

Appearing Before a Parliamentary Committee Guidelines for the Rights and Responsibilities of Witnesses

In their dealings with witnesses, parliamentary committees observe the following procedures:

1. A witness will first be invited to attend a committee meeting to give evidence. A witness will be summoned to appear (whether or not the witness was previously invited to appear) only where the committee has made a decision that the circumstances warrant the issue of a summons.
2. A witness will be given adequate notice of a meeting at which the witness is to appear, and supplied with a copy of the committee's terms of reference, a general outline of the matters expected to be dealt with during the witness's appearance, and a copy of these *Guidelines*. A witness can be supplied with relevant evidence already received, or directed to evidence published online.
3. Where a committee desires that a witness produce documents relevant to the committee's inquiry, the witness may either be invited to do so, or an order may be made that the documents be produced (whether or not an invitation to produce documents has previously been made) where the committee has made a decision that the circumstances warrant such an order.
4. Witnesses who do not attend in response to a committee's summons or fail to produce documents ordered to be produced to a committee may be reported to the Parliament which may order their attendance at the Bar of the House.
5. A witness defying an order may be censured or declared guilty of contempt.
6. A witness should be given opportunity to make a submission in writing before appearing to give oral evidence.
7. Where appropriate, reasonable opportunity will be given for a witness to raise any matters of concern relating to the witness's submission or the evidence the witness is to give before the witness appears at a meeting.
8. All evidence will be taken in public, unless a committee otherwise resolves. Evidence may also be taken under oath or affirmation if required by the committee. A witness can request this of the committee, though the decision rests with the committee.
9. A witness is entitled to request, before or during the hearing of the witness's evidence, for any or all of his/her evidence to be heard in private session. If the request is not approved, the committee may give the witness reasons for that decision.
10. The Chair of a committee must take care to ensure that all questions put to witnesses are relevant to the committee's inquiry and that the information sought by those questions is necessary for the purpose of that inquiry. Where a member of a committee requests discussion of a ruling of the Chair on this

matter the committee will deliberate in private session and determine whether any question which is the subject of the ruling is to be permitted. It is for the committee to define its terms of reference, and the relevance of material associated with the inquiry.

11. In general, a witness must answer all questions put as fully and frankly as before a court, inquest, royal commission or board of inquiry. Any person giving false evidence may be found guilty of contempt.
12. Where a witness objects to answering any question put to him or her on any grounds, including that the question is not relevant or that the answer may incriminate the witness, the witness may explain his or her objection to answering the question. Unless the committee determines immediately that the question should not be pressed, the committee will then consider in private session whether it will insist upon an answer to the question, having regard to the relevance of the question to the committee's inquiry and the importance to the inquiry of the information sought by the question. If the committee determines that it requires an answer to the question, the committee will explain this to the witness, and may choose to hear the answer in private session. Where a witness declines to answer a question to which a committee has required an answer, the committee may report the facts to the Parliament.
13. Where a witness gives evidence reflecting adversely on a person and the committee is not satisfied that the evidence is relevant to the committee's inquiry, the committee may choose to expunge that evidence from the transcript of evidence, and to disallow the publication of that evidence.
14. Where evidence is given which reflects adversely on a person and action of the kind referred to in paragraph 13, the committee may decide to provide reasonable opportunity for that person to have access to that evidence and to respond to that evidence by written submission and appearance before the committee. Although it is not obliged to do so, the committee will recognise issues of fairness in such matters.
15. A witness is not entitled to legal representation at a hearing, unless the House or both Houses of the Parliament (in the case of joint investigatory committees) otherwise decides.
16. Any person who tampers with any witness in respect of his evidence, or directly or indirectly endeavours to deter or hinder any witness from appearing or giving evidence, may be found guilty of contempt of the Parliament.
17. All evidence given before a committee is subject to parliamentary privilege and shall not give rise to any cause of action in law, or be made the subject of, or in any way called into question in, any proceedings before a court.
18. Officers in the government service should not be asked questions that require them to comment on or give opinions on matters of government policy or which would genuinely jeopardise the necessary relationship of confidentiality between a minister and government officer. Reasonable opportunity should be

given to such officers to refer such questions to superior officers or to a minister.

19. Witnesses will be provided with a proof copy of their evidence as soon as practicable after it becomes available. They will have the opportunity to make alterations provided that those alterations are confined to the correction of inaccuracies in reporting or printing, or to the correction of matters of fact which do not materially alter the sense of the answer. Corrections should be made in the handwriting of the witness.
20. Corrected evidence should be returned to the committee within a period determined by the committee, of not normally less than two weeks. The committee may or may not accept the alterations. Corrected transcripts will be tabled with the committee's reports. If no transcript is returned, an uncorrected copy will be tabled.

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