withdraw their remarks in the first instance, and sanctions might not proceed when the Member concerned withdrew their comments or apologised for their actions.<sup>59</sup>

## Direction to leave the Chamber

- 3.59 Standing order 94(a) enables the Speaker to direct a disorderly Member to leave the Chamber for a period of one hour. This grants the Speaker power to order the withdrawal of an offending Member when, in the Speaker’s opinion, naming the Member would be inappropriate, excessive or too disruptive to the business of the House.<sup>60</sup>
- 3.60 The direction to leave the Chamber is not open to debate or dissent. If a Member fails to leave immediately, or continues to behave in a disorderly manner, then they may be named.<sup>61</sup>
- 3.61 A standing order granting this kind of power to the Speaker was first recommended by the Procedure Committee in 1986 and has been in force since 1994.<sup>62</sup> In 2017, the Committee reviewed the provisions related to disorder and considered whether the standing orders needed clarifying, expanding or supplementing to assist the Speaker to maintain order.<sup>63</sup> Ultimately, the Committee suggested that changes to the standing orders were not required at that time.

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<sup>59</sup> *House of Representatives Practice*, pp. 535-8.

<sup>60</sup> Standing Committee on Procedure, *Inquiry into the provisions related to disorder*, December 2017, p. 6.

<sup>61</sup> *House of Representatives Practice*, p. 536.

<sup>62</sup> At the time it was standing order 304A (Speaker may order disorderly Member to withdraw).

<sup>63</sup> *Inquiry into the provisions related to disorder*, p. 27.

## Naming and suspension

- 3.62 The naming of a Member under standing order 94(b) is, in effect, an appeal to the House to support the Chair in maintaining order. It usually occurs immediately after an offence has been committed, if possible.<sup>64</sup> Once the Speaker has named a Member, a motion for the Member to be suspended from the service of the House may be moved and must be resolved without amendment, adjournment or debate.<sup>65</sup> If the motion is carried, the Member is suspended for:
- 24 hours on the first occasion
  - three consecutive sittings following the day of suspension for the second occasion in the same calendar year, or
  - seven consecutive sittings following the day of suspension for the third and subsequent occasions in the same calendar year.<sup>66</sup>
- 3.63 Previously, the Committee has emphasised the seriousness of naming a Member and that the process is time-consuming and itself disruptive. In its 1993 *About time* report, the Committee was of the view that order in the House would be better maintained if the Speaker had a faster, less consequential sanction. The Committee saw its proposed mechanism (which became standing order 94(a)) as a means of removing a source of disorder rather than as a punishment, enabling a situation to be defused quickly before it deteriorated, and without significant disruption to proceedings.<sup>67</sup>

## Proposal for an additional sanction under standing order 94(a)

- 3.64 In *A window on the House*, the 2021 report on its inquiry into the practices and procedures relating to Question Time, the Committee recommended that standing order 94(a) be amended to enable the Speaker to direct a disorderly Member to leave the Chamber for a period of either one or three hours (on an escalating basis) to be served during Question Time and the discussion of the matter of public importance.<sup>68</sup> This recommendation was intended to assist the Speaker to manage order during Question Time by making available to them a penalty that was greater than a one-hour withdrawal, but not as strong as 'naming' a Member under standing order 94(b). This recommendation was not accepted by the Government at the time.<sup>69</sup>

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<sup>64</sup> For example, Members have been named at the next sitting as a result of incidents that occurred at the adjournment of the previous sitting of the House. See *House of Representatives Practice*, p. 537.

<sup>65</sup> Standing order 94(b).

<sup>66</sup> Standing order 94(d).

<sup>67</sup> Standing Committee on Procedure, *About time: Bills, questions and working hours*, October 1993, p. 28.

<sup>68</sup> *A window on the House: Practices and procedures relating to Question Time*, p. 88.

<sup>69</sup> Australian Government, *Australian Government response to the House of Representatives Standing Committee on Procedure report: A window on the House: practices and procedures relating to Question Time*, March 2022, p. [3].

- 3.65 During the current inquiry, the Committee sought the views of participants on a similar proposal to expand standing order 94(a) to make available to the Speaker a greater time penalty to manage repeated, or more serious, instances of disorder that may not rise to the significance of ‘naming’.
- 3.66 The Committee received evidence that the current one-hour penalty is an insufficient deterrent to poor behaviour. A one-hour penalty issued during Question Time on Tuesdays, Wednesdays and Thursdays is unlikely to affect a Member’s ability to vote as it is likely to conclude during the discussion of the matter of public importance.
- 3.67 According to the Speaker, this has led to situations where the direction to leave can be advantageous to a Member or be worn as a ‘badge of honour’.<sup>70</sup> Mr Jenkins agreed that the one-hour penalty was not always regarded as a serious consequence, stating ‘some people just see this as being a star on their chest’.<sup>71</sup> Ms Burke spoke to the personal advantage Members may seek from being ordered to withdraw, commenting that one former Member had deliberately attempted to receive a one-hour suspension before the House adjourned on Thursdays, so that they could catch an earlier plane home.<sup>72</sup>
- 3.68 In his submission, the Speaker noted it would assist the Chair to have additional options to sanction a Member for disorderly conduct.<sup>73</sup> While he did not recommend a specific approach, the Speaker suggested ‘increased penalties of time, and/or the introduction of cascading penalties ... would be a disincentive to Members to be ejected’.<sup>74</sup>
- 3.69 Former Speakers agreed that an option of greater consequence than a one-hour withdrawal but not as significant as being ‘named’ would assist the Speaker to maintain order. Ms Burke thought a cascading penalty would be useful,<sup>75</sup> and Mr Jenkins was of the opinion that some type of cascading penalty ‘has to happen’.<sup>76</sup> Mr Slipper agreed, and suggested if the Speaker had the option of an increased sanction ‘members would be more inclined to be better behaved’.<sup>77</sup>
- 3.70 The fact that there are increasing penalties if a Member is sanctioned under standing order 94(b) was remarked on by Mr Jenkins, who noted the lack of escalating penalties for a direction to withdraw:

The irony is that if you get named and thrown out a second time it’s three days; you up the ante there, but for the one hour there’s no upping the ante.<sup>78</sup>

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<sup>70</sup> Dick, *Submission 7*, p. [2].

<sup>71</sup> H. Jenkins, Transcript of evidence, 17 November 2022, p. 6.

<sup>72</sup> Burke, Transcript of evidence, 17 November 2022, p. 7.

<sup>73</sup> Dick, *Submission 7*, p. [2].

<sup>74</sup> Dick, *Submission 7*, p. [2].

<sup>75</sup> Burke, Transcript of evidence, 17 November 2022, p. 7.

<sup>76</sup> H. Jenkins, Transcript of evidence, 17 November 2022, p. 7.

<sup>77</sup> Slipper, Transcript of evidence, 17 November 2022, p. 2.

<sup>78</sup> H. Jenkins, Transcript of evidence, 17 November 2022, p. 7.

3.71 The Committee heard that an increased time penalty could result in greater regulation of an individual's behaviour by the parties:

... a longer sin-bin period would inevitably encourage the whips to make sure that their members were better behaved, because, if there was a key bill coming up to be voted on in a few hours time, a member who was sin-binned for the period when that bill was before the chamber certainly wouldn't be very popular.<sup>79</sup>

3.72 When the Sex Discrimination Commissioner was asked about her views, she said that a model where 'you make [the sanctions] proportionate to the conduct, but you also look at prior conduct ... and all other relevant factors' is appropriate for Parliament, as it is for other employment contexts.<sup>80</sup> She noted that in terms of acceptable standards of behaviour 'what you reward and what you punish is what you get',<sup>81</sup> and stated:

I agree that it is important for the Speaker to have the appropriate tools to stop robust debate from becoming disorderly behaviour. A sliding scale of increasing severity would allow for the application of proportionate sanctions. Consistent and proportionate sanctions drive change in culture and practice and also provide a degree of deterrence.<sup>82</sup>

3.73 The standard of behaviour accepted in the Chamber was once again highlighted by Ms Jenkins as influencing standards of behaviour across Commonwealth parliamentary workplaces:

... our report did really encourage looking at what those sanctions are across the board, and particularly for parliamentarians ... That really was such an important part of what sets the culture—that once you say you can't do anything about the parliamentarians who are in the most privileged or powerful position then it feeds right down to the idea that you can't do anything about staffers, you can't do anything right through.<sup>83</sup>

3.74 Professor Tuckey, Dr Moulds and Dr Coghill also agreed that a sanction of more than one hour would be a more suitable deterrent to poor behaviour, with Professor Tuckey stressing that 'it needs to be more costly to use that kind of language'.<sup>84</sup>

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<sup>79</sup> Slipper, Transcript of evidence, 17 November 2022, p. 4.

<sup>80</sup> K. Jenkins, Transcript of evidence, 27 March 2023, p. 6.

<sup>81</sup> K. Jenkins, Transcript of evidence, 27 March 2023, p. 8.

<sup>82</sup> Australian Human Rights Commission, Answer to Questions on Notice, 3 May 2023, p. 2.

<sup>83</sup> K. Jenkins, Transcript of evidence, 27 March 2023, p. 5.

<sup>84</sup> Tuckey, Transcript of evidence, 2 December 2022, p. 3.

