



## **Committee Hearings Information for Witnesses**

***Important: Please read the following notes before giving evidence.***

### **Introduction**

1. A committee hearing is a proceeding in Parliament. As such, a witness must not deliberately mislead the committee and must respect the members of the committee and the committee's standing orders and procedures. A witness who wilfully gives false evidence is guilty of perjury.

### **What happens at a hearing?**

2. Committees are made up of members of Parliament.
3. Witnesses will be escorted to the Table by one of the committee's staff. Once seated, the chairperson of the committee will ask the witness:
  - a. to make a statutory declaration about the truth of the evidence to be presented, similar to a witness giving evidence in a court; and
  - b. to state his/her full name, a contact address and the capacity in which he/she is appearing before the committee.
4. The chairperson may invite the witness to make an opening statement to the committee.
5. The chairperson may ask the witness a series of questions, following which other members of the committee may ask more questions. With limited exceptions (discussed below) the witness must answer questions asked.
6. The chairperson may invite the witness to make any additional comments considered necessary.

### **Parliamentary Privilege**

7. Parliamentary privilege provides legal protection for what is said in parliamentary proceedings. This is an important protection that allows individuals giving evidence to a parliamentary committee to speak

with complete freedom without the fear of being sued or questioned in any court or place out of Parliament. This privilege is extended to all proceedings in Parliament to ensure that Parliament receives the very best information when conducting its inquiries. However, only the following reports of what is said in committee proceedings are protected outside the confines of Parliament:

- a. the authorised Hansard report,
  - b. the report of a media reporter; or,
  - c. the report of the Committee (once Tabled in the House).
8. It is important to be aware that this protection is not accorded to a witness, or a Member of Parliament, if statements that may be defamatory are repeated or referred to outside the confines of the parliamentary proceedings.

### **For information**

9. When appearing as a witness to a committee, a witness should:
- a. raise any matter of concern about evidence to be given or documents produced;
  - b. apply for all or part of their evidence to be given confidentially (or *In Camera*) and for an order restricting publication of, or access to it for example if:
    - i it discloses any trade secret or secret process of manufacture;
    - ii it discloses any private matter of a personal or commercial nature unrelated to the subject matter of its enquiries; or
    - iii it is in any case of such a nature that the committee ought reasonably to form the view that it should be kept confidential;
  - c. know before giving evidence, that if it might incriminate the witness or another person, the witness must tell the committee this before giving such evidence;
  - d. know of and, if desired, rebut any allegations made against the witness whether or not those allegations amount to criminal conduct;
  - e. be aware that, in some cases, a citizens' right of reply is permitted by writing to either the President of the Legislative Council or the Speaker of the House of Assembly if the witness has been identified in committee proceedings in a way that has adversely affected their reputation, their dealings or associations with others, injured their occupation, trade,

office or financial credit, or has unreasonably invaded their privacy;

- f. provide supplementary or new evidence where this is necessary or relevant.

### **Is the evidence public or private?**

- 10. Most committee hearings are held before a public gallery. In other words, members of the public and the media may attend the hearings, and the proceedings may be reported. Committees may also conduct all or part of their hearings in private. If a witness is uncertain as to whether their hearing is public or private, they should ask the committee's staff before the hearing or the chairperson of the committee before they start giving evidence. Deliberations of committees are always in private.
- 11. It is important that any request for the committee to prohibit publication of all or part of the evidence, or a person's identity, be made *prior* to giving the relevant evidence. A witness should be prepared to state why they want it to be confidential. If the committee grants the request, the public and media will be excluded from the hearing.
- 12. The committee may also decide that all, or part, of the hearing should be in private, particularly if the evidence adversely reflects on a third person or the matter being investigated is subject to legal proceedings.
- 13. The committee may recommend that certain evidence not be published if:
  - a. it discloses any trade secret or secret process of manufacture;
  - b. it discloses any private matter of a personal or commercial nature unrelated to the subject matter of its inquiry; or
  - c. the committee has resolved unanimously that the evidence should not be made public.
- 14. A witness must not publish or disclose any evidence given to a Committee unless that evidence has been reported to the Parliament. Premature publication or disclosure may constitute a contempt of the Parliament.

### **For public servants**

- 15. Public servants appearing before a committee must answer all questions put to them, as would any other witness.

### **Evidence given *In Camera* (in private session) must not be disclosed**

- 16. Unless authorised by the committee, anything relating to such a private hearing is privileged and confidential to the Committee. It

would be a breach of that privilege if any unauthorised information relating to a private hearing were to be made known to anyone other than the Committee and the relevant witnesses. Any witness appearing at a private hearing of a Committee should discuss their concerns about the special rules governing their appearance with the Committee Secretary.

### **Transcript of evidence**

17. A transcript of evidence will be made. A witness should not discuss their evidence until it has been reported to the Parliament.

### **Threats or intimidation**

18. If anyone has threatened, intimidated or attempted to discourage a witness from giving evidence to the committee, they should immediately inform the committee or one of its staff.

### **Orders for the Production of Persons or Papers**

19. It is usual practice for committees of the Parliament to invite witnesses to attend and/or request documents relevant to their Terms of Reference in the first instance. The Terms of Reference establishing a committee usually give the committee the power to send for persons or papers. When Committees are given this power by the House or the Council, the power enables such committees to summon or order any person within the State's jurisdiction to appear before it and/or to produce documents. A person who fails to obey such a summons or order may be in contempt of Parliament.

However, it has rarely been necessary for a summons to be issued by a Parliamentary Committee.