

**NATURAL JUSTICE
BEFORE SELECT COMMITTEES**



Office of the Clerk of the House of Representatives

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About this booklet

The Standing Orders of the House of Representatives (rules for parliamentary procedure) place responsibilities on select committees to observe the principles of natural justice.

While most evidence is given willingly to select committees without the need to use the natural justice procedures, there will be occasions when witnesses may be concerned about the fairness of procedures. There will also be people who wish to respond to allegations made about them before a select committee that may seriously damage their reputation. This booklet has been prepared to help people with such concerns to understand the procedures select committees are required to follow and the rights available to those people. It will also help any legal advisers who may be engaged to assist witnesses by providing the relevant statutory and Standing Order references. The Standing Orders referred to in the text are reproduced at the back of the booklet.

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What is natural justice?

Fairness

Fairness of procedure Put simply, natural justice is fairness of procedure.

The New Zealand Bill of Rights Act

Select committees are expected to observe principles set out in the Bill of Rights Act The New Zealand Bill of Rights Act 1990 provides for every person to have the right to the observance of the principles of natural justice by a public authority. Select committees are expected to observe the principles. To ensure this, the Standing Orders set out the natural justice procedures that committees must follow. **Section 27(1) of the New Zealand Bill of Rights Act 1990**

Natural justice before select committees

The principles have been applied to select committee procedures The principles of natural justice have been applied to select committee procedure by providing opportunities for people to respond to allegations made about them at a committee and for a fair process to be followed when evidence is given. Provision has also been made for the disqualification of a member for a particular item of business if that member has displayed clear bias against a person in respect of criminal activity under investigation by the committee.

The procedures do not extend to limiting political debate Parliament is an inherently political environment. While the procedures endeavour to make the processes fair, there is no intention to restrict members' participation in select committee processes merely because they have expressed a concluded view on an item of business. To do so would be to take the politics out of Parliament and to render its purpose meaningless. When considering the application of natural justice

principles to Parliament, the political context in which they are to be applied must always be uppermost.

Powers to call for evidence

Persons, papers and records

The House has extensive powers to call for evidence

The House has extensive powers to call for persons, papers and records (evidence). The powers are derived from the Legislature Act 1908, which gives effect in New Zealand law to parliamentary powers operating in the United Kingdom at the time the act was passed.

Section 242 of the Legislature Act 1908

Committees can request the appearance of a witness or the production of a document

Most evidence is given willingly to committees without resorting to these powers. However, should you receive a request from a select committee to appear before a select committee or to produce a document, there is an assumption that you will comply with the request. Ultimately a summons may be served requiring your attendance or the production of the document. This summons must be signed by the Speaker and served on the person concerned under the Speaker's direction. **SO 196, 197, 198**

Parliamentary sanctions

Failure to comply may result in a finding of contempt

Failure to supply information or to appear following a summons are examples of actions that could ultimately result in a finding of contempt of the House. A person in contempt of the House is liable to punishment by the House.
SO 400(r) and (s)

Giving evidence before a select committee

Normal practice

Evidence is generally heard in public

Most evidence is heard in open session where the news media and other members of the public may be present and report on proceedings. There are provisions for hearings in private or secret and these are discussed in the section headed 'Your rights as a witness'. **SO 223(1)**

Generally, there is no transcript

Evidence is not normally transcribed and there is no official record of oral evidence unless a committee specifically resolves to have the evidence recorded. Members have generally preferred the informality of a hearing that is not recorded. However, recording and/or transcribing evidence has increased in recent years. **SO 232(1)**

You are expected to be respectful and truthful

When giving evidence before a committee, you are expected to be respectful and to tell the truth. Deliberately attempting to mislead a committee and 'misconducting oneself' are examples of actions that could ultimately result in a finding of contempt of the House. **SO 400(b) and (o)**

Evidence on oath

Evidence can be given on oath and such evidence is subject to the laws of perjury

A committee can require a witness to give evidence on oath. This is an infrequent procedure but if it is used, such witnesses are subject to the laws of perjury and face the possibility of criminal prosecution if there is evidence of perjury. **SO 231, section 252 of the Legislature Act 1908, section 108 of the Crimes Act 1961**

Transcripts of evidence

Transcripts are submitted to witnesses to correct errors of transcription

If a committee decides to record and transcribe your evidence, a transcript will be made and you will be given reasonable opportunity to correct any errors of transcription. **SO 232(2)**

Transcripts become a matter of public record

Transcripts become publicly available when the committee reports to the House and they may form part of the report. They could also be released earlier if the committee decides to do so. Until they are released and become a matter of public record, transcripts remain confidential to the committee and you are not able to release them yourself.