## Practice and procedure in other parliaments

- 3.75 The procedures for naming and suspending a Member are broadly similar in the other jurisdictions considered as part of this inquiry, with some variation in the period of suspension or the penalties applied.
- 3.76 Presiding Officers in most of these jurisdictions have the ability to order a Member to withdraw from their respective Chamber (similar to standing order 94(a)). The period of time ranges between 30 minutes and up to 24 hours, with many requiring the Member to withdraw for the remainder of the sitting (until the Chamber stands adjourned). In some jurisdictions the period of withdrawal is at the discretion of the Chair (normally with an upper limit).
- 3.77 Several jurisdictions allow Members who have been ordered to withdraw to re-enter the Chamber to vote in divisions or be counted for quorum.<sup>85</sup>
- 3.78 In the Victorian Legislative Assembly, if the House adjourns before the end of the suspension period, the member cannot return to the chamber on the next sitting day until the remainder of their suspension has been served.<sup>86</sup> The Victorian Legislative Assembly also has a sessional order specifying that the suspension of a member during Question Time applies only to Question Time. Under this sessional order, if Question Time ends before the member's period of suspension, they serve the remainder of their suspension during the next Question Time.<sup>87</sup>
- 3.79 The majority of parliaments researched include a power to suspend or adjourn proceedings as a result of grave disorder, or to have a Member or visitor removed by the Serjeant-at-Arms (or equivalent parliamentary officer).
- 3.80 A table summarising the sanctions for disorder relating to withdrawal or suspension for the parliaments that were researched for the inquiry is included at Appendix E.

## Committee comments

- 3.81 While the Chair is responsible for the maintenance of order, all Members have a responsibility to set the standard for language and behaviour in the Chamber. Leaders and parliamentary office holders have additional responsibilities to manage behaviour in their parties, and all Members should help regulate the conduct of their colleagues. However, as evidenced by the Committee's 2021 report into the practices and procedures related to Question Time, *Set the Standard* and this inquiry, the standard of behaviour in the Chamber has not always met the standard expected by the community.

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<sup>85</sup> For example, members ordered to withdraw can vote in divisions in the Queensland Legislative Assembly (SO 253) and the Victorian Legislative Assembly. In the Tasmanian House of Assembly and the Northern Territory Legislative Assembly, members can vote and be counted for quorum.

<sup>86</sup> Standing order 124.

<sup>87</sup> Parliament of Victoria, Legislative Assembly sessional order 12.

- 3.82 The Committee heard repeatedly that the current sanctions against disorder are not sufficient. The existing direction for a Member to withdraw from the Chamber for one hour is not always a strong enough deterrent, especially during Question Time when the Member is unlikely to miss an important vote before the withdrawal period has concluded. The Committee is concerned that the direction to withdraw for one hour has at times been seen as a ‘badge of honour’.
- 3.83 An additional option to sanction a Member would allow the Speaker to address disorderly conduct swiftly and proportionally. The Committee agrees that prior conduct should be part of the Speaker’s considerations when determining the appropriate sanction, and comments from the current and former Speakers support this view. The context of the statement or action is also relevant, as is its gravity or seriousness.
- 3.84 Therefore, the Committee recommends standing order 94 be amended to allow the Speaker to direct a disorderly Member to leave the Chamber for a period of either one or three hours at the discretion of the Chair, increasing in severity for disorderly conduct that has continued or escalated. While *A window on the House* recommended this sanction be served only during Question Time and the matter of public importance,<sup>88</sup> based on the evidence heard during this inquiry, the Committee considers it should have more general application and not be limited just to these times.

## Recommendation 2

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**3.85 The Committee recommends that the House amend standing order 94(a) as follows:**

**(a) The Speaker can direct a disorderly Member to leave the Chamber for:**

**(i) one hour; or**

**(ii) three hours, where there is continued or escalating disorderly conduct.**

**The direction shall not be open to debate or dissent, and if the Member does not leave the Chamber immediately, the Speaker can name the Member under the following procedure.**

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<sup>88</sup> *A window on the House: Practices and procedures relating to Question Time*, p. 88.

## Awareness, guidance materials and training

- 3.86 Members' awareness of parliamentary practice related to offensive language and disorderly conduct was raised with the Committee during this inquiry, and the provision of training and guidance materials was highlighted as an integral part of any attempt to improve standards of behaviour.
- 3.87 Participants to the inquiry noted the importance of information-based mechanisms, such as training, policies and guidance materials, to improving standards of behaviour in workplaces. Professor Tuckey advised there is 'good evidence that training can change awareness and can change recognition of behaviours when they happen', but that training alone would likely not be sufficient 'without a change in culture'.<sup>89</sup>

### Options for more focused training and information

- 3.88 During the inquiry, the Committee heard about several areas where focused training and guidance materials could be provided to Members.
- 3.89 The Clerk suggested that, in addition to the current information made available by the department, focused briefing material—including precedents of words and actions which have been found to be offensive, objectionable or unparliamentary in nature—could be provided to Members:

Such briefing could provide greater clarity as to the meaning and scope of the existing standing orders and have an educative effect in relation to respectful behaviour more generally.<sup>90</sup>

This information is currently made available in list form in the *Procedural Digest*<sup>91</sup> and *The Table*.<sup>92</sup>

- 3.90 In his submission, the Speaker stated that Members 'may be unaware of the options available to them or feel they are ineffective in addressing their concerns'.<sup>93</sup> The Speaker felt that educational opportunities focused on addressing grievances could benefit Members. This could include information on how Members can raise concerns about offensive language or disorderly conduct with the Speaker, and could assist Members 'to better understand their expectations and opportunities when such matters arise'.<sup>94</sup> The Speaker's view is that this would lead to a more consistent application of procedural best practice.

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<sup>89</sup> Tuckey, Transcript of evidence, 2 December 2022, p. 5.

<sup>90</sup> Surtees, *Submission 2*, p. 2.

<sup>91</sup> See [www.aph.gov.au/About\\_Parliament/House\\_of\\_Representatives/Powers\\_practice\\_and\\_procedure/digest](http://www.aph.gov.au/About_Parliament/House_of_Representatives/Powers_practice_and_procedure/digest).

<sup>92</sup> See [www.societyofclerks.org/SCAT\\_Publish.asp](http://www.societyofclerks.org/SCAT_Publish.asp).

<sup>93</sup> Dick, *Submission 7*, p. [2].

<sup>94</sup> Dick, *Submission 7*, p. [2].

3.91 The Committee heard that, as in any workplace, the setting of clear expectations on standards of behaviour is crucial. The Sex Discrimination Commissioner spoke to the benefits of setting expectations as part of early training:

... set the tone upfront, and then, when you come to pull people up, you have something to reference back to ... it's got to make the role of the Speaker and the Speaker's panel much easier.<sup>95</sup>

3.92 The Speaker suggested that the inclusion of guiding principles in the standing orders could assist in maintaining a respectful work environment. These guiding principles could 'outline behavioural standards, the expectations of Members, and ways in which they can assist the Chair'.<sup>96</sup>

3.93 Mr Jenkins made a similar suggestion for guidance notes to be read alongside the standing orders:

... if there are things you don't think you can put in the standing orders, why don't you create guidance notes about what you really think should happen? They're used for a lot of similar types of regulatory frameworks, and it might be appropriate for the future that we base our behaviour not only on precedent and the standing orders but on future expectations.<sup>97</sup>

3.94 The Accountability Roundtable proposed that a mobile phone application could be developed to provide continuing professional development to Members based on scenarios adapted from real-life examples.<sup>98</sup> Dr Coghill suggested this could include 'vignettes which explain the way in which particular behaviours are exemplary or unacceptable ... taken from real life but perhaps not from the actual chamber itself'.<sup>99</sup>

3.95 Former Speakers commented on the role of committee chairs and deputy chairs. Mr Jenkins suggested that training for chairs and deputy chairs should include information on the standing orders on disorder. In his view, this would help ensure:

... that members treat each other with the respect that's required and, in fact, that they treat the public with the respect that's required, because that is the interface of parliament and the public.<sup>100</sup>

3.96 Ms Burke made a similar point, and noted that the standing orders relating to language and behaviour apply equally to Members' work on parliamentary committees. Without education and awareness, there is a risk that committees may become 'unworkable as opposed to being the bastion of parliament where bipartisan work happens'.<sup>101</sup>

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<sup>95</sup> K. Jenkins, Transcript of evidence, 27 March 2023, p. 6.

<sup>96</sup> Dick, *Submission 7*, p. [2].

<sup>97</sup> H. Jenkins, Transcript of evidence, 17 November 2022, p. 4.

<sup>98</sup> The Accountability Round Table, *Submission 6*, p. 4.

<sup>99</sup> Coghill, Transcript of evidence, 2 December 2022, p. 5.

<sup>100</sup> H. Jenkins, Transcript of evidence, 17 November 2022, p. 9.

<sup>101</sup> Burke, Transcript of evidence, 17 November 2022, p. 10.

- 3.97 Focused training and information sharing was also suggested for members of the Speaker's panel. While context is an important factor for the Speaker to consider when determining if language or behaviour is disorderly, the consistency of decisions across all occupants of the Chair was raised during the inquiry. Dr Palmieri noted that at times this can be caused by unconscious bias, and suggested that the Speaker's panel could consult with an expert to 'help with what would be determined as sexist, racist, homophobic and otherwise exclusionary language'.<sup>102</sup>
- 3.98 According to Dr Palmieri, this could be an opportunity for the Speaker's panel to:
- ... brainstorm amongst themselves as well, to figure out where they all stand and where they think the line is that they don't think should be crossed, that would also be a really important innovation.<sup>103</sup>

## Designing guidance material

- 3.99 The Committee heard about the benefit of 'co-design principles' for the development of such guidance material. In this context, co-design refers to a process that involves the people who are likely to be impacted by any changes to the standing orders on language and behaviour in the Chamber. Dr Sarah Moulds stated that 'any opportunity for co-design principles to be employed in the generation of any materials that you're using here would be really beneficial'.<sup>104</sup>
- 3.100 Dr Moulds noted that many organisations seeking to adhere to anti-discrimination obligations have adopted an approach of 'nothing about us without us'.<sup>105</sup> She highlighted the positive effect this kind of approach could have on Members of Parliament and on the public's engagement with Parliament:
- This thinking is really powerful, particularly for groups that might not always be in the majority of members of parliament, to consult those groups about language that they find safe and respectful, referring to, for example, their ethnic or Aboriginal origins or their gender identity. Maintaining review and flexibility of those things, ideally with some community engagement, can also help to create a space that broader members of the public want to participate in.<sup>106</sup>
- 3.101 Professor Tuckey advised part of the value of a co-design approach is that it helps to create ownership. She was of the view that the application of co-design principles to acceptable standards of language and behaviour in the Chamber should involve both Members and community voices.<sup>107</sup>

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<sup>102</sup> Palmieri, Transcript of evidence, 13 February 2023, p. 3.

