



The Hon. Shelley Hancock MP
Speaker of the NSW Legislative Assembly
Member for South Coast

4 August 2017

Mr Tony Pasin, MP
Chair
House of Representatives Standing Committee on Procedure
PO Box 6021, Parliament House
CANBERRA ACT 2600

Dear Mr Pasin

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

Thank you for your letter dated 22 June 2017 inviting me to provide a submission to your inquiry into the provisions relating to disorder in the House of Representatives.

Please find my response attached.

Yours sincerely

The Hon. Shelley Hancock MP
Speaker of the NSW Legislative Assembly
Member for South Coast



LEGISLATIVE ASSEMBLY

**SUBMISSION TO THE HOUSE OF REPRESENTATIVES STANDING
COMMITTEE ON PROCEDURE INQUIRY INTO THE PROVISIONS
RELATING TO DISORDER IN THE HOUSE OF REPRESENTATIVES**

**THE HON SHELLEY HANCOCK, MP,
SPEAKER OF THE LEGISLATIVE ASSEMBLY**

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Introduction

Under the Standing and Sessional Orders of the NSW Legislative Assembly, the Speaker or other occupant of the Chair¹ can:

- Remove a member from the Chamber for up to 3 hours (SO 249A);
- Remove a member from the Parliamentary Precincts for the remainder of the sitting day (SO 249); or
- Name a member for continued or gross disorderly conduct (SO 250 – 253). This procedure may result in a member being suspended from the service of the House and its Committees, for a period of between 2 to 8 sitting days (and all intervening days between sitting days).

The Speaker may also direct the attendants to remove a disorderly person from the public gallery and, if necessary, clear the public gallery (SO 258 – 260).

Details of these standing and sessional orders can be found at **Appendix 1**.

Powers of the Speaker to intervene and take action against disorderly conduct by a member, and to impose a range of sanctions

Call to order

Where a member is being generally unruly or disruptive, the Speaker usually issues a warning as to the conduct and etiquette that is expected of them.

A member that is repeatedly unruly or continues to be disruptive will be called to order by the Speaker. As a general rule, a member is placed on three calls to order before action is taken by the Speaker to remove that member from the Chamber. Where several members continue to be unruly or disruptive, the Speaker may place all previously warned members on three calls to order, irrespective of the number of times that an individual member has been warned.

Removal of a Member from the Parliamentary Precincts for the remainder of the sitting

In the event of a member being called to order more than three times in one sitting, or where the member's behaviour is highly disorderly, the Speaker may direct the member's removal by the Serjeant-at-Arms from the Parliamentary precincts as defined in the *Parliamentary Precincts Act 1997* for the remainder of the sitting under Standing Order 249.

The member so removed must immediately leave the Chamber. The Assembly practice is for members to leave the precincts within 1 hour after removal from the Chamber. Failure to leave the precincts as directed may result in the member being named by the Speaker.

If removed under Standing Order 249 or 249A, a member cannot take part in any proceedings of the House or its committees, even if a committee is meeting outside the precincts until such time as the sitting is adjourned. They may, however, return to their electorate office.

Depending on the nature of the disorder, the Speaker may, upon receiving and accepting an apology, permit a member removed under Standing Order 249 to return to the Chamber before the expiry of the exclusion period.

¹ An occupant of the Chair may be the Speaker, Deputy Speaker, the Assistant Speaker or one of the Speaker's panel of Temporary Chairs.

Removal of a Member from the Chamber for up to 3 hours

A sessional order (249A) was adopted in April 2012, which enables the Speaker to remove a member from the Chamber for up to three hours, without the need to call a member to order first. Sessional order 249A was readopted on 5 May 2016 and remains in force for the remainder of the current session.

The purpose of this sessional order is to permit the Speaker to remove disorderly members for a set time period up to 3 hours or a particular item of business such as the remainder of Question Time. When setting the period of exclusion, the Speaker will take into consideration the nature and extent of the disorder.

Members who are directed to leave the Chamber under this sessional order must immediately do so and are not permitted to return until the time specified by the Speaker. Failure to leave when directed may result in the Member being ordered to be removed for the remainder of the day under Standing Order 249.

Naming and suspension of a member (Standing Orders 250 – 253)

A member may be named and suspended from the service of the House for a period of 2 to 8 sitting days for:

- Persistently and wilfully obstructing the business of the House.
- Being guilty of disorderly conduct.
- Using offensive words, and refusing to withdraw them.
- Persistently and wilfully refusing to conform to any Standing Order; and
- Persistently and wilfully disregarding the authority of the Chair.

When a member has been named, the Speaker proposes the question, 'That the Member for ... be suspended from the service of the House', forthwith. No debate is allowed on the motion, except for an explanation by the member concerned, limited to five minutes. If a member has already been removed from the Chamber, the Speaker will ask for them to be returned in order to provide an opportunity for the member to make a statement in explanation.

Prior to December 2007, the motion that a member be suspended from the service of the House under Standing Order 250 was moved by a minister. To avoid a situation where a minister might refuse to move the motion, a sessional order was adopted in December 2007 which provided that after a member had been named, the Speaker would forthwith propose the question that the member be suspended. Standing Order 250 was subsequently amended to reflect this change on 3 July 2009.

The duration of a suspension under Standing Order 252 is two sitting days for the first time that a member is suspended that session, four sitting days for the second time and eight sitting days for each subsequent occasion. The period of suspension includes all intervening non sitting days.