Freedom of speech in Parliament

Witnesses have absolute freedom of speech without fear of facing defamation proceedings

Article 9 of the Bill of Rights 1688 provides as follows:

That the freedom of speech, and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament.

This provision is in force in New Zealand law by reason of the Imperial Laws Application Act 1988 and it forms the basis of freedom of speech in Parliament. It ensures that witnesses have absolute privilege when giving evidence in parliamentary proceedings and cannot be liable in defamation for their comments to a committee. It does not protect witnesses if they repeat or affirm their comments outside a committee meeting.

Section 3 of the Imperial Laws Application Act 1988, section 13(1) of the Defamation Act 1992

Procedures provide recourse in absence of the right to sue

The natural justice procedures described in this booklet ensure that, in the absence of recourse in the courts, if serious allegations are made about you that may seriously damage your reputation, you have the opportunity to put your side.

Criminal wrongdoing

Committees unlikely to inquire into allegations of crime

When giving evidence, you should be particularly careful about making allegations of criminal wrongdoing. A committee cannot investigate

specific allegations of crime on the part of named individuals unless it has authority to do so from the House. While there is nothing to stop committees looking generally into the nature of criminal activity, the committee might not allow specific allegations to be made. **SO 200**

Charges against members of Parliament

Select committees cannot investigate the private conduct of MPs

Select committees cannot inquire into the private conduct of members of Parliament. If you make allegations that reflect on the private conduct of members of Parliament while giving evidence, the committee will not proceed further on the allegations apart from informing the member and giving that member the opportunity to make a statement. Unless the House determines otherwise, the Privileges Committee is the only committee that can investigate the conduct of members of Parliament. **SO 201**

Matters before the courts

Sub judice rule applies in Parliament

When giving evidence before a select committee, you should take care not to comment upon matters that are before a court of record¹ (*sub judice*). This is prohibited when there is danger of prejudice to a fair trial. The chairperson may, therefore, rule such references out of order. Avoiding comment on matters before a court is an important principle of our constitutional system and it is one respected by Parliament. However, the *sub judice* rule does not prevent the House and its committees from legislating. The fact that a matter is before a court does not stop Parliament

¹ Supreme Court, Court of Appeal, High Court, Courts Martial Appeal Court, Employment Court, Maori Appellate Court, Maori Land Court, District Courts (which include the Family Courts and Youth Courts) and Environment Court.

passing legislation dealing with the matter.
SO 111, 112

Think carefully before making allegations – your own reputation may suffer

If you are planning to make an allegation that may seriously damage a person's reputation, you should be aware that the procedures set out in this booklet will be followed and that the process might have some impact on your own reputation, especially if you are unable to support your allegations with evidence.

Irrelevant or unjustified allegations

A committee's first obligation is to decide if it wishes to receive evidence that contains allegations

A committee's first obligation is to consider whether the evidence it receives is relevant and, if not, whether to return or expunge it. However, if allegations have already been voiced or released in public, the committee concerned must give a right of response. **SO 237**

Matters of concern

You may raise any matters of concern with the clerk of the committee

If you have any matters of concern about giving evidence before a select committee, you are entitled to raise these with the clerk of the committee prior to giving evidence. Such concerns will be drawn to the attention of the committee. **SO 224**

You have reasonable access to your own evidence

If you need to consult the evidence you have supplied to a committee, you can have reasonable access to that material. **SO 222**

Your rights as a witness

Private and secret evidence

Committees can hear evidence in private

Evidence given in private is not open to the public or available to the media and remains confidential to the committee until it reports to the House. A decision by a committee to hear evidence in private must be unanimous. **SO 219**

Evidence can also be heard in secret and may be permanently protected

Evidence can also be given in secret and may not be disclosed by any party even after there has been a report to the House. The House can, however, authorise disclosure. A committee may inform a person of an allegation made against that person during a hearing of secret evidence that may seriously damage the reputation of that person. A decision by a committee to hear evidence in secret must also be unanimous. **SO 220, 238(2)**

You can ask to be heard in private or secret

You have the right to ask to be heard in private or secret. If you do ask to be heard in private or secret, you are required to give reasons for doing so. You can ask to be heard in private or secret at any time while you are appearing before the committee. **SO 221**