<sup>103</sup> Palmieri, Transcript of evidence, 13 February 2023, p. 3.

<sup>104</sup> Dr Sarah Moulds, Private capacity, Transcript of evidence, 2 December 2022, p. 2.

<sup>105</sup> Moulds, Transcript of evidence, 2 December 2022, p. 2.

<sup>106</sup> Moulds, Transcript of evidence, 2 December 2022, p. 2.

<sup>107</sup> Tuckey, Transcript of evidence, 2 December 2022, p. 2.

3.102 The Accountability Round Table recommended including community voices in reviews of the standing orders to help ensure community standards are better reflected.<sup>108</sup> Dr Coghill suggested that this proposal for a ‘citizens’ assembly’ would be beneficial in any co-design process. He described the proposed citizens’ assembly as:

... a group of people who were demographically reflective of the general community who were given considerable time—in other words, a number of weeks rather than hours—in which to examine a particular proposal or a particular provision and advise the chamber whether or not that sort of behaviour or example should be repeated, should be disallowed or in what other way it should be changed to reflect a community standard.<sup>109</sup>

## Current training and guidance material

3.103 In light of the evidence received, the Committee reviewed the training and guidance material currently available to Members. This includes:

- a three-day induction program for Members newly elected to Parliament
- publications including *House of Representatives Practice*, *Guide to procedures and Information Sheets*
- internal resources such as *Members’ Notes*, *Speaker’s Panel Notes* and short videos on parliamentary practice and procedure
- guides for chairs, deputy chairs and members of parliamentary committees, and
- procedural information sessions and ‘House Briefing’ seminars during sitting weeks.

## Committee comments

3.104 As outlined in this report, bullying or harassment in the Chamber is against the standing orders. Words intended to denigrate, humiliate or discriminate against another Member have been ruled as disorderly and have been ordered to be withdrawn.

3.105 The importance of improving awareness of the standing orders and the required standards of behaviour and language in the Chamber is reflected in the following quote from *Set the Standard*:

... bullying or harassing is not against the Standing Orders. So we saw that example of [parliamentarian], where she was quietly being harassed and bullied on the sidelines, or even across the chamber, where you can be ... really bullied and harassed in a verbal way, [a Member or Senator] can’t stand up and say to

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<sup>108</sup> The Accountability Round Table, *Submission 6*, p. 3.

<sup>109</sup> Coghill, Transcript of evidence, 2 December 2022, p. 6.

the [presiding officer] 'Point of order, Senator [name]', for example, 'is being bullied. It is against standing order X'.<sup>110</sup>

- 3.106 The example from *Set the Standard* suggests that Members potentially may not be aware that, through standing order 92, not only can the Speaker intervene directly when they feel a Member's conduct is offensive or disorderly, but Members are able to draw inappropriate conduct to the Speaker's attention. The Speaker reminded Members that this option is available to them in March this year.<sup>111</sup>
- 3.107 The Committee expects Members to be aware of their obligations to behave respectfully and to not use offensive language against other Members or objectionable words in the Chamber. This includes language or behaviour that is sexist, racist, homophobic and otherwise exclusionary or discriminatory.
- 3.108 The Committee notes the current guidance material and training provided by the department to Members contains information on disorderly conduct and etiquette in the Chamber. However, it acknowledges that Members may not be aware of these resources, particularly given the competing demands on their time.
- 3.109 The Committee agrees that additional training focused on the words and actions which have been found to be offensive, objectionable or unparliamentary in nature would be beneficial. The Committee further agrees with the Speaker's suggestion that greater awareness of the options available to Members to raise potential issues with the Chair would help reduce unacceptable language and behaviour and promote a culture of respect.
- 3.110 The Committee takes this opportunity to remind all Members of the need to address remarks through the Chair, as it helps to maintain a respectful tone and orderly approach to debates.
- 3.111 The Committee acknowledges the benefits that co-design can bring to the design of any future guidance material. The Department of the House of Representatives may wish to consider inviting Members and community representatives to take part in the development of any guidance notes or training on standards of language and behaviour in the Chamber.
- 3.112 The Committee agrees that the inclusion of guiding principles in the standing orders relating to disorder could assist the Speaker in maintaining a respectful work environment. It expects that the Behaviour Standards and Codes for Parliamentarians (once adopted) will provide these guiding principles.
- 3.113 The Committee notes the importance of regular meetings of the Speaker's panel. This can be a useful forum for the Speaker and/or Deputy Speaker to set expectations for the management of debate and order in the Chamber, and for members of the panel to share experiences and discuss any issues that may arise.

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<sup>110</sup> *Set the Standard*, p. 173.

<sup>111</sup> HR Deb (27.03.2023) 2356.

3.114 The Committee recognises that the recommendations in this report to amend the standing orders would affect the guidance materials and training provided by the Department of the House of Representatives. It is of the view that guidance materials and training should be reviewed and promoted to ensure Members are aware of the relevant standing orders, regardless of whether such changes are adopted by the House.

### **Recommendation 3**

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**3.115 The Committee recommends that the Department of the House of Representatives review the guidance material and training available to Members to ensure Members are aware:**

- **words that are sexist, racist, homophobic and otherwise exclusionary or discriminatory are considered offensive words under standing order 89,**
- **disorderly conduct under standing order 91 includes acts of bullying and sexual harassment in the Chamber, and**
- **under standing order 92(b), a Member may draw the Speaker's attention to the conduct of a Member.**

### **Recommendation 4**

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**3.116 The Committee recommends that the Speaker and the Department of the House of Representatives ensure guidance for members of the Speaker's Panel, and for chairs and deputy chairs of parliamentary committees, is updated to reflect any changes to standing orders made from recommendations in this report.**



## 4. Sitting calendar and order of business (Recommendation 27)

- 4.1 As part of the inquiry, the Committee undertook to review the parliamentary sitting calendar and the order of business. *Set the Standard* recommended that such a review be undertaken with a view to enhancing wellbeing, balance and flexibility for parliamentarians and workers in Commonwealth parliamentary workplaces.
- 4.2 The Committee considered the current sitting hours and calendar, as well as changes made to these in the last 40 years, and heard a range of perspectives in hearings, briefings and submissions.

### Sittings of the House

#### The sitting calendar

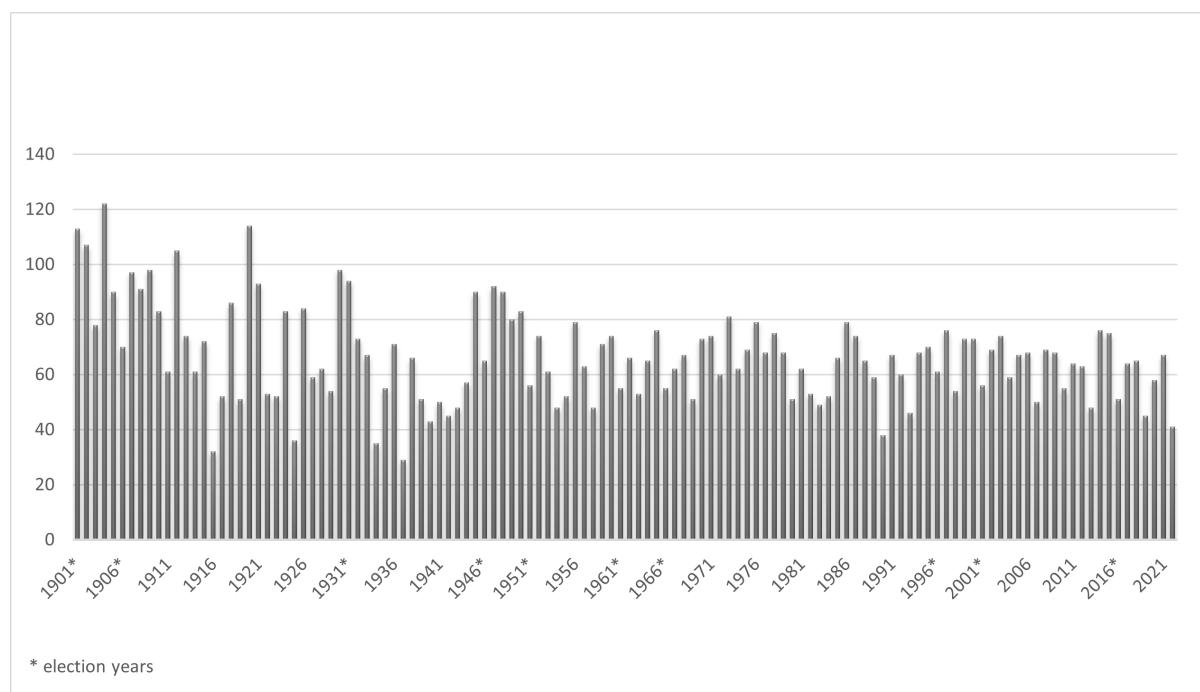
- 4.3 Standing order 29 stipulates that the House shall meet each year ‘in accordance with the program of sittings for that year agreed to by the House’—a provision introduced in 2008.<sup>1</sup> In practice, the proposed program is developed by the government and presented to the House for approval.<sup>2</sup>
- 4.4 The number of sittings per year is not fixed and may vary between years, particularly in years when the House has been prorogued and/or dissolved, such as for an election. The figure below sets out the number of sittings each year since Federation.

