



Legislative Council Procedure Committee

Variation of scope of orders for the production of documents

Inquiry

November 2025

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About the Committee

Functions

The Procedure Committee considers any matter regarding the practices and procedure of the House and may consider any matter referred to it by the Council or the President.

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Terms of reference

Inquiry into variation of scope of order for the production of documents

On 14 August 2025 the Council agreed to the following resolution:

That this House requires the Procedure Committee to inquire into, consider and report on the following proposed Sessional Order relating to production of documents by 18 November 2025 —

X. Variation of scope of order for the production of documents

After Standing Order 10.01 insert:

- (1) The Secretary, Department of Premier and Cabinet, may write to the Clerk at any time up to and including the seventh day prior to the date for the return of documents and request that the scope of an order be varied.
- (2) A request to vary the scope of an order for the production of documents must include —
 - (a) reasons why the timeframe for the production of the documents cannot be met; and/or
 - (b) reasons why the terms of the order are likely to result in the production of a large number of documents reasonably believed to be irrelevant to the intent of the order for documents.
- (3) The Clerk will provide the request and any accompanying documents to the President and the member who moved the original order for documents. The Clerk will advise all members and publish notification that a request has been received.
- (4) When a request under this Sessional Order is received —
 - (a) the original order and the date for return of documents is suspended; and
 - (b) if agreement is not reached within 14 calendar days, the original order stands and the documents ordered are to be produced to the House by the original due date, or if that date has passed, within a further seven calendar days.
- (5) When an agreement is reached between the member and the Secretary, Department of Premier and Cabinet, and is certified by the President, the Clerk will advise all members and publish the terms of the agreement.
- (6) On the next sitting day the President will report the agreement to the House and table all relevant documents.

- (7) The President will then propose the question to the House “That the varied terms of the order be agreed to”. This question may not be amended or debated except for the member who moved the original order and a Minister may make a statement of up to 5 minutes each.
- (8) If the question is resolved in the negative, the original order remains in force.

Variation of scope of production of documents orders

1.1 Background

In May 2024, the Government (Minister Blandthorn) gave notice of a motion for the House to adopt a sessional order which would provide a mechanism for the Government to request a variation of the scope of production of documents orders. The motion remained on the Notice Paper without debate. The motion was based on a similar standing order in the New South Wales (NSW) Legislative Council.

As an alternative to proceeding with the above proposed motion, on 14 August 2025, the Council agreed to a motion moved by the Leader of the Government in the Council, the Hon Jaclyn Symes, referring a proposed sessional order for the variation of scope of production of documents orders to the Procedure Committee for inquiry, consideration and report by 18 November 2025.

In moving the motion to refer this matter to the Committee, the Hon Jaclyn Symes stated that this was an “opportunity to explore improvements for document processes” and to “go through the process of what is happening now and look at the bottlenecks and what the issues are”.¹ The Leader of the Government further explained the rationale for the inquiry stating:

I am often on my feet explaining that the volume of documents is just drowning public servants. Not only is it the time to identify them, but then the numbers of documents and having to go through them in relation to whether there is an appropriate reason to withhold them. There very often is, and it is not because you necessarily want to withhold the documents. But if they contain private information or commercial-in-confidence matters and the like, they are actually really important for the functioning of government to be protected. But that is timely – it takes time – and that is where we have got a bit of a problem in people saying that they want documents. As we have indicated, we do not actually object to any of those requests, but they are causing a bit of a backlog. There are some requests that are just so voluminous that actually the advice is that you would have to recruit 20 new people just to do one of the requests.²

¹ Hansard, Legislative Council, Thursday 14 August 2025, p. 3080.

² Hansard, Legislative Council, Thursday 14 August 2025, p. 3080.

The Leader of the Opposition in the Council, the Hon David Davis, contributed to the debate on the motion, stating:

So the first thing is: sure, there are issues here, and sure, the chamber can engage in a dialogue with the Department of Premier and Cabinet and we can have some reform there. I do not disagree with that. But the fact is that the government has not provided many documents when they could have.³

The Leader of the Victorian Greens in the Council, Dr Sarah Mansfield, indicated her support for the motion stating:

... we are very open to having a discussion around some of these issues that have been raised a number of times by the government as being barriers to producing documents, in particular the scope and timing

...