You will be informed of what may become of evidence given in private or secret

If a committee agrees to your request to be heard in private or secret, you will be informed that private evidence becomes publicly available once the committee reports to the House or that secret evidence can be made available by order of the House. Any evidence you give in private or secret may also be supplied to a person who is the subject of any allegations you make that may seriously damage that person's reputation. **SO 221(4)**

Written submissions

You can make a written submission

If you are asked to give oral evidence before a committee, you will be informed of the opportunity to make a written submission prior to your appearance. You might find this useful as a permanent record of your position on the matter before the committee because oral evidence is generally not recorded. Written evidence gives you the opportunity of making a fully considered statement that may not be possible in oral evidence. **SO 216**

Objections to answering a question

You can object to answering a question that is not relevant

You can object to answering a question on the ground that it is not relevant to the item of business before the committee. If you do this, the chairperson of the committee then determines whether the question is relevant. The chairperson will disallow a question that is determined to be irrelevant. **SO 226(2)**

You can object on other grounds but ultimately you may be required to answer

If you do not wish to answer a relevant question, you may object to answering it and state your grounds for the objection. At this point, the question may be withdrawn or the committee may consider the matter in private to decide whether it requires an answer. At the same time the committee may consider whether the answer might be received as private or secret evidence. Once a committee informs you that it requires an answer you are expected to provide it. If you do not answer, the committee may report the matter to the House or your refusal could be raised as a matter of privilege. Refusal to answer is an example of an action that may be considered a contempt of the House. **SO 227, 228, 400(u)**

Legal counsel

You may be accompanied by counsel

When you give evidence before a committee, you may be accompanied by legal counsel of your choice and you may consult that person throughout the hearing. **SO 229(1)**

Counsel can address procedural issues on your behalf

Counsel may make written and oral submissions on the procedure to be followed by the committee, although an oral submission is subject to the committee's agreement. On your behalf, counsel may also object to questions on the same grounds as set out above. If there is risk of your reputation being seriously damaged by the committee's proceedings, counsel may ask the committee to hear further witnesses but the committee itself decides if it will do so. There is no provision for counsel to cross-examine witnesses. **SO 229(2)**

Your rights when allegations have been made about you

Allegations

Procedures apply only where there may be serious damage to a person's reputation

The nature of Parliament is such that people often say hurtful things about other people. The House has not sought to impose procedures that limit freedom of speech in Parliament or that would compel committees to follow up every adverse comment. However, if an allegation is made about a person that may seriously damage his or her reputation, there are specific procedures that must be followed. 'Person' is taken to include a body corporate.

Procedures may apply to secret evidence

Even allegations made during a hearing of secret evidence can be subject to these procedures. When a serious allegation is made in secret, application of the procedures depends on the committee considering whether the possible damage to reputation outweighs any detriment the witness may suffer. **SO 238(2)**

Allegations not directly relevant to proceedings can be excluded from proceedings

There may be occasions when allegations that may seriously damage a person's reputation and that are not directly relevant to the proceedings are made during a hearing. Under these circumstances, the committee can weigh up the value of the evidence against the risk of damage to reputation and may choose to return the evidence so that it does not form part of the proceedings. If the evidence is being transcribed, the allegations could be expunged from the transcript. Alternatively, the committee may seek an order of the House to withhold publication of the material. If these procedures are followed, right of reply may no longer be an issue because in most circumstances there will no longer be any risk of serious damage to reputation. **SO 237**

Right of reply

You will have reasonable opportunity to respond to allegations

If allegations have been made in select committee proceedings about you that may seriously damage your reputation, including during the hearing of secret evidence in some instances, you will be informed of those allegations. You will then be given reasonable opportunity to respond in writing and/or by appearing before the committee. Such a response will be received as evidence in the usual way. If the original allegation was made as private or secret evidence, your response will be received under the same conditions. Committees are under no obligation to make a finding in relation to an allegation. **SO 239**

You can ask the committee to hear other witnesses

If you consider that the evidence of additional witnesses is in your interest, you may ask the committee to hear from these witnesses. However, the decision whether or not to hear these witnesses rests with the committee. **SO 239(1)(b)**

Access to personal information

You can request personal information held by a select committee

If allegations that may seriously damage your reputation have been made about you in select committee proceedings, you may request any material held by the committee that contains personal information about you. This includes otherwise confidential committee proceedings but not secret evidence. **SO 236(1)**

