



Northern Ireland
Assembly

Research and Information Service Briefing Paper

Paper 09/15

27 January 2015

NIAR 890-14

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Information on sanctions available to Speakers/Presiding Officers in other legislatures

1 Introduction

This briefing paper has been prepared for the Committee on Procedures following its meeting on 25 November 2014. It addresses issues relating to the role of the Speaker/Presiding Officer in the maintenance of order. It provides information on the practice in legislatures in the UK and Ireland.

2 Standing Orders in other legislatures that relate to good order in the Chamber and how they compare with Standing Orders 65 and Standing Orders 1(2)

Although the language and terminology may differ to some extent, a common theme across the Standing Orders of the legislatures is that the Speaker/Presiding Officer has wide-ranging powers to maintain order and, where necessary, to impose sanctions on those Members who refuse to comply with his or her rulings.

There is no mechanism to challenge the rulings of Speakers/Presiding Officers in the legislatures considered in this paper¹.

There are different degrees of offence that a Member may commit and these carry different sanctions. In the first instance, a Member may be ordered to withdraw from the remainder of a day's sitting. If the Member refuses, the Speaker/Presiding Officer may 'name' the Member. This has the effect of escalating the incident and the Speaker will put the question "That such member be suspended from the service of the Assembly" or similar wording. Similar provisions exist in the House of Commons, Scottish Parliament, the National Assembly for Wales, Dail Eireann and the Northern Ireland Assembly.

Most instances of disorder or discourtesy do not, obviously, require the withdrawal or naming of a Member. As Erskine May states: "In most cases the breach of order is obvious and is immediately checked by the Speaker. In other cases if his attention is directed to a breach of order at the proper time, namely, when it occurs, he at once gives his decision and if he fails to secure the compliance of the Member at fault directs him to withdraw or names him and leaves it to the House to inflict the appropriate penalty"².

In each of the extracts from Standing Orders reproduced below, therefore, the same pattern can be seen – a Member is asked to withdraw and if they refuse they may be named and suspended from the House.

Northern Ireland Assembly

Standing Orders 1(2) and 65 state³:

<p>1. The Speaker</p> <p>(2) The Speaker's ruling shall be final on all questions of procedure and order.</p>
<p>17(5). Speeches in the Assembly</p> <p>The Speaker shall determine the order of speaking and the number of speakers in any debate having due regard to the balance of opinion on the matter, the party strengths in the Assembly and the number of members who have indicated a desire to speak.</p>
<p>65. Order in the Assembly</p> <p>(1) The Speaker may, if any member -</p> <p>(a) wilfully assaults, molests, obstructs or acts in a disorderly manner towards the Speaker or any other member;</p> <p>(b) persistently and wilfully obstructs the business of the Assembly;</p> <p>(c) is guilty of disorderly conduct;</p> <p>(d) wilfully assaults, obstructs or resists any police constable or officer of the Assembly acting under the authority of</p>

¹ In certain places based on Westminster-style legislatures, a substantive motion can be brought against the Speaker, but this is not used to challenge individual rulings/decisions of the Chair.

² Erskine May, *The Law, Privileges, Proceedings and Usage of Parliament*, p.451, 24th Edition 2011

³ Standing Orders of the Northern Ireland Assembly, accessed 10 December 2014: <http://www.niassembly.gov.uk/Assembly-Business/Standing-Orders/>

the Speaker;

- (e) uses unparliamentary words which he or she refuses to withdraw;
- (f) persistently or wilfully refuses to conform with Standing Orders; or
- (g) persistently or wilfully disregards the authority of the Speaker,

order the member to withdraw immediately from Parliament Buildings during the remainder of that day's sitting and the Director of Properties shall act upon any instructions as he or she may receive from the Speaker in pursuance of this order.

(2) Whenever a member shall have been named by the Speaker, immediately after the commission of the offence of disregarding the authority of the Speaker, or of persistently and wilfully obstructing the business of the Assembly by abusing the rules of the Assembly or otherwise, then if the offence has been committed by such member in the Assembly, the Speaker shall immediately put the question, on a motion being made, "That such member be suspended from the service of the Assembly" for a period of up to five working days.