When a member is suspended from the service of the House that member is excluded not only from the Chamber but also from the Parliamentary precincts and cannot take part in any proceedings in the House or its committees. However, there is no provision for the member's salary to be withheld during the suspension, as the House does not possess any punitive power to take such action against a member.

Disorderly House

If disorderly conduct extends beyond a few members to the Chamber as a whole, the Speaker or occupant of the Chair has a number of options at their disposal.

Chair Stands

Standing Order 50 provides that when the Speaker rises (i.e. stands) members shall be seated and remain silent. If necessary, the Speaker can call the House to order whilst on their feet.

Chair suspends the sitting

If grave disorder occurs, the Speaker or Chair may suspend the sitting without any question being put. They will then leave the Chair until the ringing of one long bell.

Pausing the timing clock during Question Time

Standing Order 131(4) gives the Speaker the discretion to order that the timing clock be paused during a Minister's answer. Its application is specific to Question Time as a means of settling the House down. This rule does not extend to other proceedings of the House where other means of maintaining order are available to the Chair. If the House wishes to restore a member's speaking time eroded due to disruption or points of order, a suspension of Standing and Sessional Orders will be required.

Conclusion/Developments

Standing Orders 249 and 250 to 253 are long standing. The development of sessional order 249A has proved to be a useful tool for the Speaker to manage disorder in the Legislative Assembly Chamber, particularly during Question Time, when members can be particularly rowdy. It is applied on most sitting days and is readily accepted by members as an appropriate sanction for disorderly behaviour of a minor nature. Notwithstanding this, the Speaker will also use Standing Order 249 to remove a disorderly Member for the remainder of the sitting day if the Member's behaviour warrants this. It is also not unusual for both 249 and 249A to both be used when a number of members are disorderly.

The latitude to be flexible with the period of removal under 249A allows the Speaker to consider what is necessary to restore order in the House without being prescriptive. For instance the removal of a member until the debate is concluded would exclude the member from the Chamber during the debate, but allow the member to return to the Chamber to vote in a division.

A removal of a member under 249A is also favoured by the Temporary Speakers as it is immediate, with no need for prior calls to order, and by removing one disorderly, disruptive member, the presiding member can restore order in the House.

Appendix 1 : Standing and Sessional Orders of the NSW Legislative Assembly relating to Disorder²

Members silent when Speaker rises	50. When the Speaker rises Members shall be seated and be silent.
Question Time (oral questions)	Question Time 131(4). The Speaker has discretion at any time during a Minister's answer to order that the timing clock be paused.
Member repeatedly called to order	249. (1) If a Member's conduct is such that it is necessary for the Speaker to call the Member to order more than three times in any one sitting for any gross breach of the rules, the Speaker may direct the removal of the Member by the Serjeant-at-Arms until the adjournment of that sitting. (2) A Member who is removed from the House shall be excluded from the Parliamentary precincts for the remainder of the sitting and cannot take part in any proceeding of the House or its committees.
Member removed from the Chamber	249A. The Speaker may direct a Member who is grossly disorderly to leave the Chamber for up to three hours. The direction shall not be open to debate or dissent.
Member named for disorderly conduct	Member Named 250. A Member may be named by the Speaker for: (1) Persistently and wilfully obstructing the business of the House. (2) Being guilty of disorderly conduct. (3) Using offensive words, and refusing to withdraw them. (4) Persistently and wilfully refusing to conform to any Standing Order. (5) Persistently and wilfully disregarding the authority of the Chair.

² NSW Legislative Assembly Consolidated Standing and Sessional Orders and Resolutions of the House, 56th Parliament, May 2016, Chapter 20.

<p>Procedure after naming</p>	<p>251. If the Member has been named:</p> <p>(1) The Speaker shall forthwith propose the question “That the Member for ... be suspended from the service of the House”.</p> <p>(2) There shall be no amendment, adjournment or debate allowed on this motion. However, the Member named may make an explanation limited to 5 minutes.</p>
<p>Duration of suspension</p>	<p>252. If a Member is suspended during the session:</p> <p>(1) For a first time, the suspension shall be for 2 sitting days.</p> <p>(2) For a second time, the suspension shall be for 4 sitting days.</p> <p>(3) On any subsequent occasion, the suspension shall be for 8 sitting days.</p> <p>In this Standing Order “sitting days” means days the House actually sits, and the uncompleted portion of the sitting during which the Member was suspended shall count as one sitting day.</p>
<p>Consequences of suspension</p>	<p>253. A Member who is suspended from the service of the House shall be excluded from the Parliamentary precincts until the expiration of the suspension period including all intervening non-sitting days and cannot take part in any proceedings of the House or its committees.</p>
<p>Notice of visitors taken</p>	<p>258. If at any sitting a Member takes notice that visitors are present the Speaker shall forthwith put the question “That visitors be ordered to withdraw”, no debate or amendment allowed.</p>
<p>Chair may order withdrawal</p>	<p>259. The Speaker may at any time order the withdrawal of visitors from any part of the House.</p> <p>The Parliamentary Reporting Staff shall not be deemed to be visitors unless the Speaker directs.</p>
<p>Removal of visitors</p>	<p>260. A person, not being a Member, who interrupts the orderly conduct of the business of the House, obstructs the approaches to the House, or causes a disturbance within the precincts of the House, may, by direction of the Speaker, be removed by the Serjeant-at-Arms</p>