

**Submission  
No 20**

## **INQUIRY INTO LEGISLATIVE COUNCIL COMMITTEE SYSTEM**

**Organisation:** Parliament of Queensland

**Date received:** 28/04/2016

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Your Ref: Our Ref: 11.1

28 April 2016

Hon Scott Farlow MLC  
Chair  
Select Committee on the Legislative Council  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

Dear Hon Farlow

### **Select Committee on the Legislative Council Committee System – preparing for the next 25 years**

I thank you for the opportunity of supplying a submission to your committee on its review of the Legislative Council committee system. I particularly thank you for your committee's indulgence on allowing this late submission.

Much of my submission will reference the history and reform of the Queensland Parliamentary committee system with a view to highlighting a system that after many years of reform is finally achieving what I consider to be a mature, effective and accepted committee system. In so doing I will touch upon the primary issues in your issues paper.

I will commence, however, by standing back and reminding why each parliament should have a committee system, what are the benchmarks or indicia of a good committee system and why a committee system has to be complimentary to its particular parliament.

### **Basic principles**

Parliament, whether unicameral or bicameral, has the following intertwined functions:

- To legislate, including the delegation of legislative power and the supervision of that delegated legislative power
- To provide a government, that is provide an always conditional confidence and supply to those appointed to government (and provide an Opposition – the alternative government)
- To scrutinize the policies and actions of government
- To approve the raising of revenue and grant the appropriation of funds from revenue raised and supervise systems to ensure the appropriate expenditure and account of such funds
- Provide a forum for debate and the airing of grievances
- To be the 'grand inquest' of the jurisdiction and investigate all matters that could assist the other functions of the Parliament.

A parliament's committee system must be designed in such a way as to give maximum support to the parliament in its support of the above functions. In a unicameral parliament, such as Queensland, a committee system is vital as it provides an avenue for slowing the legislative process and airing concerns and grievances about complicated matters. In a sense the committee system in a unicameral system has to fill the void left by an upper house (to the best extent possible).

In a bicameral parliament, I would submit, it is important that each house's committee system complement, rather than duplicate, the committee system of the other house.

Similarly, the activities undertaken by each house's committee system should complement not replicate the activities of its house. For example, each house of a parliament must ultimately pass bills, but their committees are much better placed than the whole house to seek stakeholder feedback on those bills, scrutinise the details of the bills and seek information relevant to the bills. Committees are also much better placed to oversight independent bodies and assist those bodies discharge their functions through support in the parliament.

The Commonwealth Parliamentary Association (CPA) issued Recommendations for Transparent Governance in 2004 and Recommended Benchmarks for Democratic Legislatures in 2006,<sup>1</sup> provide a useful starting point for benchmarking a committee system:

### 3. COMMITTEES

#### 3.1 Organization

3.1.1 *The Legislature shall have the right to form permanent and temporary committees.*

3.1.2 *The Legislature's assignment of committee Members on each committee shall include both majority and minority party Members and reflect the political composition of the Legislature.*

3.1.3 *The Legislature shall establish and follow a transparent method for selecting or electing the chairs of committees.*

3.1.4 *Committee hearings shall be in public. Any exceptions shall be clearly defined and provided for in the rules of procedure.*

3.1.5 *Votes of committee shall be in public. Any exceptions shall be clearly defined and provided for in the rules of procedure.*

#### 3.2 Powers

3.2.1 *There shall be a presumption that the Legislature will refer legislation to a committee, and any exceptions must be transparent, narrowly-defined, and extraordinary in nature.*

3.2.2 *Committees shall scrutinize legislation referred to them and have the power to recommend amendments or amend the legislation.*

3.2.3 *Committees shall have the right to consult and/or employ experts.*

3.2.4 *Committees shall have the power to summon persons, papers and records, and this power shall extend to witnesses and evidence from the executive branch, including officials.*

3.2.5 *Only legislators appointed to the committee, or authorized substitutes, shall have the right to vote in committee.*

3.2.6 *Legislation shall protect informants and witnesses presenting relevant information to commissions of inquiry about corruption or unlawful activity.*

What is very hard to describe to the public is how differently committees of parliament generally operate as compared to what the public see on the floor of the house. They are generally a place of bi-partisanship, compromise and respect. I have long expressed the view that they are the 'jewel' of parliamentary democracy.

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[http://www.cpahq.org/cpahq/Main/Document\\_Library/Benchmarks\\_for\\_Democratic\\_Legislatures/Recommended\\_Benchmarks\\_for\\_Democratic\\_Legislatures.aspx](http://www.cpahq.org/cpahq/Main/Document_Library/Benchmarks_for_Democratic_Legislatures/Recommended_Benchmarks_for_Democratic_Legislatures.aspx)

***The development of the Queensland committee system***

I will now turn to give a potted history of the Parliament of Queensland and its committee system and explain the creation and slow reform over the last 28 years.