(3) Where for any reason the Speaker does not declare the suspension of a member under this order at the sitting of the Assembly during which the offence occurred, he or she shall inform the Assembly at its next sitting of the member's offence and shall immediately put the question on a motion being made, "that such member be suspended from the service of the Assembly" for a period of up to five working days.

(4) A member who is suspended under this order shall not be admitted to the Assembly chamber or its precincts. For the purposes of this Standing Order the precincts shall include any part of Parliament Buildings.

(5) The Speaker shall take whatever steps he or she deems necessary in the circumstances to prevent conduct which would constitute a criminal offence or a contempt of court.

(6) In the case of grave disorder arising in the Assembly, the Speaker may –

- (a) suspend the sitting until a later time on that sitting day; or
- (b) adjourn the Assembly without question put.

House of Commons

Order in the House	<i>Irrelevance or repetition</i> 42. The Speaker, or the chair, after having called the attention of the House, or of the committee, to the conduct of a Member who persists in irrelevance, or tedious repetition either of his own arguments or of the arguments used by other Members in debate, may direct him to discontinue his speech.
	<i>Disorderly conduct</i> 43. The Speaker, or the chair, shall order any Member or Members whose conduct is grossly disorderly to withdraw immediately from the House during the remainder of that day's sitting; and the Serjeant at Arms shall act on such orders as he may receive from the chair in pursuance of this order. But if on any occasion the Speaker, or the chair, deems that his powers under the previous provisions of this order are inadequate, he may name such Member or Members, in which event the same procedure shall be followed as is prescribed by Standing Order No. 44 (Order in debate).
	<i>Order in debate</i> 44.(1) Whenever a Member shall have been named by the Speaker, or by the chair, immediately after the commission of the offence of disregarding the authority of the chair, or of persistently and wilfully obstructing the business of the House by abusing the rules of the House or otherwise, then if the offence has been committed by such Member in the House, the Speaker shall forthwith put the question, on a motion being made, 'That such Member be suspended from the service of the House'; and if the offence has been committed in a committee of the whole House, the chair shall forthwith suspend the

	<p>proceedings of the committee and report the circumstances to the House; and the Speaker shall on a motion being made forthwith put the same question as if the offence had been committed in the House itself.</p> <p>Proceedings in pursuance of this paragraph, though opposed, may be decided after the expiration of the time for opposed business.</p> <p>(2) If any Member be suspended under paragraph (1) of this order, his suspension on the first occasion shall continue for five sitting days, and on the second occasion for twenty sitting days, including in either case the day on which he was suspended, but, on any subsequent occasion, until the House shall resolve that the suspension of such Member do terminate.</p> <p>(3) Not more than one Member shall be named at the same time, unless two or more Members, present together, have jointly disregarded the authority of the chair.</p> <p>(4) If a Member, or two or more Members acting jointly, who have been suspended under this order from the service of the House, shall refuse to obey the direction of the Speaker, when severally summoned under the Speaker's orders by the Serjeant at Arms to obey such direction, the Speaker shall call the attention of the House to the fact that recourse to force is necessary in order to compel obedience to his direction, and the Member or Members named by him as having refused to obey his direction shall thereupon and without any further question being put be suspended from the service of the House during the remainder of the session.</p> <p>(5) Nothing in this order shall be taken to deprive the House of the power of proceeding against any Member according to ancient usages.</p> <p><i>Members suspended, &c., to withdraw from precincts</i> 45.—(1) Members who are ordered to withdraw under Standing Order No. 43 (Disorderly conduct) or who are suspended from the service of the House shall forthwith withdraw from the precincts of the House.</p> <p>(2) Suspension from the service of the House shall not exempt the Member so suspended from serving on any committee for the consideration of a private bill to which he may have been appointed before the suspension.</p> <p><i>Suspension of salary of Members suspended</i> 45A. The salary of a Member suspended from the service of the House shall be withheld for the duration of his suspension.</p> <p><i>Power of the Speaker to adjourn House or suspend sitting</i> 46. In case of grave disorder arising in the House the Speaker may, if he thinks it necessary to do so, adjourn the House without putting any question, or suspend the sitting for a time to be named by him.</p>
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Scottish Parliament

