

RT HON DAVID CARTER MP



OFFICE OF THE SPEAKER
HOUSE OF REPRESENTATIVES
WELLINGTON, NEW ZEALAND

1 August 2017

Tony Pasin MP
Chair, Standing Committee on Procedure
Parliament House
Canberra 2600, ACT
AUSTRALIA

Dear Mr Pasin

RE INQUIRY INTO THE PROVISIONS RELATING TO DISORDER IN THE HOUSE OF REPRESENTATIVES

Thank you for your letter dated 22 June 2017 in which you request a submission on the New Zealand Parliament's experience in dealing with provisions relating to disorder. In particular, you have requested information on how these provisions have developed over time.

The Standing Orders set out the provisions relating to disorderly conduct; the relevant provisions are attached. The Standing Orders relating to the maintenance of order have remained largely unchanged since the House adopted new Standing Orders in 1996 and there is considerable crossover between our Standing Orders on this issue and those that the Australian House of Representatives operate under.

Successive Standing Orders Committees have made recommendations to address disorder in the House, which I have outlined below. The Standing Orders Committee conducts a review of Standing orders towards the end of each parliament. It operates on a consensus basis to ensure any changes to rules are well-supported and enduring.

In 2008, representatives from the Green Party, the Māori Party, United Future and ACT New Zealand suggested that the Speaker be given stronger powers for dealing with disorderly conduct. It was their view that an order to withdraw immediately from the House was not effective and that discipline needed to be meaningful. The Standing Orders Committee did not support the members' suggestion that a member who has been ordered to withdraw should have the power to vote suspended; this would be a rather significant development. However, the committee did recommend that a member who had been ordered to withdraw before or during question time may not return to ask or answer a question, and no other member may ask a question on that member's behalf.

In 2011, the committee recommended a salary penalty should be imposed on members who are suspended from service of the House. The committee proposed that such deductions should apply in respect of the period for which a member is suspended: that is, for 24 hours on the first suspension,

7 days on the second suspension, or 28 days on the third or subsequent suspension. This proposal was implemented by section 14 of the Members of Parliament (Remuneration and Services) Act 2013.

Related to the issue of disorderly conduct, in 2007 the Green Party, the Māori Party, United Future and ACT New Zealand signed a voluntary code of conduct. In 2011 the Māori Party reiterated its proposal that a formal code of conduct be instituted to address its concerns about the behaviour of members in the Chamber. The committee's view was a code of conduct is unnecessary; the House is the primary forum for robust debate and a code of conduct may curb the free speech of members. Ultimately, a member is responsible for their actions and accountable to the public they serve.

I trust this will assist your inquiry into the matter. I will be interested in the outcome of your consideration of the issue.

Yours sincerely

Rt Hon David Carter
Speaker of the House of Representatives

Disorderly conduct

50 Speaker may suspend sitting or adjourn the House

(1) The Speaker may suspend a sitting or adjourn the House if the Speaker thinks it is necessary to do so –

(a) to maintain order

...

89 Disorderly conduct

(1) The Speaker may order any member whose conduct is highly disorderly to withdraw immediately from the House during the period (up to the remained of that day's sitting) that the Speaker decides, except that a member ordered to withdraw before or during oral questions may not return to the Chamber to ask or answer a question and no other member may ask a question on that member's behalf.

(2) Any member ordered to withdraw from the House may not enter the Chamber but may vote.

90 Naming of member

The Speaker may name any member whose conduct is grossly disorderly and call on the House to judge the conduct of the member.

91 Member may be suspended

Whenever a member has been named, the Speaker forthwith puts a questions, "That [*such member*] be suspended from the service of the House". There is no amendment or debate on this question.

92 Naming in committee of the whole House

If a member is named in committee of the whole House, the committee is suspended and the chairperson reports the matter to the House. The Speaker then puts the question for the member's suspension as provided in Standing Order 91.

93 Time during which member is suspend

If any member is suspended under Standing Order 91, the suspension –

(a) on the first occasion is for 24 hours:

(b) on the second occasion during the same Parliament is for seven days, excluding the day of suspension:

(c) on the third or any subsequent occasion during the same Parliament is for 28 days, excluding the day of suspension.

94 Refusal to obey Speaker's direction

If any member who is suspended under Standing Order 91 refuses to obey a direction of the Speaker to leave the Chamber, that member is, without any further question being put, suspended from the service of the House for the remainder of the calendar year.

95 Effect of suspension

(1) A member who is suspended from the service of the House may not enter the Chamber, vote, serve on a committee, or lodge questions or notices of motion.

(2) The Journals record the suspension of a member from the service of the House, and state the day or days on which the member is suspended from the service of the House.

96 House's right to hold in contempt

The fact that a member has been suspended under Standing Order 91 or 94 does not prevent the House from also holding the member's conduct to be a contempt.

119 Offensive of disorderly words

If any offensive or disorderly words are used, whether by a member who is speaking or by a member who is present, the Speaker intervenes.

Disorderly conduct in the committee of the whole House

177 Chairperson may suspend proceedings in certain situations

(1) The chairperson may temporarily suspend the proceedings of the committee -

(a) in the case of any grave disorder arising in committee, or

...

Disorderly conduct in select committees

214 Disorder

(1) The chairperson may order any stranger to withdraw from a meeting if that person's conduct is disorderly.

(2) The chairperson may order any member (not being a member of the committee) to withdraw from a meeting if that member's conduct is disorderly.

(3) A select committee may resolve to exclude a member of the committee from its meeting if that member's conduct is highly disorderly. The member may be excluded for up to the remainders of the meeting held on that day.