**Submission No 7**

# INQUIRY INTO E-PETITIONS

**Organisation**: Legislative Council Western Australia

**Name**: Hon Barry House MLC

**Date received**: 22 May 2017

Hon Barry House MLC

15 May 2017

Hon John Ajaka MLC
President
Legislative Council
Parliament of New South Wales
Parliament House
Macquarie Street
**SYDNEY NSW 2000**

Dear Mr President

**Inquiry into e-petitions**

Thank you for your letter, dated 13 April 2017 inviting a submission to the Procedure Committee's inquiry into e-petitions.

The Legislative Council of Western Australia's Standing Orders do not currently allow for the tabling of e-petitions. However, in 2016, the Legislative Council's Procedure and Privileges Committee (PPC) undertook an inquiry that considered the establishment of an e-petition system.

The PPC report recommended the adoption of a Temporary Order that would have facilitated an e-petitions trial. Unfortunately the 39th Parliament did not make a determination on the proposal, leaving the matter outstanding.

I have attached a copy of the PPC report for the Committee's consideration. An electronic version of this report is also available on the Parliament of Western Australia website.

I trust that the information provided is of use to the Committee and I wish you well in your deliberations.

Yours sincerely

**Hon Barry House MLC**
**President of the Legislative Council**
att:



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**THIRTY-NINTH PARLIAMENT**

# REPORT 40

# STANDING COMMITTEE ON PROCEDURE AND PRIVILEGES

# E-PETITIONS

Presented by Hon Barry House MLC (Chair)

June 2016

# STANDING COMMITTEE ON PROCEDURE AND PRIVILEGES

**Date first appointed: 24 May 2001**

**Terms of Reference:**

The following is an extract from Schedule 1 of the Legislative Council Standing Orders:

"**1. Procedure and Privileges Committee**

1.1 A *Procedure and Privileges Committee* is established.

1.2 The Committee consists of 5 Members, including the President and the Chair of Committees, and any Members co-opted by the Committee whether generally or in relation to a particular matter. The President is the Chair, and the Chair of Committees is the Deputy Chair, of the Committee.

1.3 With any necessary modifications, SO 163 applies to a co-opted Member.

1.4 The Committee is to keep under review the law and custom of Parliament, the rules of procedure of the Council and its Committees, and recommend to the Council such alterations in that law, custom, or rules that, in its opinion, will assist or improve the proper and orderly transaction of the business of the Council or its Committees."

**Members as at the time of this inquiry:**

Hon Barry House MLC (Chair)

Hon Adele Farina MLC (Deputy Chair)

Hon Martin Aldridge MLC

Hon Kate Doust MLC

Hon Nick Goiran MLC

**Staff as at the time of this inquiry:**

Nigel Pratt (Clerk of the Legislative Council)

Paul Grant (Deputy Clerk)

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**REPORT OF THE STANDING COMMITTEE ON PROCEDURE AND PRIVILEGES**

# E-PETITIONS

## 1 REFERENCE AND PROCEDURE

1.1 On 24 November 2015 the *Procedure and Privileges Committee* ("the PPC") met to review the operation of the 2015 Temporary Orders. Arising out of these discussions was the proposal to trial an E-Petitions process for the Legislative Council.

1.2 This report canvasses the PPC's deliberations and recommendations in relation to the introduction of an E-Petitions process for the Legislative Council.

## 2 E-PETITIONS

### Background

2.1 Petitions are one of the traditional methods in which the public is afforded an opportunity to make their requests or grievances known to the legislature and the Crown, and participate in a parliamentary democracy. The right of a citizen to petition the monarch and the Parliament was established as early as 1215 under the *Magna Carta* and reaffirmed by the *Bill of Rights 1689*.[1]

2.2 A number of Australian jurisdictions currently use e-petitioning to complement their paper petitions process. The Western Australian Legislative Assembly's *Procedure and Privileges Committee* has also inquired into e-petitions in 2008,[2] though that committee recommended that the Legislative Assembly *not* introduce an e-petitions process at that time.