I consider that there have been five distinct eras in the Parliament of Queensland's history:

<b><i>Time</i></b>	<b><i>Period</i></b>	<b><i>Characteristics</i></b>
1860-1901	Colonial period	<p>Government formed by support of ministerialists (members of parliament who supported a government in office but were not in formal party and not bound by tight party discipline)</p> <p>Structure (bi-cameral), practice and procedure of the Houses and conventions of Westminster strictly adhered to</p> <p>Extensive use of parliamentary committees, legislation regularly reviewed by committees</p> <p>The electoral system for the election of members of the Legislative Assembly was for much of this time comprised of multi-member districts</p> <p>Franchise limited by property until 1872 and males over 21 until 1905</p>
1901-1922	The era of conflict	<p>Growth of the party system and party discipline</p> <p>Single member constituencies and one vote one value with 20% weighting variance</p> <p>Extensive use of parliamentary committees, legislation regularly reviewed by committees</p> <p>Conflict between elected Legislative Assembly and non-elected appointed Legislative Council. Council rejection of Assembly reform legislation. Abolition of Council engineered in 1922</p>
1922-1988	The era of executive dominance	<p>Entrenchment of unicameralism and three year terms</p> <p>Long-term governments from both sides of the political spectrum.</p> <p>Dominance of the executive over parliament. Dominance of the Ministry over the backbench</p> <p>Zonal system introduced whereby electorates allocated to zones with different quotas (later colloquially known as a 'Gerrymander'). Demographic shifts benefit both sides of politics at different periods</p> <p>Apart from internal matters (dining room, library etc.), almost no use of parliamentary committees</p> <p>Reform viewed with animosity and suspicion by the executive</p>

<i>Time</i>	<i>Period</i>	<i>Characteristics</i>
1988-2011	The era of reform	<p>In 1988 the first Public Accounts Committee established, later the Public Works Committee established</p> <p>In 1988 the Parliamentary Service and Parliamentary Service Commission established, administration separated from government control</p> <p>Following the Fitzgerald Report (1989) and reviews of the Electoral and Administrative Review Commission (EARC) a large number of administrative and parliamentary reforms.</p> <p>In 1995 the <i>Parliamentary Committees Act 1995</i> new committee structure. Committees, however, based on limited functional areas.</p> <p>In 1994 the first estimates committee processes for the Annual Appropriation Bills</p> <p>Significant procedural reform, largely sparked by minority government in the mid-1990s (1996-1999):</p> <ul style="list-style-type: none"> <li>- Reform of Question Time</li> <li>- Time set aside for Private Members' Bills</li> <li>- Time set aside for Private Members' motions/statements</li> <li>- E-petitions</li> <li>- Regional sittings (2002, 2005, 2007 and 2009)</li> <li>- Government responses to committee reports and petitions</li> <li>- Requirements for government to table documents increase</li> </ul> <p>The creation of the Members' Ethics and Parliamentary Privileges Committee in 1995 leads to the <i>Code of Ethical Standards</i> (1998) and a more active Ethics regime</p> <p>New modern Standing Orders adopted in 2004</p> <p>Despite reforms, work of the Assembly is pre-occupied by government legislation and the work of committees is essentially unrelated to the work of the Assembly. Only a very small percentage of bills considered by committees (less than 4%), thus failing all international benchmarks.</p>
2011 - ?	The modern era	<p>Committee System Review Committee (CSRC) report leads to the <i>Parliament of Queensland (Reform and Modernisation) Amendment Bill 2011</i> which establishes the Portfolio Committee System and significant reform to the business in the Assembly.</p> <p>The portfolio committees are now operating, to some extent, as a substitute for a second Chamber.</p>

The colonial and early federation Queensland Parliament had a vibrant committee system, in which all significant bills or major initiatives were considered.

However, from the abolishment of the Legislative Council (1922) until the Fitzgerald Inquiry (1987-89), there were few parliamentary committees established. Governments, of both sides of the political spectrum, were simply not interested in a committee system that could put legislation and government action under scrutiny. Indeed, an argument over the establishment of a public accounts committee was a catalyst for the breakdown of the coalition agreement between the Liberal Party and National Party in 1983.

Following the commencement of the Fitzgerald Inquiry and the reform era it ushered in, a committee system was established. A Public Accounts Committee and Public Works Committee were introduced in 1988 and other oversight committees (Parliamentary Criminal Justice Committee and the Parliamentary Electoral and Administrative Review Committee in 1989). This was a great leap forward in the working of the Queensland Parliament, but it was far from a 'comprehensive system' of committees recommended in the Fitzgerald Report.