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<sup>1</sup> VP No. 1 12 (12.02.2008). Prior to this amendment, the standing order stipulated ‘a four weekly cycle of meetings’, meeting from Monday to Thursday for two weeks, followed by two weeks without sittings.

<sup>2</sup> See for example VP No. 28 388 (29.11.2022).

**Figure 4.1** Number of sittings of the House, by year, 1901-2022



Source: Procedure Office

4.5 On average, since 1901, there have been 67 sittings per year. More recently, since 1984, there have been an average of 62 sittings per year.<sup>3</sup>

### Hours of sitting for the House of Representatives Chamber

- 4.6 In general, the House of Representatives now meets and adjourns considerably earlier than it has in the past. However, since 1984, the total time spent sitting in a single week has not increased or decreased significantly.
- 4.7 Prior to 1994, sittings occurred over three or four days of the week. Sittings tended to start at 2 pm on one or two days, and 10 am or 10.30 am on others, and would continue into the night—until either 8 pm or 11 pm. The timetable allowed for at least one meal break a day, normally of about 90 minutes, during which the House would be suspended. This meant that the House was generally sitting for between 7¾ and 11½ hours a day.
- 4.8 From 1994, the tradition of meal breaks ceased. Between 1994 and 2005, the sitting day commenced between 9.30 am to 2 pm. During this time, the House rose at 8 pm or 11 pm, with one earlier rise of 5 pm or 6 pm. In total, the House sat for between 7½ and 10½ hours a day.
- 4.9 From 2005, the House no longer sat as late, with the latest adjournment being at 9 pm. Still, with some sittings commencing at 9 am and running through to 8 pm, the

<sup>3</sup> Source: Procedure Office.

House would sit for up to 11 hours, though most sittings were between 7 and 9 hours long.

- 4.10 From 2008, later sittings again commenced, with the House sitting until 10 pm or 10.30 pm, with an earlier finish of 5 pm on the final sitting day of the week. The longest scheduled sitting days were recorded in this period, with Monday sittings between 2010 and 2013 running for 12½ hours. A Friday sitting was introduced in 2008 but only occurred once.
- 4.11 In 2013, the Leader of the House (Hon Christopher Pyne MP) introduced changes which saw sitting hours return to a shorter schedule, with the House sitting until 9 pm at the latest. During this period, sitting days ranged in length from 8 to 11 hours. Sitting hours again reduced slightly in 2016.
- 4.12 In the 47th Parliament hours increased slightly. In July 2022, the House agreed to meet half an hour earlier on Wednesday and Thursday mornings.<sup>4</sup>
- 4.13 The House currently adjourns at 8 pm on Monday to Wednesday, and 5 pm on Thursdays. The longest sitting day is 11 hours, while the shortest is 8 hours. The House sits for a total of 37 hours a week.
- 4.14 The table below summarises the changing hours of sittings since 1983.

**Table 4.1 Changes to scheduled weekly sittings and latest adjournment times**

Year	Scheduled weekly sitting hours	Latest scheduled time of adjournment
1983	26	11:00 PM
1984	33.5	11:00 PM
1994	36	8:00 PM
1996	40	11:00 PM
2002	38.5	11:00 PM
2003	34.5	9:30 PM
2005	35.5	9:30 PM
2008	36	10:00 PM
2010	40	10:30 PM
2013	40	9:30 PM
2016	36	8:00 PM
2022	37	8:00 PM

Source: Procedure Office

<sup>4</sup> VP No. 2 56-57 (27.07.2022).

## Hours of meeting for the Federation Chamber

- 4.15 The Federation Chamber, established in 1994,<sup>5</sup> operates in parallel with the Chamber of the House, and may meet only while the House is sitting. Additionally, the Federation Chamber does not meet at times when the presence of all Members is expected in the House—for example, during Question Time. The establishment of the Federation Chamber has allowed the House to increase the time available for legislative debates and private Members' business without extending sitting hours.<sup>6</sup>
- 4.16 The Federation Chamber's hours of meeting have grown steadily since its establishment in 1994. In 2000, the Federation Chamber met only from 9.40 am until 1 pm on Wednesdays and Thursdays. In intervening years, there has been provision for the Federation Chamber to meet at some times in addition to its regular meeting hours, if deemed necessary. For example, in 2014, there was provision for the Federation Chamber to meet from 4 pm to 9 pm on Tuesdays and 4 pm to 7 pm on Wednesdays if required. Presently, the hours of meeting for the Federation Chamber are longer, with the ability to adjourn if there is no further business. The current order of business provides for the Federation Chamber to meet for a total of 20½ hours a week.<sup>7</sup>

## Other provisions

- 4.17 In the last 15 years, the House has made other provisions to improve the flexibility and 'family friendliness' of the Chamber.
- 4.18 In February 2008, the House, recognising that Members who are required to nurse infants may not always be able to attend the Chamber to vote in divisions, resolved that a Member may give her vote by proxy for any division except that on the third reading of a bill which proposes an alteration of the Constitution, if the Member is nursing an infant at the time of the division. Instead, the Member may give her proxy to the relevant whip.<sup>8</sup>
- 4.19 In 2016, standing order 257 was amended to provide that a visitor does not include an infant being cared for by a Member.<sup>9</sup> This allows Members to bring young children in their care into the Chamber if necessary. The amendment had been recommended by the Procedure Committee, which noted that the proxy vote was an important provision but that a Member caring for an infant should also be allowed into the Chamber to vote and to participate in debates.<sup>10</sup>

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<sup>5</sup> The Federation Chamber was established with the title 'Main Committee' and was renamed in 2012.

<sup>6</sup> See House of Representatives Standing Committee on Procedure, *Role of the Federation Chamber: Celebrating 20 years of operation*, June 2015, for a discussion of the Federation Chamber's role and history.

<sup>7</sup> Standing order 192 and Figure 4.

<sup>8</sup> Special provisions for nursing mothers, resolution adopted 13 February 2008 am, VP No. 1 27-8 (12.02.2008).

<sup>9</sup> VP No. 167 1825 (02.02.2016).

<sup>10</sup> Standing Committee on Procedure, *Provisions for a more family-friendly Chamber*, November 2015, pp. 5-6.

- 4.20 Other recent changes introduced by the current Leader of the House (Hon Tony Burke MP) have eased the requirement for Members to stay at Parliament House until the House adjourns. The deferral of divisions and quorum called for after 6.30 pm on Mondays, Tuesdays and Wednesdays allows Members not speaking after 6.30 pm to leave without fear of an unexpected division or quorum call. The original amendments made in July 2022 had an exception for a division called on a motion moved by a Minister during the period from 6.30 pm; this was amended in March 2023 so that the only exception is for a division called on a motion to suspend any standing or other order of the House moved by a Minister during the period.<sup>11</sup>
- 4.21 On 8 September 2022, the House resolved that Members who have been granted leave of absence by the House of Representatives and who are not physically present in Parliament House may participate remotely in proceedings of the Federation Chamber by the official parliamentary video facility.<sup>12</sup> In speaking to the motion, the Leader of the House outlined that the intent was to provide opportunities for Members to continue to make speeches about their electorate while on leave (he noted that this would most likely be for parenting or health reasons).<sup>13</sup> Speaking in support of the motion, the Manager of Opposition Business noted that this would allow parliamentarians to ‘represent their electorate at a time when they may be dealing with other responsibilities such as family responsibilities’.<sup>14</sup> The provision has not been used to date.

## A question of balance

- 4.22 In submissions and public hearings, the Committee heard a range of views regarding the ideal patterns of days and hours of sitting. A key consideration is the need for Members to travel. Given Australia’s vast geography, travel time varies significantly between Members.
- 4.23 The Australian Electoral Commission’s demographic classification of federal electoral divisions indicates there are 63 Members with seats outside metropolitan areas. One quarter of electoral divisions are classified as rural, with a further 16.5 per cent classified as provincial.<sup>15</sup>

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<sup>11</sup> VP No. 51 652-5 (30.03.2023).

<sup>12</sup> VP No. 11 169 (08.09.2022).

<sup>13</sup> HR Deb (08.09.2022) 1208-09.

<sup>14</sup> HR Deb (08.09.2022) 1209.

<sup>15</sup> Australian Electoral Commission, *Demographic classification of electoral divisions*, August 2021, [www.aec.gov.au/Electorates/files/demographic-classification-as-at-2-august-2021.xlsx](http://www.aec.gov.au/Electorates/files/demographic-classification-as-at-2-august-2021.xlsx), viewed 13 July 2023. See also [www.aec.gov.au/electorates/maps.htm](http://www.aec.gov.au/electorates/maps.htm).