2.3 On 5 June 2008 the *Environment and Public Affairs Committee* ("EPAC") commenced an own motion inquiry into the petitions process for the Western Australia Legislative Council. Part 2(d) of the terms of reference for that inquiry related to electronic petitions. On 27 November 2012 the EPAC inquiry into the petitions process was discontinued.

2.4 Following the close of the EPAC inquiry, the PPC continued to monitor the development of e-petition processes in other jurisdictions pursuant to the PPC's terms of reference at 1.4.

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1 Article 5, *Bill of Rights 1689*: Right to petition — That it is the right of the subjects to petition the King and all commitments and prosecutions for such petitioning are illegal.

2 Legislative Assembly Standing Committee on Procedure and Privileges, Western Australia, *Report No. 1 — Review of E-Petitions* (2008).

**Consultation with the Environment and Public Affairs Committee**

2.5 On 20 March 2015 the PPC wrote to the EPAC seeking access to the committee material in connection with the *Inquiry into the Petitions Process in Western Australia*.

2.6 The PPC reviewed the committee material from the EPAC and considered the e-petition models from the Queensland and Tasmanian Parliaments.

2.7 Noting the ongoing interest of the EPAC in the petitions processes, on 26 November 2015 the PPC wrote a further letter to that committee seeking a submission by 18 February 2016 in relation to a draft E-Petitions process and a proposal to trial that process by way of a Temporary Order during the 2016 parliamentary sittings.

2.8 The EPAC provided its submission to the PPC on 17 February 2016. The PPC thanks the *Environment and Public Affairs Committee* for its submission and for its assistance in providing access to the information relating to its previous inquiry.

**E-Petitions**

2.9 In the submission provided to the PPC, the EPAC expressed reservations with the draft E-Petition proposal and the accompanying proposed Temporary Order, particularly in relation to the possible impact on the current resources of the committee, the merits of an E-Petitions process, and possible abuses that may arise as a result of an electronic petitions process. Whilst acknowledging that parliaments must evolve their procedures to keep pace with technology and the needs of the community, the EPAC did not support the adoption of an E-Petitions process for the Legislative Council in 2016.

2.10 The concerns raised by the EPAC in its submission surrounding the ability to protect the integrity of an E-Petition from mass-joining by computer programs, and the authentication of petitioners as genuine signatories to a petition is one that was considered by the PPC.

2.11 The PPC is confident that these issues have been addressed during the development of the electronic process, as they have already in the other Australian jurisdictions that have introduced E-Petitions. The PPC notes that, in instances of fraud for example, the Council may deal with these circumstances under Standing Order 94.

2.12 In relation to the issue of fraudulent e-petitioners, the PPC notes that signatories to traditional paper petitions presented to the Council are accepted at face value to be genuine, eligible residents of Western Australia. There is currently no verification process used to determine whether a signatory to a petition is an eligible petitioner. There is a proven capacity, however, to eliminate the risk of mass-joining of E-Petitions as currently exist in other jurisdictions.

2.13 In relation to the possible impact on resourcing issues for EPAC, the PPC acknowledges that EPAC is a unique committee insofar as the Standing Orders of the Legislative Council refer automatically all petitions tabled in the House to the committee for inquiry. No other State Parliament in an Australian jurisdiction currently provides a comparable, dedicated committee to consider the matters in petitions presented to the House.

2.14 The PPC is of the view that the availability of E-Petitions would be an adjunct to the current paper petitions process. An E-Petitions process would provide a modern, alternative method for petitioning the Parliament that complements rather than supplants the traditional paper petition process. Further, the PPC is confident that, despite any complexities that may arise, the Parliament possesses the expertise and technical capability to trial an E-Petitions process in the Legislative Council with limited impact on resources.

## 3 PROPOSED TEMPORARY ORDERS TRIAL

3.1 The PPC recommends that the Legislative Council adopt the following Temporary Order for an E-Petitions trial:

**Recommendation 1:**

That new **Temporary Order 6**, as outlined below, be adopted by the Council to apply until (and including) 31 December 2017 —

**6. E-Petitions**

(1) An E-Petition is a petition —

(a) in the correct form prescribed by Standing Order 101;

(b) facilitated by a Member and lodged with the Clerk for publication on the Parliament's Internet Website for a nominated period ("posted period");

(c) persons must indicate their support of ("join the petition") by electronically providing their name, address (including postcode) and email address, and signifying their intention to join the petition.