<p>Chapter 3</p> <p>Officers of the Parliament and other Officers</p>	<p>3.1 The Presiding Officer and deputy Presiding Officers</p> <p>3. In exercising any functions, the Presiding Officer and deputy Presiding Officers shall act impartially, taking account of the interests of all members equally.</p>
<p>Chapter 7</p> <p>Conduct of meetings</p>	<p>Rule 7.3 Order in the chamber</p> <p>1. Members shall at all times conduct themselves in a courteous and respectful manner and shall respect the authority of the Presiding Officer. In particular,</p>

	<p>members shall not speak or stand when the Presiding Officer is speaking.</p> <p>2. Members shall at all times conduct themselves in an orderly manner and, in particular, shall not conduct themselves in a manner which would constitute a criminal offence or contempt of court.</p> <p>3. Any member who is in breach of paragraph 2 may be ordered by the Presiding Officer to leave the chamber and may be excluded from the chamber— (a) on the order of the Presiding Officer for such period as the Presiding Officer thinks fit but not beyond the end of the next sitting day; and (b) for such further period as the Parliament may decide, on a motion of the Parliamentary Bureau.</p> <p>4. A motion under paragraph 3(b) may not be amended. If the motion is debated only the following may speak, namely— (a) the member concerned; and (b) one member for the motion and one member against the motion.</p>
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National Assembly for Wales

Functions of Presiding Officer	<p>6.15 The functions of the Presiding Officer are: (i) to chair plenary meetings; (ii) to determine questions as to the interpretation or application of Standing Orders; (iii) to represent the Assembly in exchanges with any other bodies, whether within or outside the United Kingdom, in relation to matters affecting the Assembly; and (iv) such other functions conferred by any enactment, by the Assembly or by these Standing Orders.</p> <p>6.16 The Presiding Officer’s determinations as to the interpretation or application of Standing Orders are final.</p> <p>6.19 In carrying out the functions of the Presiding Officer, the Presiding Officer and Deputy must demonstrate impartiality at all times.</p>
Order in Plenary Meetings	<p>13.9 The Presiding Officer is to maintain order in plenary meetings and must call to order any Member who: (i) is engaging in conduct which would, in the opinion of the Presiding Officer, constitute a criminal offence or contempt of court; (ii) is obstructing the business of the Assembly; (iii) seeks to raise a matter outside the scope of the debate or motion; (iv) is guilty of discourteous or unbecoming conduct; (v) is using disorderly, discriminatory or offensive language or language which detracts from the dignity of the Assembly; (vi) refuses to conform to any Standing Order or other requirement for the conduct of Members; or (vii) disregards the authority of the chair.</p> <p>13.10 A Member must comply with any directions given by the Presiding Officer about</p>

	<p>any conduct for which he or she has been called to order.</p> <p>13.11 A Member may be required by the Presiding Officer to withdraw from Assembly proceedings for the remainder of the day if the Presiding Officer considers the conduct such as to warrant withdrawal.</p> <p>13.12 When the Presiding Officer has required a Member to withdraw from Assembly proceedings and the Member has not done so, a motion to exclude the Member from Assembly proceedings must be proposed by the Presiding Officer and must be voted on immediately.</p> <p>13.13 The exclusion of a Member under Standing Order 13.12 has immediate effect and must be:</p> <p>(i) on the first occasion during any 12 month period, until the end of the working day immediately following the day of exclusion;</p> <p>(ii) on a second occasion during the same 12 month period, for five working days immediately following the day of exclusion; and</p> <p>(iii) on a third or any subsequent occasion during the same 12 month period, for 20 working days immediately following the day of exclusion.</p> <p>13.14 During the period of a Member's exclusion under Standing Orders 13.12 and 13.13, he or she is not entitled to receive any salary from the Assembly and is not permitted to attend any Assembly proceedings.</p>
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Dail Eireann