- 4.24 The Member for Hinkler, Hon Keith Pitt MP, raised the different experiences for Members in regional electorates. He noted that ‘reducing the House hours in Canberra would only truly benefit the Members who live in Canberra or in close proximity’. In particular, he identified that for some Members travel home might require ‘two flights and several hours by car’, meaning that ‘[t]here is no point attempting to fly home in between double sitting weeks; by the time you land it's time to turn around and go back’.<sup>16</sup> This was also a safety issue. For him, shortening the sitting hours would only shorten the debate time, slow the workings of the House and reduce value for money for taxpayers, with additional sitting weeks potentially needed to achieve the same amount of work. He considered that overall it would have a detrimental effect on regional electorates.<sup>17</sup>
- 4.25 While she welcomed the changes already initiated by the government in this parliament, the Member for North Sydney, Ms Kylea Tink MP, considered there was more scope to amend the sitting calendar and order of business. She argued that debating and voting on issues of critical importance should not occur late at night and that constructive debate and detailed legislative reform could still be achieved with changes to the order of business.<sup>18</sup>
- 4.26 In his submission, the Leader of the House, Hon Tony Burke MP, noted the changes adopted by the 47th Parliament, including the provision for deferred divisions and quorums after 6.30 pm (see paragraph 4.20) as well as new arrangements for the consideration of urgent bills. Changes to standing orders 82 to 85 mean that a single second reading debate on a bill or bills that have been declared urgent may continue from 7.30 pm until 10 pm that sitting, or earlier if no further Members rise to speak, at which time the Speaker shall interrupt the debate and immediately adjourn the House until the time of its next meeting. Any division or called for during the second reading debate from 7.30 pm until 10 pm that sitting is deferred until the first opportunity the next sitting day.<sup>19</sup> As agreed by the House on 30 March 2023, there is an exception for a division called on a motion to suspend any standing or other order of the House moved by a Minister during this period.<sup>20</sup> The effect of these changes is to provide for an extended debate without requiring Members to remain in Parliament House if they are not scheduled to speak. The question on the second reading is then put when the House next sits.

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<sup>16</sup> Hon Keith Pitt MP, *Submission 5*, p. [3]. Other witnesses also provided anecdotal evidence about the different travel times to different electorates—see for example, Transcript of evidence, 17 November 2022, p. 2 and p. 9.

<sup>17</sup> Pitt, *Submission 5*, p. [3].

<sup>18</sup> Ms Kylie Tink MP, *Submission 4*, p. [4].

<sup>19</sup> Hon Tony Burke MP, *Submission 3—Supplementary submission*, pp. 1-3.

<sup>20</sup> VP No. 51 652-5 (30.03.2023).

- 4.27 On the question of balance, Mr Slipper summed up the challenges for a Member as follows:

Life as a parliamentarian is all about competing responsibilities. You're doing the either the right thing by the electorate or the right thing by your family or the right thing by the party. Often when you're doing the right thing by one of those you're doing the wrong thing by the others.<sup>21</sup>

- 4.28 Professor Michelle Tuckey saw the length of sittings as something that should be treated as a structural issue:

Treating it as a structural issue is what sets the tone of the place ... Having better rules and guidelines, and adhering to them, is what could make this go from being an individual issue, which has an erosive effect on people ... and lifted up to be a systems issue, where we provide a safe working system for people and we have mechanisms to stop it from going all night or, in the case that it does, we have some kind of next level mechanism that comes into allow for adequate recovery and so on.<sup>22</sup>

- 4.29 Professor Tuckey highlighted the importance of child care for minimising competing demands. In her view, while it was great to be able to bring children into the Chamber under certain circumstances, a better option might be to have responsive care options so that Members are able to concentrate fully on the robust exchange of ideas when in the Chamber. She observed that this would mean they would not have the 'role conflict' of trying to manage children at the same time.<sup>23</sup>

- 4.30 Mr Slipper was of the view that sittings during school holidays should be avoided,<sup>24</sup> while the Manager of Opposition Business, Hon Paul Fletcher MP, expressed his disappointment that last year's sitting program had included sittings during school holidays.<sup>25</sup>

- 4.31 Ms Tink suggested that avoiding school holidays be enshrined in the standing orders, with the parliamentary sitting calendar for the upcoming year to be released by October. She further proposed that regard be given to ensuring there is no overlap with final year exams.<sup>26</sup>

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<sup>21</sup> Hon Peter Slipper, Private capacity, Transcript of evidence, 17 November 2022, p. 9.

<sup>22</sup> Professor Michelle Tuckey, Professor of Work and Organisational Psychology, University of South Australia, Transcript of evidence, 2 December 2022, p. 8.

<sup>23</sup> Tuckey, Transcript of evidence, 2 December 2022, p. 7.

<sup>24</sup> Slipper, Transcript of evidence, 17 November 2022, p. 1.

<sup>25</sup> Hon Paul Fletcher MP, *Submission 8*, p. [1].

<sup>26</sup> Tink, *Submission 4*, p. [4].

4.32 A number of witnesses noted that sitting hours affected not just Members but also Members' staff and parliamentary staff. Ms Burke and Mr Slipper both commented that staff were at work both before sittings began and afterwards.<sup>27</sup> The Clerk of the House noted in her submission that some of the changes to the standing orders agreed at the beginning of the 47th Parliament that meant Members did not need to remain in Parliament House in case required for a division or quorum:

... do not generally reduce hours of attendance for staff of the parliamentary departments who support the operation of the House. This includes staff in my department, some of whom are required to commence work several hours prior to the commencement of a sitting and to continue well after the House rises.<sup>28</sup>

4.33 Dr Coghill saw it as the responsibility of the Chamber itself to ensure that there is adequate time available for members of staff to perform their duties in a responsible manner and to ensure respect for the parliamentary staff in the way in which they are affected by the sitting hours and sitting arrangements.<sup>29</sup>

## Gathering further feedback

4.34 In relation to the hours and days of sitting, Dr Sonia Palmieri recommended that the Procedure Committee conduct an anonymous survey of Members, Members' staff and parliamentary staff. This would seek the views of respondents on the current sitting calendar and order of business, including start and finish times, speaking times, the frequency and predictability of divisions, the number of sitting weeks and remote working arrangements.<sup>30</sup>

4.35 When speaking to the committee, Mr Jenkins and Ms Burke supported Dr Palmieri's suggestion. Mr Jenkins said:

On the hours of sitting, we might have to step back and ask members of parliament what their expectations of their work are.<sup>31</sup>

4.36 Currently an annual survey of Members is undertaken by the Department of the House of Representatives; however, this relates only to Members' views on, and satisfaction with, the services provided by the department.<sup>32</sup>

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<sup>27</sup> Ms Anna Burke AO, Private capacity, Transcript of evidence, 17 November 2022, p. 2 and Slipper, Transcript of evidence, 17 November 2022, p. 9.

<sup>28</sup> Ms Claressa Surtees, Clerk of the House of Representatives, *Submission 2*, p. 4.

<sup>29</sup> Adjunct Professor Hon Dr Ken Coghill, Treasurer, The Accountability Round Table, Transcript of evidence, 2 December 2022, p. 8.

<sup>30</sup> Dr Sonia Palmieri, *Submission 1*, p. 4.

<sup>31</sup> Mr Harry Jenkins AO, Private capacity, Transcript of evidence, 17 November 2022, p. 9.

<sup>32</sup> See for example Department of the House of Representatives, *Annual Report 2022-23*, p. 12.

## Committee comments

- 4.37 The Committee considered the sitting patterns and the order of business bearing in mind the principles, set out in *Set the Standard*, of predictability, agency, flexibility, effectiveness and compassionate leadership.<sup>33</sup>
- 4.38 Setting the days and hours of sitting involves a delicate balancing of competing priorities. The Committee recognises the diverse demography and geography of Australia and that some Members must invest significant time in travelling to the capital. The need to make full and efficient use of parliamentarians' time in Canberra must be weighed against the impact that long hours can have on wellbeing and safety. Similarly, sitting calendars must allow time for the work of the House to be achieved—noting for example the need for appropriation bills to be passed by the beginning of a new financial year—while also endeavouring to take into account school holidays.
- 4.39 The Committee considers that standing order amendments introduced by successive governments strike an appropriate balance. The changes introduced by Mr Pyne and Mr Burke significantly improved sitting hours and flexibility. That said, as outlined above, the most recent changes were introduced less than 12 months ago, and the Committee believes that there would be benefit in reviewing their application again after some further time has passed.
- 4.40 Further, the Committee sees merit in undertaking a survey of Members (as proposed by Dr Palmieri and others) to gather their views on the days and hours of sitting and how provisions in the current standing and sessional orders are supporting an appropriate balance.<sup>34</sup>
- 4.41 The Committee intends to continue monitoring the effects of changes adopted in this Parliament, as part of its current inquiry into the maintenance of the standing orders. It suggests that the Procedure Committee of the 48th Parliament conducts a review of the days and hours of sitting.

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<sup>33</sup> Australian Human Rights Commission, *Set the Standard: Report on the Independent Review into Commonwealth Parliamentary Workplaces*, November 2021, p. 270.

<sup>34</sup> The Committee recognises Dr Palmieri's recommendation was for the survey to include staff of the parliamentary departments, but notes that staff of the Department of the House of Representatives and the Department of Parliamentary Services already have an opportunity to express their views on the hours of work and other workplace matters through annual staff surveys.

- 4.42 The Committee noted the calls to include a prohibition on sitting during school holidays in the standing orders and to fix a date by which a proposed sitting calendar should be presented to the House. However, there could be times when the House needs to meet during school holidays. For example, the original sitting pattern for the second half of 2022 (agreed by the House on the first day of the 47th Parliament) deliberately did not include sittings during school holidays.<sup>35</sup> However, in September, the House agreed a revised sitting pattern that included additional sittings during school holidays to make up for the days the House did not sit as scheduled following the death of Her Majesty Queen Elizabeth II.<sup>36</sup>
- 4.43 An examination of the calendar for 2021, 2022 and 2023 shows that there were school holidays in one or more states and territories for between 16 and 19 weeks each year—in other words, about one-third of the year, on average. Taking significant exam periods into account increases this period further.
- 4.44 The Committee concluded that it was important for the House to have the flexibility to meet as required and therefore does not recommend amending the standing orders to prohibit scheduling sittings during school holidays. However, it encourages governments to consider school holidays when developing the proposed sitting calendar each year and to present the calendar to the House as early as possible.