(2) The posted period for an E-Petition is to be a minimum of one week and a maximum of six months from the date of publication on the Parliament's Internet Website.

(3) The Member facilitating the E-Petition must provide the Clerk with the details of the petition in the correct form; the posted period and a signed acknowledgment that they are prepared to facilitate the E-Petition.

(4) Once published on the Parliament's Internet Website an E-Petition cannot be altered.

(5) Only one E-Petition dealing with substantially the same grievance and requesting substantially the same action by the Council shall be published on the Parliament's Internet Website at the same time.

(6) Once the posted period for an E-Petition has elapsed, a paper copy of the Petition shall be printed by the Clerk in full (including the details of the persons who joined the petition) and presented to the Council by the Member that facilitated the E-Petition.

(7) An E-Petition published on the Parliament's Internet Website, but not presented to the Council prior to the prorogation of the Parliament or the dissolution of the Legislative Assembly, shall be presented to the subsequent Parliament and become a petition of the subsequent Parliament.

(8) An E-Petition may be facilitated during any adjournment of the Legislative Council and during any period of prorogation.

(9) Persons must join an E-Petition by filling out their correct details and personally agreeing to join the E-Petition, and by no one else, except in the case of incapacity from sickness.

(10) A person cannot sign or join an E-Petition more than once.

(11) Only the name and address of the Principal Petitioner shall be made public on the Legislative Council's website.

(12) The Clerk may decline to publish an E-Petition on the website not in conformity with these Orders and shall advise the facilitating Member accordingly.

(13) The Clerk shall ensure that all Government responses to E-Petitions are posted on the website.

(14) The Clerk or any Member may seek a ruling from the President of the Legislative Council relating to the conformity or otherwise of any E-Petition with these Orders.

(15) The Clerk is authorised to create and maintain an appropriate internet website on which to publish E-Petitions, responses to E-Petitions and other explanatory information and do all things necessary in order to give effect to these Orders.

(16) The Clerk must dispose of all electronic personal data relating to the posting and joining of an E-Petition within six months after an E-Petition is printed and presented to the Legislative Council.

(17) The Standing Orders for petitions have application to E-Petitions insofar as they can be applied.

**Hon. Barry House MLC**
**Chair**
**28 June 2016**

# APPENDIX 1

## DISCUSSION PAPER: E-PETITIONS SYSTEM SECURITY

Information Technology Unit November 25, 2015

### DISCUSSION PAPER – E-PETITION SYSTEM SECURITY

#### OVERVIEW

The generation of any online document will be potentially subject to interference by automated software (or 'bots') that can create multiple automated or nuisance responses to a legitimate business form. The development of an online form and supporting business process, to generate a petition for Council consideration will need to have a safety mechanism to avoid these types of issues. This mechanism should also be designed to meet Western Australian standards for web site 'accessibility' as defined in the Web Content Accessibility Guidelines (WCAG) documents.

#### BACKGROUND

The idea behind a security question is to determine that the entity entering the information is actually a person. "Bots" are used, in 99% of cases, as a nuisance and to elicit valid email addresses (e.g. If I enter information into a form, I might get an email that I can use for other purposes). In general, 'bots' can only 'guess' the information required in a form and put in best estimates, which in most cases, do not make any sense. So, the idea of a 'bot' is not to enter a valid form (I'll create a 'bot' to enter 50,000 entries for this Petition), but more to create a nuisance through 'volume' responses that result in what is known as a 'Denial of Service (DOS) attack' or to gather valid email addresses for future use.

There are numerous ways to prevent a 'bot' from submitting your form. These methods are generally called CAPTCHAs, and are used to determine if the information is being entered by a human being. Unfortunately, in the majority of these solutions, there is little support for any visually impaired person who may wish to fill in an online form (or Petition in our case).