In 1995, after years of review by the Electoral Administrative Review Commission (EARC), the Parliamentary Electoral Administrative Review Committee (PEARC) and the then Goss Government, the committee system was reformed – but it was in reality a committee system that was already out of date by the time it was entrenched in legislation. It essentially comprised existing committees: Public Works Committee, Public Accounts Committee and Parliamentary Criminal Justice Committee, adding the Scrutiny of Legislation Committee and replacing PEARC with the Legal, Constitutional and Administrative Review Committee. Thus there were a number of committees allocated particular functions, but there was no comprehensive system. The work of the committees is largely unrelated to the work of the Assembly.

EARC had recommended a more comprehensive system,<sup>2</sup> but the review system had watered down its recommendations. EARC's report made comments such as the following:

*The chapter has noted that the absence of an upper house is one of the major reasons why parliamentary scrutiny of public administration has been said to be largely ineffective in this State. The Commission is very concerned about the public perception that the Legislative Assembly is largely irrelevant to the government of Queensland. The Commission has not taken a position on the question of the restoration of the Legislative Council and instead suggests, in agreement with Mr Fitzgerald QC and other commentators, that other mechanisms to restore the balance of power between the Executive and the Parliament itself should be explored.*

*One of the few mechanisms which could rehabilitate the House is the parliamentary committee system. In the Commission's view, if the committee system is properly resourced and supported and has the commitment of Members from both sides of the House serving on committees, it could and should carry out some of the functions traditionally undertaken by upper houses in those jurisdictions which still have them. The remainder of the Report examines the validity of this preliminary conclusion.*<sup>3</sup>

A unicameral parliament like Queensland needed a committee system that encompassed and scrutinised the array of functions and portfolios of government. Although there were some additional committees created in 2009, until 2011, for example, there were no committees with responsibility for important areas like health and education.

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<sup>2</sup><http://www.parliament.qld.gov.au/documents/tableOffice/TabledPapers/1992/4792T367.pdf>  
<http://www.parliament.qld.gov.au/documents/tableOffice/TabledPapers/1992/4792T367.pdf>

<sup>3</sup>Note 1 at page 40-41

## The 2011 reforms in the Queensland Parliament - portfolio committees

The 2011 reforms were largely based upon the work of the Committee System Review Committee (CSRC).<sup>4</sup>

The CSRC had been formed following a review of integrity and accountability in Queensland (2009), which was itself largely a response to a range of political and ethical issues that had arisen in the previous few years.<sup>5</sup> That review had seen many calls for the reintroduction of an upper house or a significantly strengthened committee system.

The current portfolio based committee system, introduced in 2011 following the CSRC report and the *Parliament of Queensland (Reform and Modernisation) Amendment Bill 2011*<sup>6</sup> can be summarised as follows.

- The creation of portfolio committees. The *Parliament of Queensland Act 2001* (the POQ Act) provides that each parliament portfolio committees will be established and the portfolio committees' areas of responsibility are to collectively cover all areas of government activity. The committees themselves are established and defined within Standing Rules and Orders. (There were initially seven committees and, for a short period at the commencement of this parliament eight committees and now seven committees. See Appendix A)) Section 88 of the POQ Act provides:

### *88 Establishment*

*(1) The Assembly must, by standing rules and orders, establish committees of the Assembly under this section (portfolio committees).*

*(2) The standing rules and orders must state, for each portfolio committee—*

*(a) its name; and*

*(b) its primary area of responsibility (its portfolio area).*

*(3) Each department must be covered by a portfolio area, whether by allocating the whole department to the portfolio area of a committee or allocating parts of the department to the portfolio areas of different committees.*

*(4) As soon as practicable after a change in the Administrative, the Assembly must prepare and adopt any amendments of the standing rules and orders concerning the portfolio committees that are necessary to comply with this section.*

*(5) As well as 1 or more departments or parts of departments, a committee's portfolio area may include other government entities and matters.*

The role of the portfolio committees are set out in s.92 of the POQ as follows:

### *92 Role generally*

*(1) In relation to its portfolio area, a committee may—*

*(a) consider Appropriation Bills; and*

*(b) consider other legislation and proposed legislation as provided in section 93; and*

*(c) perform its role in relation to public accounts and public works as provided in this division.*

*(2) A committee is to also deal with an issue referred to it by the Assembly or under another Act, whether or not the issue is within its portfolio area.*

*(3) A committee may deal with a matter under this section by—*

*(a) considering the matter; and*

*(b) reporting on the matter, and making recommendations about it, to the Assembly.*