The committee decides whether to supply the information

A request for personal information will be considered by the committee and the material may be supplied to you if the committee agrees that your reputation is at risk of serious damage. The material may be supplied in a form different from that requested if this avoids undue difficulty, delay or expense. If any of the material has not been released publicly, its supply to you does not

constitute public release and you are expected to respect the confidentiality of the material. The clerk of the committee can advise you on the status of the material provided. **SO 236(2) and (3)**

Material containing serious allegations will be given to you before giving evidence

If you are due to appear before a select committee as a witness, the committee will give you any material it has (other than secret evidence) that contains allegations that may seriously damage your reputation, regardless of whether or not you have requested it. As stated above, you will be expected to respect the confidentiality of any material that has not been released publicly. **SO 235(2)**

Bias

A member can be excluded from proceedings of a committee for apparent bias

If a member of Parliament has alleged that you have committed a crime or has expressed a concluded view on your involvement in any conduct or activity of a criminal nature, that member can be excluded from any related select committee proceedings. That member can also be excluded from participating in any other select committee meeting where serious damage to your reputation may occur. Such exclusion is on the grounds of ‘apparent bias’ and ensures that the member is not being a judge in his or her own cause, one of the basic principles of natural justice. **SO 233**

You can make a complaint of apparent bias by writing to the chairperson of the committee

An exclusion for apparent bias does not occur automatically. You can make a complaint of apparent bias if you are the subject of the allegations or a member of Parliament may make such a complaint. The complaint must be in written form and addressed to the chairperson of the select committee. The chairperson will then decide whether or not the member will be excluded after seeking that member’s comment.

A committee member can appeal that decision to the Speaker, whose decision is final. **SO 234**

MPs must declare any financial interest in an item of business

A financial interest of a member of Parliament can also be a form of bias when it is directly relevant to the committee's proceedings. Members must declare such interests before participating in proceedings related to the item of business and can be found in contempt if they fail to do so. **SO 164–167, 400(f)**

Your rights in respect of committee findings

Adverse findings

Committees can make adverse findings

Select committees regularly make reports to the House on various items of business. Sometimes they make findings that could be described as 'adverse'. These could range from a criticism of a particular practice in a government department to a finding of gross incompetence, or even criminal negligence, on the part of a named individual or group of people, the latter of which is rare.

Response to adverse findings

You can respond to serious adverse findings if you are named in a report before the committee reports to the House

Before a report is presented to the House, the committee must distinguish between an adverse finding that is a simple criticism and one that may seriously damage a person's reputation. In the latter case, if you are the subject of the finding, the committee must inform you of it and give you reasonable opportunity to respond to the findings. The committee will take your response into account before finally reporting to the House. If there is no risk of serious damage to reputation you are not likely to see the draft report or have the opportunity to comment on it. **SO 247**

Draft reports are confidential and you cannot publicise them

If a committee makes part of its draft report available to you for you to respond to a finding, it does so on a confidential basis. The contents of the report do not become publicly available until the committee reports to the House. Premature release of a select committee report is an example of an action that can result in a finding of contempt. **SO 240(1), 400(p)**

Further reading

Effective Select Committee Membership: A Guide for Members of Parliament, Office of the Clerk of the House of Representatives.
www.parliament.nz

This guide was prepared for members of Parliament to assist them with select committee work. It can also help other readers in understanding the parliamentary context and perspective of select committees.

McGee, David, *Parliamentary Practice in New Zealand*, Third Edition, Wellington, 2005.

This book provides detailed guidance on parliamentary procedure and practice. It also provides some theoretical background to aspects of Parliament that will assist in learning about constitutional principles.

Making a Complaint to the Regulations Review Committee, Office of the Clerk of the House of Representatives. www.parliament.nz

This booklet provides guidance for people wishing to make a complaint about regulations. It also provides background information about regulations and the parliamentary processes associated with them. Copies are available free of charge from the Office of the Clerk.

Making a Submission to a Parliamentary Select Committee, Office of the Clerk of the House of Representatives. www.parliament.nz

This booklet provides guidance for people making submissions to a select committee. It is particularly useful for those who are not experienced at preparing written material for committees. Copies are available free of charge from the Office of the Clerk.

Parliament Brief, Office of the Clerk of the House of Representatives.
www.parliament.nz

This is a series of fact-sheets about Parliament. Copies are available free of charge from the Office of the Clerk.

