



Wes-Kaapse Provinsiale Parlement
Western Cape Provincial Parliament
IPalamente yePhondo IeNtshona Koloni

FREEDOM OF SPEECH

FACT SHEET 5

REVISION 1, 5 JULY 2016

Freedom of speech is enshrined in section 16 of the national Constitution and section 26 of the Constitution of the Western Cape and is one of the most cherished and significant privileges of Parliament and recognises the right of the House to exclusive control of its own proceedings. It allows Members great freedom in debating whatever matter is before the House and in their speeches to expose and criticise whatever they think should be exposed or criticised in their speeches. By statute this freedom cannot be questioned in any court of law or any place outside Parliament. However, Parliament's own rules and practices require Members not to abuse this freedom but to use it in such a manner that the dignity and honour of Parliament are upheld and protected at all times.

Members have to temper their speech and utterances so as to conform to the parliamentary standards of propriety. Members should also appreciate that their freedom of speech must, of necessity, be subject to the principle that they may not impute improper or unworthy motives, dishonesty, hypocrisy or want of sincerity to their fellow Members. All Members are honourable Members and, therefore, every honourable Member should always act towards other honourable Members with the same respect which he/she expects from them.

Accusations of improper conduct by fellow Members are not permitted and must be brought to the House by way of a substantive motion of which proper notice has been given. The privilege of freedom of speech is thus only limited by the rules of order in debate and the right of the Presiding Officers and the House to act against a Member who infringes these rules.

In terms of section 25(1) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004 (Act 4 of 2004), a person, other than a Member, who feels aggrieved by a statement or remark made by a Member or a witness in or before the House or committee about that person, may submit a written request to the Secretary to have a response recorded. The committee appointed by the Provincial Parliament will consider the request and, if approved, publish the response of the person in the appropriate parliamentary paper.

Note: Fact sheet 4 and Fact sheet 14 deal with "Conduct in the Chamber and rules of debate" and "Unparliamentary language" respectively.