<sup>4</sup> <http://www.parliament.qld.gov.au/documents/committees/CSRC/2010/QldParlCtteeSystemReview/rpt-15Dec2010.pdf>

<sup>5</sup> <https://www.premiers.qld.gov.au/publications/categories/reviews/integrity-and-accountability-reform/assets/response-to-integrity-accountability.pdf>

<sup>6</sup> <https://www.legislation.qld.gov.au/Bills/53PDF/2011/ParlQReformB11Exp.pdf>

- The retention of the Parliamentary Crime and Misconduct Committee (now the Parliamentary Crime and Corruption Committee)
- The retention of the Ethics Committee but that committee's role over the Code of Ethical Standards and Standing Orders transferred to the Committee of the Legislative Assembly
- The creation of the Committee of the Legislative Assembly (originally a management and business committee, now primarily a Standing Orders and business committee)
- The current portfolio committees and their areas of responsibility are set out in Schedule 6 of Standing Orders. I have *appended* a copy of the schedule for your Committee's information.

Some recommendations of the CSRC were not taken up, including a blanket self-referral power to each portfolio committee.

The CSRC in its recommendations drew heavily on the New Zealand committee system, but there are nonetheless also significant differences to reflect the nature of the Queensland Parliament. For example, amendments to bills are not made in committee, rather each committee recommends amendments.

### **Effectiveness of the current Queensland committee system**

The general expectations of the 2011 reforms were:

- A better informed Parliament and individual members and more relevant and informed debate on bills in the Assembly
- Improved engagement with community/stakeholders in a "formal" process allowing a more transparent and engaging decision making (including legislative) process for Queenslanders
- A more vigorous legislative process by the Parliament where bills are scrutinised and tested
- Better legislative outcomes overall (i.e. quality amendments to bills, fewer amending bills etc.)
- That the work of committees would be relevant to the core business of the Assembly.

I would argue that the current portfolio based committee system, introduced in 2011, following the CSRC's report and the *Parliament of Queensland (Reform and Modernisation) Amendment Bill 2011*, has been a success.

There is no doubt that debate on bills is now much more informed, relevant and (ironically) shorter than the lengthy and largely irrelevant second reading debates of the past. I have no empirical evidence to support this view, but make the claim based on my own observations and the observations of my colleagues.

Hard data provides some evidence of other outcomes. Statistics of portfolio committee activity from August 2011 to December 2015 (detailed below) reveal that not only is there an increase in activity (meetings, hearings, reports etc.), but that committee recommendations in relation to bills and other inquiries are being responded to very positively by the government and the Assembly.

Stakeholder engagement is also very high – coming from a very low base with virtually no formal consultation on legislation prior to 2011. These outcomes in turn suggest a more vigorous legislative process and augur well for better legislative outcomes.



**Queensland Portfolio Committee Statistics - August 2011 to December 2015**

Bills examined from August 2011 to December 2015:

Bills examined and debated 215	Legislative amendments recommended 369	Legislative amendments accepted 209	Percentage accepted 56.6%
	Other recommendations 295	Accepted recommendations 250	Percentage accepted 84.7%

The average duration of completed committee inquiries from August 2011 to September 2015 are as follows:

Total completed inquiries 218 <sup>7</sup>	Government Bills	Private Members Bills	Other Inquiries
	Average duration 9.2 weeks	Average duration 16.8 weeks	Average duration 26.4 weeks

The table below outlines the number of 'Other Inquiry' reports tabled in the House for the 54<sup>th</sup> and 55<sup>th</sup> Parliaments<sup>8</sup>:

Total completed inquiries 12	Legislative amendments recommended 80	Legislative amendments accepted 48	Percentage accepted 60%
	Other recommendations 278	Accepted recommendations 222	Percentage accepted 79.9%

***Engagement with the community and stakeholders in a formal process***

Between August 2011 and 31 December 2015 there were 901 public briefings, public hearings and private hearings of committees.

***Attendance at hearings***

During the 54<sup>th</sup> and 55<sup>th</sup> Parliaments<sup>9</sup>, a total of 4,170 people appeared at portfolio committee hearings:

- 2,164 public servants
- 925 representatives of peak organisations
- 626 members of other groups
- 455 individual members of the public.<sup>10</sup>

<sup>7</sup> Total number of inquiries reported on by portfolio committees. Note – a number of inquiries reported on more than one bill and Government responses were not received to certain inquiries during the Parliaments.

<sup>8</sup> To 31 December 2015 note these stats were not collected in the 53<sup>rd</sup> Parliament.

<sup>9</sup> To 31 December 2015.