Declaration by Ceann Comhairle	<p>8. Upon first taking the Chair after his or her election, the Ceann Comhairle shall make the following declaration:—</p> <p><i>I do solemnly declare that I will duly and faithfully and to the best of my knowledge and ability, execute the office of Ceann Comhairle of Dáil Éireann without fear or favour, apply the rules as laid down by this House in an impartial and fair manner, maintain order and uphold the rights and privileges of members in accordance with the Constitution and the Standing Orders of Dáil Éireann.</i></p>
Rules of debate	<p>45. A member desiring to speak shall rise in his or her place. Should more than one member rise at the same time, the Ceann Comhairle shall call upon one of them. Members shall address the Chair.</p> <p>46. Whenever the Ceann Comhairle rises during a debate, any member then speaking, or offering to speak, shall resume his or her seat.</p>
Maintenance of order in the Dail and Committees	<p>60. The Ceann Comhairle is the judge of order in the Dáil and in Committee of the whole Dáil and has authority to suppress disorder and to enforce prompt obedience to his or her ruling. In Standing, Select or Special Committees order shall be maintained by the Chairman, but disorder or obstruction in Committees can be censured only in the Dáil on receiving a report in accordance with Standing Order 96(2).</p>
Disorderly conduct: member to withdraw from Dail	<p>61(1) The Ceann Comhairle shall order a member whose conduct is grossly disorderly to withdraw immediately from the Dáil for the remainder of that day's sitting. If, however, on any occasion the Ceann Comhairle deems that the powers conferred under this Standing Order are inadequate to deal with the offence, he or she may, in accordance with the next succeeding Standing Order, name such member for misconduct, or he or she may call on the Dáil to adjudge upon his or her conduct. Members ordered to withdraw in pursuance of this Standing Order, or who are suspended in pursuance of</p>

	<p>the next succeeding Standing Order, shall forthwith withdraw from the precincts of the Dáil.</p> <p>(2) A member may be named or the Dáil called on to adjudge upon his or her conduct only when the Ceann Comhairle is in the Chair.</p>
Suspension of Member	<p>62.(1) Whenever any member shall have been named by the Ceann Comhairle immediately after the commission of the offence of disregarding the authority of the Chair, then, if the offence has been committed by such member in the Dáil, or in Committee of the whole Dáil, the Ceann Comhairle shall move and forthwith put the question on a motion — no amendment, adjournment or debate being allowed — “That</p> <p>..... (naming the member) be suspended from the service of the Dáil”; and on the declaration of the result the member may stand suspended and, if so, shall withdraw from the Dáil forthwith: Provided, on an exceptional basis, a division may be claimed on the question and, subject to paragraph (3), shall take place at the discretion of the Ceann Comhairle, either immediately or prior to the Order of Business the next sitting day thereafter and the member shall be entitled to vote in any such division: Provided further, that a claim for a division under this paragraph may be withdrawn at any time up to 30 minutes before the Order of Business the next sitting day, upon the receipt by the Ceann Comhairle of written notice from either the suspended member or the member who claimed the division, and the Ceann Comhairle shall so inform the Dáil at the time appointed for the taking of such division, whereupon the declaration of the Ceann Comhairle shall stand as a decision of the House.</p> <p>(2) If any member hereafter be suspended under this Standing Order, his or her suspension on the first occasion shall continue until the second day, on the second occasion until the fourth day, and on the third or any subsequent occasion until the eighth day, on which the Dáil shall sit after the day on which he or she was suspended.</p> <p>(3) The Ceann Comhairle on receiving from the member so suspended a written and approved expression of regret, to be entered in the Journal of the Proceedings of the Dáil, shall—</p> <p>(a) lay the same before the Dáil, and</p> <p>(b) move the motion without notice, amendment, adjournment or debate before the Order of Business the next sitting day, and forthwith put the question for the discharge of the Order of suspension, whereupon, on the declaration of the result, the Order shall be discharged, and the member re-admitted: Provided on an exceptional basis a division may be claimed on the question and shall take place forthwith.</p> <p>(4) The suspension from the service of the Dáil shall not exempt the member so suspended from serving on a Standing, Select or Special Committee of the Dáil to which he or she may have been appointed previous to his or her suspension.</p>

3 Speaker’s Rulings in other legislatures that relate to good order and how they compare with the Assembly’s Speaker’s Rulings

A list of Speaker’s rulings for all other legislatures is not readily available in the same format as that provided by the Northern Ireland Assembly in its ‘Speaker’s Rulings and Conventions’ document.