Report of the Standing Orders Committee: Review of Standing Orders, I.18A, 1995.

This report contains the substantial recommended amendments to the Standing Orders that resulted in new Standing Orders coming into force in 1996. There is a lengthy narrative that helps to explain the changes, including the natural justice procedures. The report includes as an appendix a paper prepared for the committee by Professor Philip Joseph of the University of Canterbury on how natural justice principles might be applied to select committee proceedings. Subsequent reports in 1996 (I.18B), 1999 (I.18B), and 2003 (I.18B) recommended further amendments to the natural justice procedures.

Standing Orders of the House of Representatives, New Zealand, 2005.
www.parliament.nz

This is the complete set of rules by which the House and its committees operate. For your convenience, the Standing Orders referred to in the text of this booklet are reprinted at the back.

Appendix – Standing Orders referred to

Reprinted below are the Standing Orders referred to in the text. They cannot always be interpreted in isolation. If you need assistance, contact the clerk of the committee dealing with the issue.

111 Matters awaiting judicial decision

Subject always to the discretion of the Speaker and to the right of the House to legislate on any matter, matters awaiting or under adjudication in any court of record may not be referred to—

- (a) in any motion, or
- (b) in any debate, or
- (c) in any question, including a supplementary question,—

if it appears to the Speaker that there is a real and substantial danger of prejudice to the trial of the case.

112 Application of prohibition of reference to matters awaiting judicial decision

- (1) Standing Order 111 has effect,—
 - (a) in relation to a criminal case, from the moment the law is set in motion by a charge being made:
 - (b) in relation to cases other than criminal, from the time when proceedings have been initiated by the filing of the appropriate document in the registry or office of the court.
- (2) Standing Order 111 ceases to have effect in any case when the verdict and sentence have been announced or judgment given.
- (3) In any case where notice of appeal is given, Standing Order 111 has effect from the time when the notice is given until the appeal has been decided.

164 Pecuniary interests

- (1) Members must make returns of pecuniary interests in accordance with the provisions of Part 1 of Appendix B.
- (2) Returns of members' pecuniary interests are to be maintained in a register in accordance with the provisions of Part 2 of Appendix B.

165 Financial interests

- (1) A financial interest is a direct financial benefit that might accrue to a member personally, or to any trust, company or other business entity in which the member holds an appreciable interest, as a result of the outcome of the House's consideration of a particular item of business.
- (2) A financial interest—
 - (a) includes a financial interest held by a member's spouse or domestic partner or by any child of the member who is wholly or mainly dependent on the member for support, but
 - (b) does not include any interest held by a member or any other person as one of a class of persons who belong to a profession, vocation or other calling or who hold public offices or an interest held in common with the public.

166 Declaration of financial interest

- (1) A member must, before participating in the consideration of any item of business, declare any financial interest that the member has in that business.
- (2) Nothing in this Standing Order requires a member to declare an interest that is contained in the Register of Pecuniary Interests of Members of Parliament.

167 Speaker decides if interest held

If any dispute arises as to whether a member has a financial interest, the matter is referred to the Speaker, whose decision is final.

196 Seeking evidence

- (1) The chairperson of a select committee may, on behalf of the committee, request any person to attend and give evidence before the committee.
- (2) The chairperson may, on behalf of the committee, request that papers and records that are relevant to its proceedings be produced.

197 Exercise of power to send for persons, papers and records

- (1) A committee with the power to send for persons, papers and records may order that a summons be issued to any person—
 - (a) to attend before that committee to be examined and give evidence:
 - (b) to produce papers and records in that person's possession, custody or control to that committee.
- (2) Every summons issued under this Standing Order—
 - (a) must state the time and place at which it is to be complied with by the person to whom it is addressed, and
 - (b) is signed by the Speaker and served upon the person concerned under the Speaker's direction.

198 Application to Speaker for summons

- (1) A select committee without the power to send for persons, papers and records may apply to the Speaker, in writing, seeking the issue of a summons to any person—
 - (a) to attend and be examined and give evidence before the committee:
 - (b) to produce papers and records in that person's possession, custody or control to the committee.
- (2) When an application is received, a summons may be issued if the Speaker is satisfied that—
 - (a) the evidence, papers or records sought by the committee are necessary to its proceedings, and
 - (b) the committee has taken all reasonable steps to obtain the evidence, papers or records.
- (3) Every summons issued under this Standing Order—
 - (a) must state the time and place at which it is to be complied with by the person to whom it is addressed, and
 - (b) is signed by the Speaker and served upon the person concerned under the Speaker's direction.

