



Hon Barry House MLC

11 May 2016

Hon. Don Harwin MLC
President
NSW Legislative Council
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Mr President

Inquiry into young children accompanying Members into the House

Thank you for the opportunity to provide a submission in relation to your Procedure Committee's inquiry into young children accompanying Members into the House.

The Legislative Council of Western Australia has been following the recent developments in the other Australian jurisdictions in relation to this matter. Of particular note was the much publicised amendment to the House of Representatives Standing Order 257 adopted on 2 February 2016 that effectively provides for the admission to the floor of the House of an infant being cared for by a Member.

The issues arising in your jurisdiction in relation to children accompanying Members into the House have not previously arisen in the Legislative Council of Western Australia. Currently, there are two female Members and two male Members in the Council with young children. To date, these Members have admirably balanced their roles and duties as Members of the Legislative Council with their childcare responsibilities as parents without any disruption to proceedings. The Legislative Council's *Procedure and Privileges Committee* is currently reviewing the relevant Standing Orders in anticipation of these issues being raised at some time in the future.

The equivalent Standing Order in the Western Australian Legislative Council is Standing Order 97 which deals with the manner in which strangers may be admitted to the floor of the Council and the requirement for strangers to withdraw from the Council during a division, or as ordered by the President.

Standing Order 97 currently states:

97. Strangers in the Council

- (1) *Only the President may admit strangers onto the floor of the Council.*
- (2) *When a division is called or as otherwise ordered by the President, strangers shall withdraw.*

The current practice in the Legislative Council is that advisors and other strangers may be admitted to the floor of the House for a specific purpose; for instance, advising a Minister or Parliamentary Secretary during the consideration of a Bill in the Committee of the Whole House. During a division, the strangers either leave the Chamber or withdraw behind the bar of the House.

The recent developments in other Australian jurisdictions which specifically make allowances for Members to bring infants or children into the Chamber appear undesirable to me. In my view, the adoption of Standing Orders that expressly widen the scope for the admittance of strangers into the House has the potential to lead to interruptions to the business and proceedings of the House, and erode the exclusive right to enter the House that is preserved for the duly elected Members.

In my opinion a more desirable approach to these issues is to clarify the presiding officer's authority in relation to the admittance of strangers. The interpretation of the relevant Standing Order in the Legislative Council is that the ultimate discretion to admit strangers to the floor of the Council resides solely with the President, or in his or her absence, the member presiding. Strangers are at all times subject to this authority.

Without expressly prescribing instances where Members with childcare responsibilities can bring an infant or child into the House for the purpose of casting a vote, the clarification of the presiding officer's authority would provide that discretion to admit a stranger to the House, or allow a stranger to remain in the House. For example, if a division were called and a Member nursing an infant ("a stranger") entered the Chamber for the purpose of casting a vote, the presiding member would have the authority and the discretion to allow the 'stranger' to remain, or exercise their authority requiring the stranger to withdraw.

To my mind, this is a more desirable outcome than the adoption of a specific Standing Order to prescribe for these circumstances and grant a Member an entitlement to bring a stranger into the Chamber as of right and as a consequence erode the discretion of the member presiding. The presiding officers can then make an assessment of circumstances at the time.

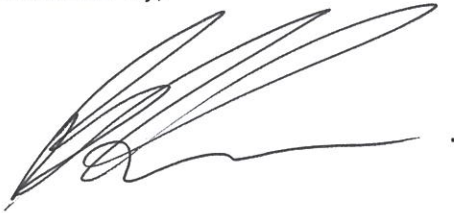
In relation to alternative processes for the recording of votes, once again this is not an issue that has arisen in the Legislative Council of Western Australia which has been given much consideration at this point in time.

The proxy voting arrangements in other jurisdictions have been considered, although briefly, in connection with the anticipated issues arising from the previous matter. In Western Australia, however, s. 14 of the *Constitution Acts Amendment Act 1899* provides that "all questions which

shall arise in the Legislative Council shall be decided by a majority of votes of the **members present**".

Without having given full consideration to this matter, at face value it would appear to me that proxy voting arrangements would be contrary to the provisions in the *Constitution Acts Amendment Act 1899* if Members were to cast a vote on a question without being physically present in the Chamber at the time of the vote. It does not appear, therefore, to be a measure that could be adopted by the Legislative Council of Western Australia.

Yours sincerely,

A handwritten signature in black ink, consisting of several overlapping, sweeping strokes that form a stylized, somewhat abstract representation of the name Barry House.

**HON. BARRY HOUSE MLC
PRESIDENT**