<sup>10</sup> Note: these statistics were not collected in the 53<sup>rd</sup> Parliament.

### **Impediments to effectiveness of the Queensland portfolio committee system**

Of course, a portfolio based system is not a complete panacea to an upper house for a number of reasons, including:

- The portfolio committees are not entrenched. The portfolio committee system can be disposed of by way of a simple Act of Parliament (amending the *Parliament of Queensland Act 2001*) without the need for a referendum, or effectively neutered by amendments to Standing Orders which limit the matters referred to those committees. (It must be emphasised that from 1922 to 1988 governments of both persuasions saw fit to govern without a high degree of parliamentary oversight and there was virtually no committee system in Queensland.)
- Processes such as the estimates process are established by Standing Orders and can be abolished, set aside or amended by simple resolution of the House. (For example, the system was modified in 2014 by resolution against the will of the Opposition and cross-bench.)
- Whilst all bills are, by default referred to a portfolio committee, existing provisions within Standing Orders allow a simple majority to declare a bill ‘urgent’ and thus bypass whichever requirement for time, review or debate is in force at the time, including portfolio committee review. Alternatively, committee review can be so truncated in time as to be less than effective.

### **Roles and responsibilities of each Queensland portfolio committee**

The roles and responsibilities of each portfolio committee include:

- consideration of bills (including ‘technical scrutiny’, that is assessment of bills according to the fundamental legislative principles, but also review of policy and assessment as to whether the bill effectively achieves the policy etc.)
- actioning inquiries referred by the House to each portfolio committee
- public works within their area of responsibility
- public accounts (and review of Auditor-General reports) within their area of responsibility
- oversight of certain statutory bodies/offices.

It is clear that the focus and priority of the portfolio committees have been on:

- bills
- references by the House to each portfolio committee.

Public accounts inquiries, including the review of Auditor-General reports and oversight of statutory bodies have been occurring, but such reviews occur with a lower priority than bills and references. Public works inquiries have been occurring less frequently.

While it is a clear intention that each individual committee will undertake public works and public accounts inquiries, the reality is that these functions are either rarely undertaken by committees and if they are contemplated or commenced, they become an inevitable victim to workloads and time shortages arising from an increased legislative load.

### **Unexpected outcomes since 2011**

The workload upon the portfolio committees system since 2011 has been higher than anyone involved in its design anticipated. The workload between the portfolio committees has also not been balanced, with some portfolio committees having a workload far exceeding their peers for extended periods.

There are a number of factors that have contributed to both the unexpected workload and the unevenness of workload:

- An unexpected number of significant references from the Assembly. Whilst it must be viewed as a positive that the government has seen it as appropriate to move in the Assembly referrals to the portfolio committees, the resource implications and impact on the committee's other roles have not always been adequately considered.
- Unreasonable truncated timetables for some bills or inquiries have resulted in committees having to conduct inquiries in an unreasonably short period of time and disrupting its overall agenda. Indeed, it is difficult for a portfolio committee to set sensible inquiry timetables.
- A 'system failure' in not ensuring that work which could be referred to less busy committees is instead referred to committees that already have a full agenda.

#### **Areas for improvement – further reform of the Queensland portfolio committee system**

Earlier this year the Committee of the Legislative Assembly (CLA) conducted a review of the parliamentary committee system. In its report the CLA made a number of recommended improvements to the committee system to address some of the impediments to the system and also attempt to entrench the committee system to some degree.<sup>11</sup>

On 20 April 2016 the Premier introduced the *Constitution of Queensland and Other Legislation Amendment Bill 2016*. The Bill seeks to amend the Constitution to provide enhanced statutory recognition of the 'core matters' of the Parliament's committee system in the Constitution.

The Bill amends the Constitution to provide that:

- the Legislative Assembly must at the commencement of every session establish at least six portfolio committees which collectively cover all areas of government activity;
- every Bill introduced into the Assembly must be referred to a committee for a minimum review period of six weeks, but that the Assembly can declare a Bill urgent by ordinary majority under the Standing Rules and Orders of the Legislative Assembly; and
- the annual Appropriation Bills must be subject to the budget estimates process.

To further strengthen the parliamentary committee system, the Bill amends the *Parliament of Queensland Act 2001* to give the portfolio committees a general power to initiate inquiries on their own motion on matters within their respective portfolio areas.

#### **Addressing the key Questions in the Legislative Council's Issues paper**

Appendix B contains a short response to each question asked in your Committee's issues paper.