We recognise ... that some of the requests do result, for whatever reason, in very large volumes of documents – and they are not actually the documents we want either. We do not want every email and every minor little detail on something. There are usually some key documents that we are after with these requests, and having a process where we can have that dialogue to work out how we get exactly what we want and keep that as narrow as necessary is very welcome.⁴

1.2 Production of documents rules and requests

1.2.1 Production of documents standing and sessional orders

In March 2007, the Legislative Council first formalised a process for the House requesting documents by way of a sessional order. This sessional order remained in force until the end of the 56th Parliament (2010).

During the 57th Parliament (2010–2014), no standing or sessional orders provided for the production of documents, however the House agreed to 38 orders based on the inherent right of the House that they had that authority to do so (under section 19 of the *Constitution Act 1975*).

The standing orders were amended from the commencement of the 58th Parliament (2014) to include a formal process for requesting and producing documents. These standing orders were modelled on the NSW Legislative Council rules. To date, these standing orders have remained largely unchanged.

³ Hansard, Legislative Council, Thursday 14 August 2025, p. 3081.

⁴ Hansard, Legislative Council, Thursday 14 August 2025, p. 3083.

1.2.2 Production of documents requests

The following table shows the number of orders for production of documents made by the House in each Parliament.

Parliament	Number of orders
56th (2006 to 2010)	39
57th (2010 to 2014)	38
58th (2014 to 2018)	35
59th (2018 to 2022)	26
60th (2022 to 14 August 2025)	50

Prior to the Council referring this inquiry, the House had agreed to 50 orders to produce documents during the current 60th Parliament. This represents a marked increase in orders compared to previous Parliaments.

On 18 October 2023, the Council agreed to a sessional order that set out a process for up to two short form documents motions to be moved and considered by the House each day that general business is scheduled to occur. This sessional order prescribed shorter time limits for debate of these motions. The increase in orders referred to above can be partly attributed to the introduction of short form documents motions.

To further illustrate this point, from the commencement of the current Parliament to the introduction of short form documents motions (10 months) only four orders for documents were agreed to by the Council.

Between the introduction of this sessional order and the referral of this inquiry to the Procedure Committee, 46 production of documents orders were agreed to (between 18 October 2023 and 14 August 2025). 44 of these motions were moved and debated under the short form documents motion sessional order and two were debated during general business.

As noted by the Leader of the Government when referring this matter to the Procedure Committee, the increased volume of orders has resulted in an added administrative burden for government departments to process orders, identify relevant documents and meet timelines required by the House.

1.3 New South Wales Legislative Council procedures

As part of its deliberations on the proposed sessional order, the Procedure Committee held briefings with the following individuals with experience in how variation of scope requests are managed in the NSW Legislative Council:

- Mr Steven Reynolds, Clerk of the NSW Legislative Council
- Senator David Shoebridge
- Mr Damien Tudehope, Leader of the Opposition in the NSW Legislative Council
- Mr Sam Tedeschi, Office of the Leader of the Opposition in the NSW Legislative Council.

Senator Shoebridge was a member of the Legislative Council in NSW from September 2010 to April 2022 and proposed the original sessional order in 2020 that created a process to vary the scope of an order for papers.

Mr Tudehope was elected to the NSW Legislative Council in 2019. He served as Leader of the Government in the Council from April to July 2020 and from December 2021 to February 2023. He has been the Leader of the Opposition in the Council since April 2023. Mr Tudehope and a member of his staff, Mr Sam Tedeschi, were able to provide the Committee with insight into their use of variation of scope requests while in government and opposition.

In November 2020, the then Member of the NSW Legislative Council, David Shoebridge, moved a motion introducing a sessional order that provided a process to vary the timeframe or terms of an order for documents. The motion was agreed to and the House operated under that sessional order until an amended version of it was adopted as a trial standing order in 2022 (and then as a new standing order in 2023). The Opposition, crossbench and Government supported the motion (see Appendix A).