200 Criminal wrongdoing

- (1) Without the express authority of the House, a select committee may not inquire into, or make findings in respect of, allegations of crime by persons who are named or otherwise identifiable.

- (2) A select committee is not prevented, by reason of paragraph (1), from conducting inquiries, and making findings, of a general nature into alleged criminal wrongdoing by persons who are not named or otherwise identifiable.

201 Charges against members

- (1) A select committee (except the Privileges Committee) may not enquire into, or make findings in respect of, the private conduct of any member of the House, unless it is specially directed by the House to do so.
- (2) If any information comes before a select committee or any allegation is made to a select committee (except the Privileges Committee) charging any member with reprehensible conduct, the committee must inform the member concerned of the details of the charge and give the member a reasonable opportunity to make any statement to it bearing on the matter. Otherwise the committee may not proceed further on that information or allegation without being specially directed by the House to do so.

216 Written submissions

A witness will be given the opportunity to make a submission in writing before appearing to give oral evidence.

219 Private evidence

- (1) Some or all of the evidence to be given to a select committee may, by leave, be heard or received in private.
- (2) The committee may require all strangers or any stranger to withdraw from a meeting while evidence is being heard in private.
- (3) Evidence heard or received in private is confidential to the committee until it reports to the House.

220 Secret evidence

- (1) A select committee may, by leave, declare evidence to be secret evidence where—
 - (a) information that it wishes to obtain can be obtained only if it can assure a witness, or other person in possession of that information, that evidence given to it will remain confidential, or

- (b) it is satisfied that it is necessary to do so to protect the reputation of any person.
- (2) All strangers must withdraw from a meeting while secret evidence is being heard, unless leave is given for them to remain present.
- (3) Except to give effect to Standing Order 238, secret evidence may not be disclosed to any other person by the committee or by any member of the committee or by any other person, unless the House expressly authorises such disclosure. Following the committee's report to the House, secret evidence is delivered into the custody of the Clerk.

221 Application for evidence to be private or secret

- (1) Before providing written evidence to a select committee, a person may apply for that evidence to be received in private or in secret. Where practicable, witnesses are informed before providing written evidence that such an application may be made.
- (2) Before giving evidence, or at any time while being heard, a witness may apply for any or all of the evidence of that witness to be heard in private or in secret. All witnesses are informed before giving evidence that such an application may be made.
- (3) A witness must give reasons for any such application.
- (4) Before giving evidence in private, a witness will be informed that the evidence will become available when the committee reports to the House or, if it may seriously damage the reputation of any person, will be made available to that person. Before giving evidence in secret, a witness will be informed that secret evidence may be disclosed to give effect to Standing Order 238 and that the House has the power to order the disclosure of such evidence.

222 Access to information

A select committee will give a witness reasonable access to any material or other information that the witness has produced to the committee.

223 Public attendance at hearings

- (1) The proceedings of any select committee during the hearing of evidence on a bill or other matter, which is the subject of

consideration by the committee, are open to the public, unless the evidence is private or secret.

- (2) A committee may require all strangers or any stranger to withdraw from a meeting while the committee is formally receiving a delegation that includes a member, or members, of another Parliament.

224 Matters of concern before giving evidence

A person who is to appear before a committee may raise any matters of concern relating to that evidence with the clerk of the committee before appearing before the committee. Any such matters will be brought to the attention of the committee.

226 Relevance of questions

- (1) The chairperson will take care to ensure that all questions put to a witness are relevant to the committee's proceedings and that the information sought by those questions is necessary for the purpose of those proceedings.
- (2) A witness may object to a question on the ground that it is not relevant. The chairperson will then determine whether it is relevant to the committee's proceedings.

227 Objections to answer

Where a witness objects on any ground to answering a relevant question put to the witness, the witness will be invited to state the ground upon which objection to answering the question is taken.

228 Committee consideration of objections

- (1) Where a witness objects to answering a question on any ground, the select committee, unless it decides immediately that the question should not be pressed, will then consider in private whether it will insist upon an answer to the question, having regard to the importance to the proceedings of the information sought by the question.
- (2) If the committee decides that it requires an answer to the question, the witness will be informed of that decision, and is required to answer the question.