House of Commons

Erskine May is the authoritative source of parliamentary procedure, now in its 24th edition. Although it relates primarily to practice and procedure in the House of Commons, it can be used by legislatures that originate from the Westminster tradition. Under the heading 'Speaker's powers by usage', Erskine May has this to say about rulings:

The Speaker's rulings constitute precedents by which subsequent Speakers, Members, and officers are guided. Rulings not given on the floor of the House may be reported in Hansard. Such precedents are noted and in course of time may be formulated as principles or rules of practice. They are an important source of determining how the House conducts its business⁴.

Erskine May also deals with the powers of the Chair to enforce Order:

The power to punish disorder derives from the ancient usages of the House in proceeding against a Member; but in modern times the Speaker has been armed by standing orders, with precisely defined summary powers, which largely supersede those exercised under ancient usage. Nevertheless, one of these orders (Standing Order No 44) expressly saves the power of the House to proceed against a Member under ancient usage⁵.

In relation to minor breaches of order, it comments:

The House has agreed, on the recommendation of the former Select Committee on Modernisation of the House of Commons, that 'the Speaker should inform a Member who has failed to observe the courtesies of debate that he or she need not expect to get priority in being called to speak'⁶.

In that report, the Committee observed:

48. We can, and do, simply reiterate the need to observe the courtesies we have described in the foregoing sections of this Report, but that is we fear unlikely to be sufficient. If they are to be properly observed, it is necessary to deter potential offenders.

49. We deal later in this Report with the sanctions currently available for dealing with Members whose conduct is grossly disorderly. Clearly these penalties are not appropriate to Members who are simply discourteous, and some other remedy is needed. We recommend that the Speaker should inform a Member who has failed to

⁴ Erskine May, *The Law, Privileges, Proceedings and Usage of Parliament*, p.63, 24th Edition 2011

⁵ Erskine May, *The Law, Privileges, Proceedings and Usage of Parliament*, p. 452, 24th Edition 2011

⁶ As above

observe the courtesies of debate that he or she need not expect to get priority in being called to speak⁷.

Dail Eireann

The 'Salient Rulings of the Chair' is a document listing rulings of the Ceann Comhairle. Although it is not publically available, two rulings relate to the authority of the Chair:

- "Choice of next speaker rests solely with Chair." [Salient ruling no. 317 - 2011 edition]
- "Protests concerning Chair's choice of speakers constitute disorderly attack on Chair and will not be tolerated." [Salient ruling no. 325 - 2011 edition]"⁸

4 Examples of sanctions applied to MLAs

This section lists sanctions applied by the Speaker to Members. The following table provides the date of the incident, the name of the Member, his or her behaviour and the decision of the Speaker. This list does not include sanctions recommended by the Committee on Standards and Privileges or any votes taken on the floor of the Assembly in relation to any such recommendations.

Withdrawal of Member from the Chamber

15 March 2010	Jonathan Bell	Deputy Speaker told the Member that he twice accused the Minister of Education of misleading the House. Member subsequently challenged the authority of the Chair and ordered to withdraw immediately, under SO 65, from the Chamber and its precincts for the remainder of the day.
16 June 2009	David McNarry	Speaker offered the Member the opportunity to withdraw unparliamentary remarks made about another Member. Mr McNarry declined to withdraw the remarks and was ordered to withdraw immediately, under SO 65, from the Chamber and its precincts for the remainder of the day.
9 February 2009	Nelson McCausland	Speaker informed the Member that he had made direct and unsubstantiated allegations of criminal behaviour against another Member. The remarks were unparliamentary and the Member was asked to withdraw them. The Member refused and was ordered to withdraw immediately, under SO 65, from the Chamber and its precincts for the remainder of the day. The Speaker also referenced Erskine May on the subject of direct allegations against other Members.
4 November 2008	Nelson McCausland	Similar circumstances to those described above, although Speaker did

⁷ Modernisation of the House of Commons - Fourth Report, 1998:

<http://www.publications.parliament.uk/pa/cm/199798/cmselect/cmmodern/600iv/md0404.htm>