The Committee was advised that the NSW sessional order was introduced to address an increase in orders for documents which in turn increased the workload for the NSW government departments in responding to these requests. It was also evident that in NSW there had been large volumes of documents returned that were not expected in response to orders and that the deadline for order returns and sitting patterns of the House did not allow negotiations to occur prior to orders being agreed to.

The Committee heard that the Government were unlikely to know the actual volume of the original order until the relevant agency received the request and started their assessment. Therefore, a process that allowed for negotiations to occur after the order has been agreed to is useful when in both government and opposition.

The variation process in NSW can usually be resolved within a day. If the member moving the motion and the Government reach an agreement regarding scope and timelines, the House has consistently resolved to agree to a varied order.

The NSW Legislative Council Clerk advised the Committee that some minor amendments to their current provisions could improve operation of the process, including:

- an expansion of the list of reasons to vary the scope of an order;
- provision of additional time for the Government to comply with the order where the House defeats the request to vary the scope;
- provision for a report to be published where no agreement is reached; and
- removal of the need to provide the variation request to the President initially.

Mr Reynolds also provided the Committee some insights into the various administration activities associated with their variation standing order. The Committee acknowledges that if a similar sessional order is introduced in Victoria this will require additional work for the Clerk, President and Table Office in relation to publication and notification of requests on the parliamentary website and to members, and certification of requests agreed to by the President.

1.4 Conclusion

Experience in the NSW Legislative Council illustrates that a process that enables the Government to request a variation of the scope and timelines for production of documents orders has been beneficial to the House and government departments. The Committee believes the adoption of a similar sessional or standing order in the Victorian Legislative Council would also assist departments in providing the House with relevant documents in a timely manner.

The Committee notes that the draft sessional order under consideration sets clear timeframes under which a request to vary an order must be received. If adopted, the only existing orders that would become subject to this process would be orders that the House has agreed to that have more than seven days remaining prior to their due date.

The Committee considers a new sessional order should come into operation in the last sitting week of 2025.

1.4.1 Proposed changes to the draft sessional order

The Committee has determined that the following changes to the draft sessional order under consideration would:

- broaden what would be considered a valid reason to request the scope of an order be varied;
- involve the President in the process only once a variation has been agreed to by the mover of the motion, therefore streamlining the process; and
- provide clarity on the actions the Clerk would take and the documentation published where a request is rejected or lapses.

X. Variation of scope of order for the production of documents

After Standing Order 10.01 insert:

- (1) The Secretary, Department of Premier and Cabinet, may write to the Clerk at any time up to and including the seventh day prior to the date for the return of documents and request that the scope of an order be varied.
- (2) A request to vary the scope of an order for the production of documents must include reasons why the scope of the order should be varied, which may include but are not limited to —
 - (a) reasons why the timeframe for the production of the documents cannot be met; and/or
 - (b) reasons why the terms of the order are likely to result in the production of a large number of documents reasonably believed to be irrelevant to the intent of the order for documents.
- (3) The Clerk will provide the request and any accompanying documents to ~~the~~ President and the member who moved the original order for documents. The Clerk will advise all members and publish notification that a request has been received.
- (4) When a request under this Sessional Order is received —
 - (a) the original order and the date for return of documents is suspended; and
 - (b) if —
 - (i) the request is rejected, the original order stands and the documents ordered are to be produced to the House by the original due date, or if that date has passed, within a further seven calendar days, and the Clerk will advise all members and publish any correspondence received relating to the rejection;
 - (ii) agreement is not reached within 14 calendar days, the original order stands and the documents ordered are to be produced to the House by the original due date, or if that date has passed, within a further seven calendar days, and the Clerk will advise all members and publish notification that the request has lapsed;
 - (iii) an agreement is reached between the member and the Secretary, Department of Premier and Cabinet, and is certified by the President, the Clerk will advise all members and publish the terms of the agreement, the President's certification, and any correspondence received relating to the agreement.

~~(5) When~~

- ~~(65)~~ On the next sitting day, at the start of formal business, the President will report the agreement to the House and table all relevant documents.

(76) The President will then propose the question to the House “That the varied terms of the order be agreed to”. This question may not be amended or debated except for the member who moved the original order and a Minister may make a statement of up to 5 minutes each.