- (3) The committee may decide that the public interest would best be served by hearing the answer in private or secret.
- (4) Where a witness declines to answer a question to which the committee has required an answer, the committee may report this fact to the House.

229 Counsel

- (1) A witness may be accompanied by counsel (of the witness's choice) and may consult counsel in the course of a meeting at which the witness appears.
- (2) Counsel may—
 - (a) make written submissions to the committee on the procedure to be followed by the committee:
 - (b) with the committee's agreement, address the committee on the procedure to be followed by the committee before counsel's client is heard:
 - (c) object to a question to counsel's client on the ground that it is not relevant:
 - (d) object to counsel's client answering a question:
 - (e) when the client's reputation may be seriously damaged by proceedings of a committee, ask that further witnesses give evidence in the client's interest.

231 Evidence on oath

- (1) A select committee may order any person to take an oath or make an affirmation before giving evidence to it.
- (2) When a person gives evidence on oath or affirmation, the oath or affirmation is administered by the clerk of the committee.

232 Transcripts of evidence

- (1) A select committee may decide to record and, if it thinks fit, transcribe evidence given to it.
- (2) Reasonable opportunity will be afforded to witnesses to make corrections of errors of transcription in any transcript of their evidence.

233 Disqualification for apparent bias

A member who has (whether in the House or outside the House) made an allegation of crime or expressed a concluded view on any conduct or activity of a criminal nature, identifying by name or otherwise a person as being responsible for or associated with that crime, conduct or activity (referred to as **apparent bias**), may not participate—

- (a) in any select committee inquiry into that person's responsibility for or association with that crime, conduct or activity, or
- (b) in any other proceedings in a select committee that may seriously damage the reputation of that person.

234 Complaints of apparent bias

- (1) A complaint of apparent bias on the part of a member of a select committee may be made by any member (whether or not a member of the committee) or by any person appearing or about to appear before the committee whose reputation may be seriously damaged by proceedings of the committee.
- (2) A complaint of apparent bias must be made, in writing, to the chairperson.
- (3) The chairperson, after considering any information or comment from the member against whom the complaint is made, decides whether the member is disqualified by reason of apparent bias.
- (4) Any member of a committee who is dissatisfied with the chairperson's decision on a complaint of apparent bias may refer the matter to the Speaker for decision. The Speaker's decision is final.

235 Evidence containing allegations

- (1) At any stage during a select committee's proceedings, the committee may consider hearing in private evidence that contains an allegation that may seriously damage the reputation of a person. The committee may also invite that person to be present during the hearing of such evidence.
- (2) A person who is to appear before a committee will be informed of or given a copy of any evidence (other than secret evidence) or

material in the committee's possession that contains an allegation that may seriously damage the reputation of that person.

236 Access to information by person whose reputation may be seriously damaged

- (1) Any person whose reputation may be seriously damaged by proceedings of a select committee may request from the clerk of the committee a copy of all material, evidence (except secret evidence), records or other information that the committee possesses concerning that person.
- (2) The committee considers any such request and may, if it considers it to be necessary to prevent serious damage to that person's reputation, furnish such material.
- (3) The committee may furnish such material in a form different from that requested if to provide it in the form requested would impose undue difficulty, expense or delay.

237 Irrelevant or unjustified allegations

When a witness gives evidence that contains an allegation that may seriously damage the reputation of a person and the select committee is not satisfied that that evidence is relevant to its proceedings or is satisfied that the evidence creates a risk of harm to that person, which risk exceeds the benefit of the evidence, the committee will give consideration—

- (a) to returning any written evidence and requesting that it be resubmitted without the offending material:
- (b) to expunging that evidence from any transcript of evidence:
- (c) to seeking an order of the House preventing the disclosure of that evidence.

238 Information about allegation that may seriously damage reputation

- (1) When, in evidence heard or received in public or in private, an allegation is made against a person that may seriously damage the reputation of that person, the committee will—
 - (a) apply Standing Order 237, and
 - (b) if the evidence is not to be returned, resubmitted or

expunged under that Standing Order, inform that person of the allegation.

- (2) When, in evidence heard or received in secret, an allegation is made against a person that may seriously damage the reputation of that person, the committee will—
 - (a) apply Standing Order 237, and
 - (b) if the evidence is not to be returned, resubmitted or expunged under that Standing Order, inform that person of the allegation if it appears to the committee that the possible damage to that person's reputation outweighs any detriment to the witness who gave the secret evidence.
- (3) When, in advice provided to a committee, an allegation is made against a person that may seriously damage the reputation of that person, the committee will—
 - (a) return the advice (if it is in writing) after considering whether to request that it be provided again without the allegation, or
 - (b) inform that person of the allegation.