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<sup>35</sup> HR Deb (27.07.2022) 74.

<sup>36</sup> VP No. 12 183 (23.09.2022).



## 5. Other potential changes to improve safety and respect

- 5.1 As *Set the Standard* noted, safety, respect and non-discriminatory behaviour are not just governed by the formal rules of the House. The broader culture, including unwritten parliamentary conventions, also contribute to the tone and tenor of proceedings in the Chamber.
- 5.2 Chapter 3 considered the standing orders related to offensive language and disorderly conduct, as well as Members' awareness of these standing orders. This chapter discusses some of the unwritten parliamentary conventions, matters such as quorum requirements, and other potential changes to improve safety and respect.

### Debating and scrutinising matters related to gender equality, diversity and social inclusion

- 5.3 In her submission to this inquiry, Dr Sonia Palmieri noted that *Set the Standard* identified gender inequality as a key driver of unsafe and disrespectful parliamentary culture and behaviour. In her view intentional mechanisms are required to improve respect in the Chamber and she suggested two such mechanisms to support this goal:
- holding more regular debates related to gender equality, diversity and social inclusion, including a spotlight on initiatives in Members' constituencies, and
  - establishing a parliamentary group (or committee) on gender equality, diversity and social inclusion to discuss relevant issues, and share and learn from similar groups in other parliaments.<sup>1</sup>

### Regular debate on gender equality, diversity and inclusion

- 5.4 Dr Palmieri argued that regular debates about gender equality, diversity and inclusion would provide a forum to promote the good work that is happening to advance these issues in Members' electorates. In addition, they could provide an opportunity for Members to acknowledge issues and discuss potential solutions or approaches.<sup>2</sup>

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<sup>1</sup> Dr Sonia Palmieri, *Submission 1*, p. 3.

<sup>2</sup> Dr Sonia Palmieri, Private capacity, Transcript of evidence, 13 February 2023, p. 6.

- 5.5 When queried on the mechanism for such debates to occur, Dr Palmieri supported relatively frequent, short debates:

You could have half an hour. For example, one of the adjournment debates in the week could just be a GEDSI [gender equality, diversity and social inclusion] adjournment debate. So every member gets up to talk about GEDSI initiatives. It could be five minutes or three minutes. You want to get as many members as possible talking about what is happening in their communities. You could also just do it once in a sitting fortnight.<sup>3</sup>

- 5.6 The Sex Discrimination Commissioner, Ms Kate Jenkins, highlighted the importance of normalising discussions on gender, diversity and inclusion across the Parliament, stating that such discussions would ‘contribute to a more respectful and inclusive environment and there will be a deeper understanding of gender equality, diversity and inclusion across the board’.<sup>4</sup>

## **Parliamentary group or committee on gender equality, diversity and inclusion**

- 5.7 In suggesting the establishment of a parliamentary group or committee on gender equality, diversity and social inclusion, Dr Palmieri noted that standing committees exist in many parliaments to ‘ensure that legislation does not unintentionally discriminate against women, men, boys, girls or people of different sexual identities or by race or ethnicity’.<sup>5</sup>
- 5.8 In addition to a potential forum for discussion on gender equality, diversity and inclusion, Dr Palmieri suggested such a committee could review legislation, ensure ‘the outputs of the parliament are not gender or racially discriminatory’ and consult ‘with communities on the potential gender impacts, foreseen or unforeseen’.<sup>6</sup>
- 5.9 Ms Kate Jenkins supported the establishment of such a committee, and described it as a ‘critical institutional mechanism to place gender equality, diversity, and inclusion at the heart of decision-making’.<sup>7</sup> According to her, a committee focused on gender equality, diversity and inclusion would help to address a risk that legislation that is not intentionally and systemically analysed ‘may reinforce or exacerbate existing inequalities’.<sup>8</sup> She was of the view that ‘[a]ll proposed bills would come to the committee for scrutiny on gender equality, diversity and inclusion impacts’.<sup>9</sup>

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<sup>3</sup> Palmieri, Transcript of evidence, 13 February 2023, p. 6.

<sup>4</sup> Australian Human Rights Commission (AHRC), Answer to Questions on Notice, pp. 2-3.

<sup>5</sup> Palmieri, Transcript of evidence, 13 February 2023, p. 7.

<sup>6</sup> Palmieri, Transcript of evidence, 13 February 2023, p. 7.

<sup>7</sup> AHRC, Answer to Questions on Notice, p. 2.

<sup>8</sup> AHRC, Answer to Questions on Notice, p. 2.

<sup>9</sup> AHRC, Answer to Questions on Notice, p. 2.

5.10 Ms Jenkins saw the role of such a committee as ‘scrutinising the work across the Australian Public Service from a gender, diversity and inclusion perspective’.<sup>10</sup> In response to a question on notice, she wrote:

Laws, policies, programmes and budgets that assume that ‘one-size-fits-all’ often result in discriminatory or ineffective outcomes. Parliaments have a key role in ensuring not only that everyone is properly represented in decision-making, but also that legislation and government actions take account of the needs, interests, and experiences of different groups.<sup>11</sup>

5.11 The Sex Discrimination Commissioner gave the example of the United Kingdom House of Commons’ Women and Equalities Committee, which was first appointed in 2015. The role of this committee is to examine the policy, administration and expenditure of relevant government agencies, and hold the government to account on cross-departmental work in relation to equality policy and law.<sup>12</sup>

5.12 In addition to the scrutiny of legislation, Ms Jenkins agreed with Dr Palmieri that another role for a new committee could be as a forum for discussion and learning, stating that:

By normalising these discussions across the Parliament, the committee will also contribute to a more respectful and inclusive environment and there will be a deeper understanding of gender equality, diversity and inclusion across the board.<sup>13</sup>

## Committee comments

5.13 Members currently have the opportunity to speak to topics of their choosing on several occasions each sitting week. This includes:

- the adjournment debates<sup>14</sup>
- Members’ statements<sup>15</sup>
- the grievance debate<sup>16</sup>, and
- private Members’ motions.

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<sup>10</sup> AHRC, Answer to Questions on Notice, p. 2.

<sup>11</sup> AHRC, Answer to Questions on Notice, p. 2.

<sup>12</sup> <https://committees.parliament.uk/committee/328/women-and-equalities-committee/role>, viewed 5 May 2023.

<sup>13</sup> AHRC, Answer to Questions on Notice, pp. 2-3.

<sup>14</sup> Standing orders 29, 31 and 34, Figure 2 (House of Representatives Chamber); standing orders 191 and 192, Figure 4 (Federation Chamber).

<sup>15</sup> Standing order 34 and Figure 2 (House of Representatives Chamber); standing order 192, Figure 4 and standing order 193 (Federation Chamber).

<sup>16</sup> Standing order 192B.

- 5.14 It is open to Members to discuss matters of gender equality, diversity and inclusion if they wish. The Committee acknowledges that many of these opportunities are brief and, with the exception of private Members' motions, do not encourage a full debate on a particular topic.
- 5.15 The Committee agrees that more debate on gender equality, diversity and inclusion matters would be valuable. It accepts the evidence from Dr Palmieri and Ms Jenkins that the scrutiny of legislation and the work of the Australian Public Service from a gender, diversity and inclusion perspective would help ensure existing inequalities are not reinforced.
- 5.16 The establishment of a committee focused on gender equality, diversity and inclusion would be a mechanism for such scrutiny, and the inquiries and reports of such a committee would provide a forum for debate on these matters. The Committee acknowledges the House may need to consider appropriate resourcing for a new standing committee.

## **Recommendation 5**

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- 5.17 The Committee recommends that House consider establishing a House Standing Committee on Gender Equality, Diversity and Inclusion to:**
- **scrutinise the work of the Australian Public Service from a gender, diversity and inclusion perspective**
  - **scrutinise the potential effects of proposed legislation on gender equality, diversity and inclusion, and**
  - **inquire into and report on matters related to gender, diversity and inclusion.**

## Mandating diversity requirements

- 5.18 As part of the recommendation to review the standing orders, *Set the Standard* suggested that there may be opportunities to provide ‘women, First Nations people, people from LGBTIQ+ communities, people of CALD backgrounds and people with a disability greater voice and visibility in the work of Parliament’.<sup>17</sup>
- 5.19 *Set the Standard* proposed two potential options. Firstly, the alternation of the call could include considerations of gender and other indicators of diversity. Secondly, quorum requirements in the House might also include diversity.<sup>18</sup>

### Alternation of the call

- 5.20 The allocation of the call is a matter for the discretion of the Speaker, although it is usual, as a principle, for the Speaker to alternate the call across the House between government and non-government Members.<sup>19</sup> The Clerk identified some instances where the standing orders provide an exception to this<sup>20</sup>, and *House of Representatives Practice* notes other factors the Chair may take into account as a courtesy.<sup>21</sup>
- 5.21 In her submission to this inquiry, the Clerk of the House, Ms Claressa Surtees, noted that ‘every Member has an equal right to represent the interests of their constituents, including by making a contribution during the course of a debate’.<sup>22</sup>
- 5.22 The Clerk advised that, should gender and other indications of diversity form part of the Speaker’s determination when allocating the call, ‘consideration would need to be given to the practicalities of such arrangements—for example, how Members who were to be given priority would be identified’.<sup>23</sup>

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<sup>17</sup> Australian Human Rights Commission, *Set the Standard: Report on the Independent Review into Commonwealth Parliamentary Workplaces (Set the Standard)*, November 2021, p. 173.

<sup>18</sup> *Set the Standard*, p. 173.

<sup>19</sup> *House of Representatives Practice*, 7<sup>th</sup> ed., 2018, p. 503.