(87) If the question is resolved in the negative, the original order remains in force.

RECOMMENDATION 1: That the House adopt the amended draft Sessional Order.

**Adopted by the Legislative Council Procedure Committee
Parliament of Victoria, East Melbourne
Thursday 30 October 2025**

Appendix A

New South Wales Legislative Council—Variations to orders for papers

Sessional order

Sessional order in operation in the Legislative Council in New South Wales from 10 November 2020:

SESSIONAL ORDER—VARYING THE SCOPE OF AN ORDER FOR PAPERS

- (1) That, for the duration of the current session and unless otherwise ordered, in exceptional circumstances, where an agency subject to an order for papers under standing order 52 considers that:
 - (a) the timeframe for production of documents for an order for papers is unduly onerous, or
 - (b) the terms of the order is likely to result in producing a significantly large number of documents which are reasonably believed to be not directly relevant to the original order for papers,
 - (c) the Department of Premier and Cabinet may, by communication in writing to the Clerk within 7 days of the date of the passing of the order for papers, seek the approval of the House for the scope of the order to be varied.
- (2) An application to vary the scope of an order for papers must be supported by reasons setting out:
 - (a) why a review of the period for production of document is required, or
 - (b) why a review of the nature of the documents relevant to the order for papers is necessary, including a general description or list of the classes of relevant documents (for example: emails (including deleted items), notes of meetings or telephone calls, text messages), or
 - (c) an estimate of the significant number or volume of documents involved, or
 - (d) an estimate of the likely cost of complying with the order for papers, or
 - (e) the required information can be provided by compilation of a document, or
 - (f) the required documents can be provided by alternative means (for example, by electronic communication in a data storage device).

- (3) An application to vary the scope of an order must also include any document brought into existence as a result of this order.
- (4) An application under this order must have regard to the objective of the order for papers and the overriding obligation to provide all documents covered by the order for papers.
- (5) The Clerk is to provide the correspondence seeking to vary an order to the President and the member who moved the original order for papers.
- (6) If the President and the member agree to all or any part of the request, the Clerk is to advise the Department of Premier and Cabinet in writing of the varied terms agreed to.
- (7) Compliance with the agreed varied terms of the order is taken to be compliance with the original order of the House until such time as the House considers the varied terms of the order on the next sitting day.
- (8) On the next sitting day, the Clerk is to table the correspondence from the Department of Premier and Cabinet and the varied terms of the order.
- (9) The House will then decide on a question proposed without amendment or debate, “That the varied terms of the order be agreed to”, except a statement by the member who moved the original order for papers and a Minister not exceeding 10 minutes each.
- (10) If the question is resolved in the negative, the original order remains in force.

Standing order

Standing order currently in operation in the Legislative Council in New South Wales:

53. Variation of scope of order for papers

- (1) The Department of Premier and Cabinet or an independent agency may, by communication in writing to the Clerk at any time before the date for the return of documents, request that the scope of the order be varied.
- (2) A request to vary the scope of an order for papers must include:
 - (a) reasons why the timeframe for the production of the documents cannot be met,
 - (b) reasons why the terms of the order are likely to result in the production of a large number of documents reasonably believed to be irrelevant to the intent of the order for papers.
- (3) The Clerk is to provide the request and any accompanying documents to the President and the member who moved the original order for papers.

- (4) When a request under this standing order is received:
 - (a) the original order for papers and the date for return of documents is suspended, and
 - (b) if agreement is not reached within 14 days, the original order stands and the documents ordered are to be produced to the House by the original due date, or if that date has passed, within a further seven days.
- (5) When an agreement is reached between the member and the Department of Premier and Cabinet or agency and is certified by the President, the Clerk is authorised to advise all members and publish the terms of the agreement.
- (6) On the next sitting day the President is to report the agreement to the House and table all relevant documents.
- (7) The House will then decide on a question proposed without amendment or debate, “That the varied terms of the order be agreed to”, except a statement by the member who moved the original order for papers and a Minister not exceeding 10 minutes each.
- (8) If the question is resolved in the negative, the original order remains in force.