239 Responding where allegation may seriously damage reputation

- (1) Any person against whom an allegation has been made that may seriously damage the reputation of that person, and who has been informed of that allegation under Standing Order 238,—
 - (a) will be given a reasonable opportunity to respond to the allegation by written submission and appearance before the committee, and
 - (b) may ask that further witnesses give evidence to the committee in that person's interest.
- (2) A response made or further evidence given under this Standing Order is received or heard—
 - (a) in private, if the allegation was made in private evidence or in advice:
 - (b) in secret, if the allegation was made in secret evidence.

240 Confidentiality of proceedings

- (1) The proceedings of a select committee or a subcommittee other than during the hearing of evidence are not open to the public and remain strictly confidential to the committee until it reports to the House.
- (2) Paragraph (1) does not prevent—
 - (a) the disclosure, by the committee or by a member of the committee, of proceedings to a member of Parliament or to the Clerk or another officer of the House in the course of their duties:
 - (b) the disclosure of proceedings in accordance with Standing Orders.
- (3) The following proceedings may be disclosed:
 - (a) those proceedings that do not relate to any business or decision still before the committee:
 - (b) those proceedings in respect of matters of process or procedure that do not—
 - (i) relate to decisions on matters of process or procedure that are still before the committee, or
 - (ii) include any substantive proceedings relating to business before the committee, or
 - (iii) reflect, or divulge the contents of, a report or draft report or the committee's potential findings.
- (4) A committee making an interim report or a special report to the House may resolve that some or all proceedings relating to the report remain confidential to the committee until it reports finally to the House.

247 Findings

- (1) As soon as practicable after a select committee has determined any findings to be included in a report to the House, and prior to the presentation of the report, any person named in the report whose reputation may be seriously damaged by those findings must be acquainted with any such findings and afforded a reasonable opportunity to respond to the committee on them. The committee will take such a response into account before making its report to the House.

- (2) Any response made under this Standing Order is strictly confidential to the committee until it reports to the House.

400 Examples of contempts

Without limiting the generality of Standing Order 399, the House may treat as a contempt any of the following:

- (a) the breach of one of the privileges of the House:
- (b) deliberately attempting to mislead the House or a committee (by way of statement, evidence or petition):
- (c) serving legal process or causing legal process to be served within the parliamentary precincts, without the authority of the House or the Speaker, on any day on which the House sits or a committee meets:
- (d) removing, without authority, any papers or records belonging to the House:
- (e) falsifying or altering any papers or records belonging to the House:
- (f) as a member, failing to declare, before participating in the consideration of any item of business, any financial interest that the member has in that business:
- (g) as a member, knowingly failing to make a return of pecuniary interests by the due date:
- (h) as a member, knowingly providing false or misleading information in a return of pecuniary interests:
- (i) as a member, receiving or soliciting a bribe to influence the member's conduct in respect of proceedings in the House or at a committee:
- (j) as a member, accepting fees for professional services rendered by the member in connection with proceedings in the House or at a committee:
- (k) offering or attempting to bribe a member to influence the member's conduct in respect of proceedings in the House or at a committee:
- (l) assaulting, threatening or intimidating a member or an officer of the House acting in the discharge of the member's or the officer's duty:
- (m) obstructing or molesting a member or an officer of the House

- in the discharge of the member's or the officer's duty:
- (n) reflecting on the character or conduct of the House or of a member in the member's capacity as a member of the House:
 - (o) misconducting oneself in the presence of the House or a committee:
 - (p) divulging the proceedings or the report of a select committee or a subcommittee contrary to Standing Orders:
 - (q) publishing a false or misleading account of proceedings before the House or a committee:
 - (r) failing to attend before the House or a committee after being ordered to do so:
 - (s) failing to obey an order of the House or a summons issued by order of the House or by the Speaker:
 - (t) intimidating, preventing or hindering a witness from giving evidence, or giving evidence in full, to the House or a committee:
 - (u) refusing to answer a question as ordered by the House or a committee:
 - (v) assaulting, threatening or disadvantaging a member on account of the member's conduct in Parliament:
 - (w) assaulting, threatening or disadvantaging a person on account of evidence given by that person to the House or a committee.