<sup>20</sup> For example, standing order 79(b) provides that the Member who moved the motion for the adjournment of the debate is entitled to speak first on the resumption of the debate. Sessional order 65A also provides some guidance to the Speaker about giving priority to crossbench Members who seek the call at certain times. See Ms Claressa Surtees, Clerk of the House of Representatives, *Submission 2*, p. 2.

<sup>21</sup> For example, it is the practice of the Chair, as a matter of courtesy, to give priority to the Prime Minister or a Minister over other government Members (unless they are proposing to speak in reply), or to the leader or deputy leader of opposition parties over other non-government Members. See *House of Representatives Practice*, p. 502.

<sup>22</sup> Surtees, *Submission 2*, p. 2.

<sup>23</sup> Surtees, *Submission 2*, p. 2.

## Quorum requirements

- 5.23 Section 39 of the Constitution allows the Parliament to determine the quorum requirements for the House. The *House of Representatives (Quorum) Act 1989* sets the quorum as ‘at least one-fifth of the whole number of the members of the House’.<sup>24</sup>
- 5.24 As the quorum requirement is set in legislation, any change to this requirement would require legislative change. In the Clerk’s view, it is ‘not clear how the legislation could be amended to mandate diversity’.<sup>25</sup>
- 5.25 The Clerk further advised that there may also be unintended consequences if quorum requirements are changed to include gender and other indications of diversity. These may include:
- ... adverse consequences for Members in the diversity categories if quorums are called for tactical reasons, or significant unforeseen consequences if a change in the composition of the House meant quorum requirements could no longer be met.<sup>26</sup>

## Committee comments

- 5.26 The Committee recognises the importance of providing women, First Nations people, people from LGBTIQ+ communities, people of CALD backgrounds and people with a disability greater voice and visibility in the work of Parliament. However, as noted by the Clerk, every Member has an equal right to represent the interests of their constituents. Introducing additional factors to how the call is allocated may give greater voice and visibility to some Members, but could disadvantage others. It is also not clear to the Committee how the allocation of the call would be specified in the standing orders when there are competing diversity claims. The whips may wish to consider diversity when preparing informal speaking lists, but this is a matter outside the House and not within the remit of the Committee.
- 5.27 Similarly, the Committee accepts the Clerk’s advice that there may be unintended adverse consequences if diversity were included in quorum requirements, and does not propose to recommend any change to the Act.

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<sup>24</sup> *House of Representatives (Quorum) Act 1989*, s. 3.

<sup>25</sup> Surtees, *Submission 2*, p. 3.

<sup>26</sup> Surtees, *Submission 2*, p. 3.

# Gender-neutral language

## Language in the standing orders

- 5.28 *Set the Standard* noted that the standing orders ‘are considered “gender-neutral” (that is, have themselves no discriminatory effect on women, men or non-binary parliamentarians)’.<sup>27</sup>
- 5.29 As the Clerk of the House advised in her submission, this gender-neutral language dates back to 1994, when ‘standing orders were amended to incorporate references to Members in gender-inclusive pronouns’ and ‘to omit the term “chairman” and substitute the term “chair” in relation to parliamentary committees.’<sup>28</sup>
- 5.30 Gender-neutral language is generally seen as a positive step towards inclusivity. However, Dr Palmieri noted that, while the change to gender-neutral language in the standing orders was in line with conventions of the time<sup>29</sup>, this approach has come into question:
- ... apparently gender-neutral legislation has facilitated – rather than curbed – the ‘perpetuation of gender stereotypes and traditional practices’, and thereby gender discrimination.<sup>30</sup>
- 5.31 Other jurisdictions, such as the Australian Capital Territory, have taken action to update references in acts and regulations from ‘he or she’, ‘his or her’, ‘him or her’ and ‘himself or herself’ in favour of ‘they’, ‘their’, ‘them’, ‘themselves’ or the relevant noun.<sup>31</sup>

## Committee comments

- 5.32 The Committee recognises the power of language to foster an accepting and inclusive Parliament and acknowledges that the language of the standing orders could be made more inclusive (particularly for people who do not use masculine or feminine pronouns) by replacing references to ‘he or she’ and ‘his or her’ with references to ‘they’, ‘their’ or ‘them’. It therefore recommends that the standing orders be updated to remove masculine and feminine pronouns, and replace them in favour of gender-neutral alternatives, such as ‘they’, ‘their’ or ‘them’ or the relevant noun.

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<sup>27</sup> *Set the Standard*, p. 173.

<sup>28</sup> Surtees, *Submission 2*, p. 1.

<sup>29</sup> The updated version of the Office of Parliamentary Counsel’s drafting direction referred to in Dr Palmieri’s submission as the guide for the 1994 change to the standing orders requires masculine personal pronouns to ‘always be accompanied by a feminine personal pronoun (and vice versa) except in the very rare case of legislation intended to apply to people of one sex but not the other (for example, maternity leave legislation)’; see Office of Parliamentary Counsel, *Drafting Direction No. 2.1: English usage, gender-specific and gender-neutral language, grammar, punctuation and spelling*, March 2016, p. 3.

<sup>30</sup> Palmieri, *Submission 1*, p. 2.

<sup>31</sup> *Statute Law Amendment Act 2022* (ACT).

## Recommendation 6

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- 5.33 The Committee recommends that, during the next major review of the standing orders, the House consider removing masculine and feminine pronouns from the standing orders, and replacing them with gender-neutral alternatives.**

### Addressing the Chair

- 5.34 During the inquiry, the Committee heard concerns about the form of address used for the Chair. Historically, 'Mr' or 'Madam' has been used before 'Speaker' or 'Deputy Speaker' when addressing the Chair. This is not a requirement of the standing orders, but rather is an unwritten convention.

- 5.35 In the 47th Parliament, the Deputy Speaker, Ms Sharon Claydon MP, has requested Members refer to simply to her as 'Deputy Speaker', stating:

My title is Deputy Speaker. I don't need a Mr, a Mrs or a Madam; it's just Deputy Speaker.<sup>32</sup>

- 5.36 As a former Speaker, Ms Anna Burke supported this approach:

Speaker. That's the title. Why does it have to be gendered? There are really silly things that we just do because we do.<sup>33</sup>

- 5.37 There have been several instances this Parliament when Members have addressed the occupant of the Chair using the incorrect honorific for their gender.<sup>34</sup> The Sex Discrimination Commissioner stated that, though unintentional, this 'shows the unconscious and inbuilt bias'.<sup>35</sup> She was supportive of efforts to bring this unconscious bias to the surface and to seek change:

... it doesn't help the reputation of the parliament for people in the community to see that [parliament] can't change around that sort of language.<sup>36</sup>

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<sup>32</sup> HR Deb (28.07.2022) 237.

<sup>33</sup> Ms Anna Burke AO, Private capacity, Transcript of evidence, 17 November 2022, p. 4.

<sup>34</sup> For example, HR Deb (28.07.2022) 237, HR Deb (15.12.2022) 4178.

<sup>35</sup> Ms Kate Jenkins, Sex Discrimination Commissioner, Australian Human Rights Commission, Transcript of evidence, 27 March 2023, p. 4.

<sup>36</sup> K. Jenkins, Transcript of evidence, 27 March 2023, p. 5.

### **Committee comments**

- 5.38 The form of address used by Members to the Speaker (or occupant of the Chair) is not prescribed in standing orders or *House of Representatives Practice*. Members should be guided by the occupant of the Chair and use the appropriate titles as a sign of respect.

**Hon Shayne Neumann MP**  
**Chair**  
**31 July 2023**





# Dissenting Report

The 'Raising the Standard' procedure report has not received unanimous support because of recommendations number 5 and 6.

## Recommendation 5

The Coalition rejects Recommendation 5, which recommends the establishment of a House Standing Committee on Gender Equality, Diversity, and Inclusion.

The Committee heard evidence from Dr Palmieri that regular debates about gender equality, diversity and inclusion would provide a forum to promote the good work that is happening to advance these issues in Members' electorates.

In addition, they could provide an opportunity for Members to acknowledge issues and discuss potential solutions or approaches.<sup>1</sup> When queried on the mechanism for such debates to occur, Dr Palmieri supported relatively frequent, short debates:

*You could have half an hour. For example, one of the adjournment debates in the week could just be a GEDSI [gender equality, diversity and social inclusion] adjournment debate. So every member gets up to talk about GEDSI initiatives. It could be five minutes or three minutes. You want to get as many members as possible talking about what is happening in their communities. You could also just do it once in a sitting fortnight.<sup>2</sup>*

Coalition Members note that members currently have the opportunity to speak to topics of their choosing on several occasions each sitting week. This includes:

- the adjournment debates
- Members' statements
- the grievance debate, and
- private Members' motions.

It is open to Members to discuss matters of gender equality, diversity and inclusion if they wish.

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<sup>1</sup> Dr Sonia Palmieri, Private capacity, Transcript of evidence, 13 February 2023, p. 6.

<sup>2</sup> Palmieri, Transcript of evidence, 13 February 2023, p. 6.

The recommendation that a House Standing Committee on Gender Equality, Diversity, and Inclusion examine every piece of legislation is clearly unworkable and would stymie the efficient passage of legislation through the Parliament.

In addition, the Coalition notes that all legislation is prepared in accordance with a statement of compatibility with human rights which considers, amongst other things, the protection of discrimination of the grounds of sex.

## **Recommendation 6**

The Coalition rejects Recommendation 6, which recommends that during the next major review of the standing orders removal of masculine and feminine pronouns from standing orders be considered.

There is already gender-neutral language that naturally exists in the Australian Parliament, as noted in the Set the Standard report.