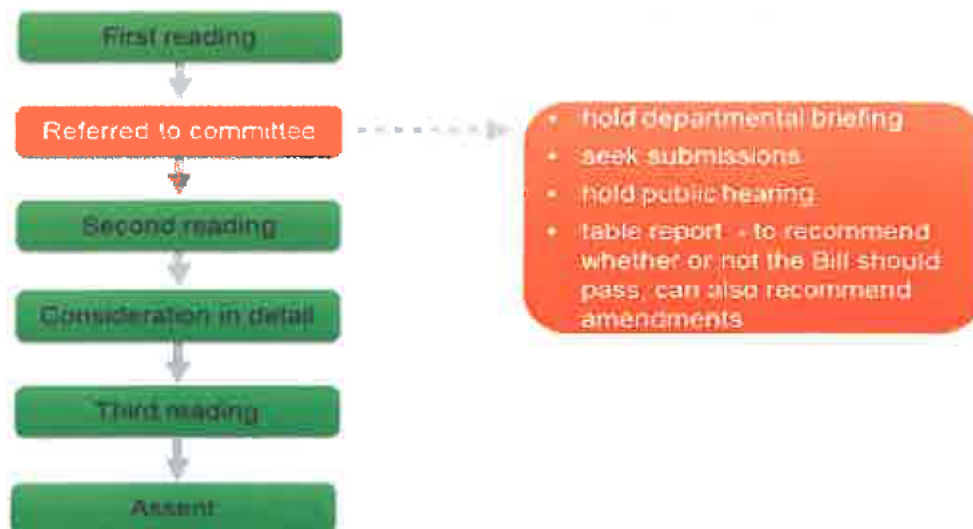
#### ***The scrutiny of Bills and estimates***

I would recommend the default referral of each bill introduced into the Legislative Council to one of its committees for inquiry and report. The period for review should be no shorter than six (6) weeks but ideally twelve (12) weeks.

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<sup>11</sup> Report No. 17 titled Review of the Parliamentary Committee System, which was tabled in the Parliament on 25 February 2016. <http://www.parliament.qld.gov.au/documents/committees/CLA/2015/01-ReviewCommittees/rpt-17-25Feb2016.pdf>

The referral of bills to committees in Queensland and the inquiry activities undertaken can be visually represented as follows:



I believe that best practice would dictate that the default position should be that hearings, briefings, submissions and other evidence and activities of portfolio committees (except deliberative meetings) should be in or available to the public.

In Queensland both the expected process and presumption of transparency are contained in Standing Orders:

**133. How a portfolio committee may examine a Bill**

*(1) A portfolio committee to which a Bill is referred may examine the Bill by—*

- (a) calling for and receiving submissions about the Bill;*
- (b) holding hearings and taking evidence from witnesses;*
- (c) engaging expert or technical assistance and advice; and*
- (d) seeking the opinion of other committees in accordance with Standing Order 135.*

*(2) In examining a Bill, a portfolio committee is to operate in as public and transparent manner as practicable and to this end is to—*

- (a) aim to engage likely stakeholders in the Bill;*
- (b) hold briefings from departmental officers and hearings in public unless there are compelling reasons to hold such briefings and hearing in private;*
- (c) publish submissions as soon as practicable after their receipt, as long as such submissions are relevant and not prejudicial to any person; and*
- (d) publish expert or technical advice received as soon as practicable after receipt, as long as such advice is not prejudicial to any person.*

*(3) Nothing in (1) is to be taken as mandating a process that must be followed by a portfolio committee.*

Transcripts are published as they are produced by the Parliamentary Reporting Service. Few hearing or briefings are held in private. Few submissions are not published and then usually only on request with valid reasons.

***Statutory recognition of privileges***

One of the significant outcomes of reviews in the 1990s by the then Members' Ethics and Parliamentary Privileges Committee and the Legal, Constitutional and Administrative Review Committee was the elucidation of parliamentary privilege in statute.

Key provisions include:

- The express adoption of the powers, rights and privileges of the House of Commons at a particular time, now in the *Constitution of Queensland Act 2001*:

*9 Powers, rights and immunities of Legislative Assembly (1) The powers, rights and immunities of the Legislative Assembly and its members and committees are—  
(a) the powers, rights and immunities defined under an Act; and  
(b) until defined under an Act—the powers, rights and immunities, by custom, statute or otherwise, of the Commons House of Parliament of the United Kingdom and its members and committees at the establishment of the Commonwealth.*

*Note—*

*Date of establishment of the Commonwealth—1 January 1901.*

*(2) In this section—*

*rights includes privileges.*

- A statutory presumption that parliamentary privilege is unaffected by later statutes unless expressly stated to have that effect, contained in the *Acts Interpretation Act 1954*:

*13B Acts not to affect powers, rights or immunities of Legislative Assembly except by express provision*

*(1) An Act enacted after the commencement of this section affects the powers, rights or immunities of the Legislative Assembly or of its members or committees only so far as the Act expressly provides.*

*(2) For subsection (1), an Act affects the powers, rights or immunities mentioned in the subsection if it abolishes any of the powers, rights or immunities or is otherwise wholly or partly inconsistent with their continued existence, enjoyment or exercise.*

*(3) In this section—*

*rights includes privileges.*

This provision has successfully been used as a foil against legislation which includes matters such as secrecy provisions.