⁸ Information provided via correspondence with the Library and Research Service of the Houses of the Oireachtas, 12 January 2014

		not reference Erskine May on this occasion.
19 November 2007	Iris Robinson	Speaker asked the Member to withdraw an unparliamentary remark. The Member refused and was ordered to withdraw, under SO 60 (as it was then numbered) from the Assembly and its precincts for the rest of the day.
8 October 2002	Ken Robinson	Deputy asked Member to withdraw after refusing to resume his seat. No SO referenced.
10 September 2002	Patrick Roche	Member refused to withdraw a remark made about another Member. Deputy Speaker ordered the Member to withdraw, under SO60(1), from the Chamber and its precincts for the remainder of the sitting.
20 November 2000	Jim Wells	Member refused to withdraw a remark made about another Member and was ordered to leave the Chamber and the precincts of the Assembly for the rest of the day.

Member warned that they will not be called to speak

There have been at least four occasions on which the Speaker has ruled that a Member will not be called for some time. The following table lists those occasions:

3 November 2014 (ruling on 4 November 2014)	Mr. Gregory Campbell	<p>The Member began a question to the Minister of Culture, Arts and Leisure with what was taken to be a parody of the Irish language.</p> <p>The Principal Deputy Speaker announced the following day that the Member would not be called to speak for the rest of the day.</p>
7 October 2014 (ruling on 14 October 2014)	Mr. Jim Allister	<p>The Member was not allowed to ask a question during a statement on a meeting of the North/South Ministerial Council as it deemed to be outside the remit of the statement. The Member later raised a Point of Order asking why he had been unable to continue with his question when another Member had, in his opinion, been given more leeway.</p> <p>The Member also made reference to a Clerk-at-the-Table.</p> <p>On 14 October the Principal Deputy Speaker delivered a ruling that the Member had challenged the authority of the Deputy Speaker and therefore his speaking opportunities would be restricted until 10 November 2014.</p>
27 September 2011	Mr. Jim Allister	<p>The Member made a remark relating to the visit to the United States by the First Minister and deputy First Minister. The Speaker subsequently informed the Member that he would not be called for some time.</p>
10 October 2011	Mr. Dominic Bradley	<p>The Member was asking a question in Irish when the Deputy Speaker asked him to translate. The Member replied that he had been in the process of asking his question and would now translate it. The Deputy Speaker asked the Member to resume his seat and when the Member refused, asked if he was challenging the authority of the Chair. The Member replied that he was.</p> <p>Later in the sitting, the Speaker ruled that the Member had launched a vicious attack on the Chair, and would not be called</p>

		to speak for some time.
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The research did not find any instances of the above sanction having been applied in other legislatures, although as previously noted there does appear to be provision for a similar sanction in the House of Commons.

Speaker's Rulings and Conventions

The Speaker's Rulings contain references to occasions when the Speaker has mentioned that Members will not be called to speak. Relevant extracts are reproduced below:

On Tuesday 24 November 2009...the Speaker ruled that he intended to take a different approach to the language that will, and will not, be permitted in the Chamber. Rather than making judgements on the basis of particular words or phrases that have been ruled here or elsewhere as unparliamentary language, the Speaker indicated that he intended to judge Members' remarks against the standards of courtesy, good temper and moderation. In making judgements, the Speaker will consider the nature of the remarks and the context in which they are made. While engagement in robust debate is acceptable, what is not acceptable is where the tone or nature of remarks becomes so ill-tempered or bad-mannered that they are closer to discourtesy and disorder than to debate. In that instance, Members will be interrupted and asked to moderate their remarks. Should they not comply, they will be asked to resume their seats. In addition, the Speaker may impose a sanction preventing the Member concerned from speaking in debate for a time...

On 22 March 2010, the Speaker reminded the House, at length, of the standards expected. The Speaker also clarified that, where he judged remarks to have fallen short of the expected standard, he may ask for the remarks to be moderated or withdrawn, or he may ask the Member to resume his or her seat and call the next Member. Failure to comply with a request to withdraw comments would be considered a challenge to the Chair and, in addition to the available sanction of removal from the House, the Member might not be called to speak for some time⁹.

⁹ Speaker's Rulings and Conventions, page 37:

http://assist.assemblyni.gov.uk/services/businessoffice/theniassembly07/ni07_home.htm