The Coalition believes the Government should focus on improving the lives of Australians facing increased cost of living pressures.

**Mr Ross Vasta MP**  
**Deputy Chair**  
**3 August 2023**

**Mr Colin Boyce MP**  
**3 August 2023**

**Mr Terry Young MP**  
**3 August 2023**



# A. Submissions

- 1 Dr Sonia Palmieri
- 2 Ms Claressa Surtees, Clerk of the House
- 3 Hon Tony Burke MP, Leader of the House
  - 3.1 Supplementary to submission 3
- 4 Ms Kylea Tink MP
- 5 Hon Keith Pitt MP
- 6 The Accountability Round Table
- 7 Hon Milton Dick MP, Speaker of the House of Representatives
- 8 Hon Paul Fletcher MP, Manager of Opposition Business





## **B. Public hearings and witnesses**

### **Thursday, 17 November 2022**

*Ms Anna Burke, Private capacity*

*Mr Harry Jenkins, Private capacity*

*Mr Peter Slipper, Private capacity*

### **Friday, 2 December 2022**

*University of South Australia*

- Professor Michelle Tuckey, Professor of Work and Organisational Psychology

*The Accountability Round Table Ltd*

- Adjunct Professor the Hon Dr Ken Coghill, Board Member and Treasurer

*Dr Sarah Moulds, Private capacity*

### **Monday, 13 February 2023**

*Dr Sonia Palmieri, Private capacity*

### **Monday, 27 March 2023**

*Australian Human Rights Commission*

- Ms Kate Jenkins, Sex Discrimination Commissioner





## **C. List of additional documents**

### **Answer to Question on Notice**

- 1 Answer to questions on notice from the Australian Human Rights Commission



## D. References to offensive or unparliamentary language in other jurisdictions

**Table D.1 Summary of references to offensive or unparliamentary language in standing orders**

Jurisdiction	Chamber	References to offensive/unparliamentary language
Australia (Federal)	Senate	“objectionable words” “offensive words” “imputations of improper motives and all personal reflections”
Australian Capital Territory	Legislative Assembly	“offensive or disorderly words” “imputations of improper motives and all personal reflections”
New South Wales	Legislative Assembly	“offensive or disorderly words”
New South Wales	Legislative Council	“offensive words” “imputations of improper motives” “personal reflections”
Northern Territory	Legislative Assembly	“offensive or disorderly words” “imputations of improper motives” “personal reflections”
Queensland	Legislative Assembly	“personal reflections” “unbecoming or offensive words”

Jurisdiction	Chamber	References to offensive/unparliamentary language
South Australia	House of Assembly	“offensive or unbecoming words” “impute improper motives” “personal reflections” “unparliamentary language”
South Australia	Legislative Council	“objectionable or offensive words” “injurious reflections”
Tasmania	House of Assembly	“offensive or unbecoming words” “attribute...unbecoming conduct or motives” “offensive reference to a member’s private affairs” “all personal reflections”
Tasmania	Legislative Council	“imputations of improper motives and all personal reflections” “offensive or unparliamentary expressions”
Victoria	Legislative Assembly	“imputations of improper motives and personal reflections” “offensive or unbecoming words” “objectionable or unparliamentary” “personally offensive”
Victoria	Legislative Council	“offensive words” “accusation of improper motives or personal reflection” “personally offensive” “unparliamentary expressions”
Western Australia	Legislative Assembly	“offensive words” “improper motives and personal reflections” “objectionable or unparliamentary”

Jurisdiction	Chamber	References to offensive/unparliamentary language
Western Australia	Legislative Council	“objectionable words” “offensive words” “imputations of improper motives and personal reflections” “unparliamentary language”
New Zealand	House of Representatives	“offensive or disorderly words” “imputation of improper motives” “offensive reference to a member’s private affairs” “personal reflection against a member” “unparliamentary expression”
Canada	House of Commons	“disrespectful or offensive language” “offensive words”
Canada	Senate	“personal, sharp or taxing speeches” “unparliamentary language”
United Kingdom	House of Commons	N/A
United Kingdom	House of Lords	“personally insulting or offensive speeches”

Source: Procedure Office, as at 29 March 2023.



## E. Sanctions for disorder in other jurisdictions

**Table E.1** Summary of sanctions for disorder by jurisdiction<sup>1</sup>

Jurisdiction	Chamber	Withdrawal period	Suspension period(s)	Comments/notes
Australia (Federal)	Senate	N/A	Remainder of sitting day; Seven sitting days; Fourteen sitting days.	Odgers' notes: 'The procedures relating to disorder are salutary in that the responsibility for maintaining order is imposed on the whole Senate, rather than the chair or any other particular authority. This principle is reflected in the rule that any senator may move a suspension motion, and the Senate must vote on it.' <sup>2</sup>
Australian Capital Territory	Legislative Assembly	N/A	Three sitting hours; Two sitting days; Three sitting days.	Member may participate in committee proceedings but may not lodge notices, questions, petitions or matters of public importance.
New South Wales	Legislative Assembly	Up to three hours or remainder of the sitting day.	Two sitting days; Four sitting days; Eight sitting days.	Removal may be directed if Member called to order three times in one sitting. Removal excludes Member from Parliamentary precincts and Member cannot take part in any proceeding of the House or its committees, even if committee business is being conducted outside of the precincts.
New South Wales	Legislative Council	A period of time as the Chair may	Any period the House decides (until the House	Withdrawal may be ordered if Councillor called to order three times in one sitting.

<sup>1</sup> A similar table was published in the Procedure Committee's 2017 report on its inquiry into the provisions related to disorder.

<sup>2</sup> H Evans and J Odgers, *Odgers' Australian Senate practice*, 14th edition, Canberra: Dept. of the Senate, 2016, p. 279.

Jurisdiction	Chamber	Withdrawal period	Suspension period(s)	Comments/notes
		decide but not beyond the end of the sitting.	terminates suspension and/or Councillor apologises).	
Northern Territory	Legislative Assembly	One hour.	Twenty-four hours; Two meeting days; Three meeting days.	Members ordered to withdraw can vote in divisions or be counted for quorum.
Queensland	Legislative Assembly	Up to one hour or remainder of the sitting day.	As specified in motion to suspend, not exceeding seven sitting days, or fourteen days if the Member refuses to obey the direction of the Speaker.	Option to allow withdrawn Member to vote in divisions. Suspended Members excluded from parliamentary precinct.
South Australia	House of Assembly	Up to one hour.	Remainder of sitting; Three sitting days; Eleven sitting days.	
South Australia	Legislative Council	N/A	Remainder of sitting; One week; One month.	Member must withdraw from the precincts of the Council upon suspension.
Tasmania	House of Assembly	Any period up to 24 hours.	Twenty-four hours; Seven days; Twenty-eight days.	Members ordered to withdraw can vote in divisions or be counted for quorum.
Tasmania	Legislative Council	N/A	Twenty-four hours; Seven days; Twenty-eight days.	Member must withdraw from the precincts of the Council upon suspension.

Jurisdiction	Chamber	Withdrawal period	Suspension period(s)	Comments/notes
Victoria	Legislative Assembly	Up to one and a half hours.	Remainder of that sitting or period decided by House.	Members ordered to withdraw can vote in divisions. Time for withdrawal carries over to next sitting if not expired at adjournment.
Victoria	Legislative Council	Up to thirty minutes.	Remainder of that sitting or period decided by House.	Members ordered to withdraw can vote in divisions. Time for withdrawal carries over to next sitting if not expired at adjournment.
Western Australia	Legislative Assembly	Remainder of sitting day.	Two sitting days; Four sitting days; Thirteen sitting days. If Member continues to offend before leaving, may incur a penalty of three further sitting days per offence.	Withdrawal may be ordered if Member called to order three times in one sitting. Suspended Members are excluded from the Chamber, galleries and committees. Notices may not be given (including through another Member), questions on the Notice Paper in the name of the Member are postponed and may not be answered.
Western Australia	Legislative Council	N/A	One sitting day; Four sitting days; Thirteen sitting days.	Suspended Members excluded from Chamber and galleries, committee meetings and may not have a notice of motion given or moved, a question asked or a petition presented on their behalf during the suspension.
New Zealand	House of Representatives	Up to remainder of sitting day.	Twenty-four hours; Seven days; Twenty-eight days.	Members ordered to withdraw may not return to Chamber to ask/answer questions, nor have another Member ask a question on their behalf, but can vote in divisions. If a Member suspended refuses to leave the Chamber, they are (without further question being put) suspended for the remainder of the calendar year. Members receive a salary penalty for the period of the suspension on second, third and subsequent offences.

Jurisdiction	Chamber	Withdrawal period	Suspension period(s)	Comments/notes
Canada	House of Commons	Remainder of sitting day.	N/A	Speaker can refuse to recognise a Member until the offending remarks are retracted and the member apologises.
Canada	Senate	N/A	N/A	In cases of grave disorder, Speaker may suspend sitting for up to three hours.
United Kingdom	House of Commons	Remainder of sitting day.	Five sitting days; Twenty sitting days; until the House resolves that the suspension terminates.	Salary of suspended Members withheld for the duration of the suspension. Member may voluntarily withdraw from Chamber for remainder of sitting without invoking a standing order. Member may be forced to vacate their seat if suspended for more than ten sitting days, following a report from the Committee on Standards or Independent Expert Panel. <sup>3</sup>
United Kingdom	House of Lords	N/A	As specified by motion in the House.	Motion to suspend (or expel) must follow a recommendation from the Committee for Privileges and Conduct in cases where the Member has breached the Code of Conduct.

Source: Procedure Office, as at 29 March 2023.

<sup>3</sup> Vacation of seat may be forced under the *Recall of MPs Act 2015* (UK).