- The *Parliament of Queensland Act 2001* which provides an array of supporting provisions, including:
  - a definition of parliamentary proceedings (including parliamentary proceedings), based largely on the Commonwealth legislation
  - a restatement of application of Article 9 of the Bill of Rights 1688
  - a process for issuing certificates to prove proceedings in parliament
  - deeming provisions for the publication of parliamentary proceedings and official records, including by electronic means.

Yours sincerely

Neil Laurie  
The Clerk of the Parliament  
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## APPENDIX A

### SCHEDULE 6 – PORTFOLIO COMMITTEES

- (1) In accordance with s.88 of the *Parliament of Queensland Act 2001*, the following table establishes the Portfolio Committees of the Legislative Assembly and identifies their primary areas of responsibility; and
- (2) A reference to a Minister is deemed to include departments, statutory authorities, government owned corporations and other administrative units reporting to the Minister and parts thereof that report to the Minister with respect to the Minister's responsibilities as set out in the Administrative Arrangements.

Portfolio Committee	Area of Responsibility	Ministers	Oversight Responsibility
Finance and Administration Committee	<p>Premier, Cabinet and the Arts</p> <p>Treasury, Aboriginal and Torres Strait Islander Partnerships and Sport</p> <p>Employment, Industrial Relations, Racing and Multicultural Affairs</p>	<p>Premier and Minister for the Arts</p> <p>Treasurer, Minister for Aboriginal and Torres Strait Islander Partnerships and Minister for Sport</p> <p>Minister for Employment and Industrial Relations, Minister for Racing and Minister for Multicultural Affairs</p>	<p>Auditor-General</p> <p>Integrity Commissioner</p> <p>Family Responsibilities Commission</p> <p>Queensland Family and Child Commission</p>
Infrastructure, Planning and Natural Resources Committee	<p>Infrastructure, Local Government, Planning and Trade and Investment</p> <p>State Development, Natural Resources and Mines</p> <p>Housing and Public Works</p>	<p>Deputy Premier, Minister for Infrastructure, Local Government and Planning and Minister for Trade and Investment</p> <p>Minister for State Development and Minister for Natural Resources and Mines</p> <p>Minister for Housing and Public Works</p>	
Legal Affairs and Community Safety Committee	<p>Justice and Attorney-General, Training and Skills</p> <p>Police, Fire, Emergency Services and Corrective Services</p>	<p>Attorney-General and Minister for Justice and Minister for Training and Skills</p> <p>Minister for Police, Fire and Emergency Services and Minister for Corrective Services</p>	<p>Electoral Commissioner</p> <p>Information Commissioner</p> <p>Ombudsman</p> <p>Criminal Organisation Public Interest Monitor</p>
Agriculture and Environment Committee	<p>Agriculture and Fisheries</p> <p>Environment and Heritage Protection, National Parks and the Great Barrier Reef</p>	<p>Minister for Agriculture and Fisheries</p> <p>Minister for Environment and Heritage Protection and Minister for National Parks and the Great Barrier Reef</p>	

<b>Portfolio Committee</b>	<b>Area of Responsibility</b>	<b>Ministers</b>	<b>Oversight Responsibility</b>
Education, Tourism, Innovation and Small Business Committee	Education, Tourism and Major Events	Minister for Education and Minister for Tourism and Major Events	
	Innovation, Science, the Digital Economy and Small Business	Minister for Innovation, Science and the Digital Economy and Minister for Small Business	
Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee	Health and Ambulance Services	Minister for Health and Minister for Ambulance Services	Health Ombudsman
	Communities, Women, Youth, Child Safety and Multicultural Affairs	Minister for Communities, Women and Youth, Minister for Child Safety and Minister for the Prevention of Domestic and Family Violence	
	Domestic and Family Violence Prevention	Minister for Disability Services, Minister for Seniors and Minister Assisting the Premier on North Queensland	
	Disability Services and Seniors		
Transportation and Utilities Committee	Transport and Commonwealth Games	Minister for Transport and the Commonwealth Games	
	Main Roads, Road Safety, Ports, Energy and Water Supply	Minister for Main Roads, Road Safety and Ports and Minister for Energy, Biofuels and Water Supply	

## APPENDIX B

### Legislative Council committee system – Discussion paper

Key questions	Answers
1. Do you have any comments about the current Legislative Council committee system?	I understand that the Legislative Council has 42 members. Therefore the number of general purpose standing committees – which appears to have fluctuated since 1997 between 5 and 6 committees appears appropriate.
2. Do you have any comments about the composition of Legislative Council committees or the appointment of chairs?	The membership of committees should generally match the composition of the house.
3. Is the current committee structure appropriate to ensure the Council is able to fulfil its role as a House of Review?	This question is best answered by conducting a 'gap analysis'. That is, are there gaps in the scrutiny of legislation, portfolios or other government activity (including independent bodies)? The work of the Legislative Assembly's committees and joint Committees needs to also be considered.
4. Is there scope for the committee system in the Legislative Council to incorporate aspects of the committee system in the Australian Senate?	I query whether the duplication of committees to enable reference and legislation committees is either desirable or feasible in a 42 member House.
5. Should committees in the NSW Parliament play a greater role in scrutinising legislation on a regular basis? If so, how?	Best practice is that all legislation should by default be scrutinised by committees.  Such scrutiny is not limited to 'technical scrutiny'.
6. Is the current system for scrutinising regulations effective?	In Queensland all regulations are scrutinise by the relevant portfolio committee. A scrutiny of legislation secretariat is established to assist the committees.  Such scrutiny is not limited to 'technical scrutiny'.
7. Should any changes be made to the Budget Estimates process?	I am not sufficiently informed of the detail to form an opinion.
8. Is the time available for questions at Budget Estimates generally adequate or should it be expanded? If so, how should this be done?	I am not sufficiently informed of the detail to form an opinion.
9. In general do committees allocate sufficient time to the questioning of witnesses? Should there be a process for allowing more time with certain witnesses?	I am not sufficiently informed of the detail to form an opinion.
10. Should a process be introduced to examine or debate government responses?	It depends on the workload of the House. The time spent on the various functions of the House have to be weighed against each other. Perhaps follow up by the relevant committee in 1-2 years is more effective, as not only addresses the previous response but examines if there has been actual follow through.
11. Is the time allowed for a government response to a committee report (six months) too long?	I would urge to consider three month responses with the ability to provide an interim response giving reasons why the response will take a maximum of six months.
12. Under what circumstances should a committee decide to keep a submission or a transcript of evidence partially or fully confidential?	The presumption should be for transparency. Discretion should lay with the committee. Grounds could include: privacy, fear of retribution, commercial in confidence (genuinely established) and public interest



## Legislative Council committee system – Discussion paper

Key questions	Answers
13. Should inquiry participants be granted anonymity or confidentiality if they are concerned about intimidation or retribution for giving evidence?	Yes
14. Would the introduction of a parliamentary privileges act in New South Wales, similar to the Australian and New Zealand statutes, assist Legislative Council committees to undertake their inquiry role?	Yes – see also the <i>Parliament of Queensland Act 2001</i>
15. Should the <i>Parliamentary Evidence Act 1901</i> be amended?	See above
16. Should the Legislative Council introduce privileges resolutions, similar to resolutions adopted by the Australian Senate in 1988?	Such resolutions are unnecessary – rules should be in statute or standing orders
17. Should standing order 226(3) be amended to remove the requirement for the 'consent of the relevant Minister' when a committee has resolved to request that Parliamentary Counsel's Office prepare a draft bill?	Yes  Committees like all members should be able to access Parliamentary Counsel on a confidential basis (legal professional privilege)
18. Is the current level of community engagement in committee inquiries adequate?	Generally always inadequate – because unless the inquiry is of particular interest (that is a story the public is interested in, as opposed to being in the public interest), 'free' airplay is difficult to achieve
19. How could community engagement be improved?	Only by resources – whether this is paid marketing or paying persons skilled with social media etc.
20. How could committees better utilise social media for inquiries to engage with the community?	See above
21. Are there any measures the committee staff could take to improve the engagement of individuals with a specific interest in addition to the peak and representative bodies?	Resources are the difficulty. Skills form part of the resource problem.
22. Should experts be employed by committees on an ad hoc basis to contribute to the inquiry process?	A potential cost effective mechanism – although likely still very expensive
23. Should committees have access to experts who can provide advice and assistance on the drafting of report recommendations?	Absolutely. Sourcing and keeping such experts on tap can be difficult. It is very difficult to have experts on tap that can also write in the committees accepted style.
24. Are current staffing levels in the Committee Office sufficient to adequately support Legislative Council committees?	I am not sufficiently informed of the detail to form an opinion.