Government agencies are required to follow the Web Content Accessibility Guidelines (WCAG) to ensure that their web sites are accessible to all. Although the Parliament of Western Australia falls outside this jurisdiction, we do endeavour to follow these guidelines as closely as we can to ensure accessibility of Parliament web information and processes are delivered equally to all constituents. To this end, we do not use CAPTCHAs on the Parliament Web site as the vast majority of solutions are not accessible to the visually impaired.

#### ISSUES

CAPTCHAs provide one of the most frustrating issues for people with disabilities and developers alike. By their very nature, it is important that computers are not able to decipher the cryptic text or garbled audio that are used to make sure that there is a real human inputting the information. Yet for those who are blind or vision impaired, having a computer be able to interpret CAPTCHAs through a screen reader is vital.

Confusion often lies in the belief that CAPTCHAs may be made accessible by using both video and audio CAPTCHAs together. However, the quality of the audio playback can vary greatly depending on the type of speakers and background noise which, in most cases, still makes it too difficult to understand.

## CONCLUSION

While 'A' level compliance still allows CAPTCHAs with alternative text identifying them as such, the W3C strongly recommends that alternatives to CAPTCHA be used as all forms of CAPTCHA introduce unacceptable barriers to entry for users with disabilities. Further information is available in the W3C's Inaccessibility of CAPTCHA (link is external)"

REF: http://www.mediaaccess.org.au/practical-web-accessibility/text-alternatives-a-practical-guide-to-images-captchas-and-best-practice

It is also noted that there is no 100% fail-safe solution. We can only aim to stop the nuisance maker seeking to submit multiple erroneous forms to a web site and perhaps causing it to crash.

A solution generally thought of as simple in its execution, but difficult for a 'bot' to interpret is one using a logic question that only a human can answer. An example of a simple question is 'what is MAN spelled backwards'. If the user enters NAM, then the form can be submitted. Otherwise, they are presented with a different question which they have to answer. It would take a pretty sophisticated 'bot' to interpret the text, determine what it is asking and answer it correctly. This is the kind of solution we will look to employ for the Parliament of Western Australia e-Petition forms.

We have investigated the solution developed by the Queensland Parliament, but it is not accessibility friendly as there is no way for a screen reader to interpret the graphics that are displayed for verification. A visually impaired person would not be able to enter the numbers displayed on the screen. This means we will develop our own verification process that requires some form of human interpretation, while also being able to be read via a 'screen reader'.

Additionally, the process of finalising and formally accepting a petition for submission to the Chamber will provide a second level of authentication for the document. Our primary exposure and concern with an electronic interface is with reducing the possibility of 'flooding', either in input to a Petition 'response count' or web site traffic through an attempted DOS attack. We believe both these risks can be substantially mitigated by adopting the approach described above, while maintaining user accessibility for all.

* * *

# APPENDIX 2

**SUBMISSION FROM THE ENVIRONMENT AND PUBLIC AFFAIRS COMMITTEE**

**STANDING COMMITTEE ON ENVIRONMENT AND PUBLIC AFFAIRS**

Hon Barry House MLC
President
Chair, Procedure and Privileges Committee
Legislative Council
Parliament House
PERTH WA 6000

RECEIVED
17 FEB 2015
PRESIDENT

17 February 2016

Dear President

**Inquiry into the Petitions Process in Western Australia**

Thank you for the opportunity to provide a submission to the Procedure and Privileges Committee's current inquiry into the e-petitions process for the Legislative Council. The Committee considered your correspondence and attached material at its meetings of 2 December 2015 and 17 February 2016 and has resolved to provide a submission to address the following issues.

The Committee must firstly express its disappointment that, whilst the Procedure and Privileges Committee is embarking upon a temporary order which will undoubtedly have an impact on this Committee's work, we have not been involved in the process until this very late stage.

With regard to a new procedure being trialled to facilitate e-petitions in the Legislative Council, the Committee has reservations about the desirability and merits of such a proposal and recommends against the temporary order being implemented in 2016. The Committee notes that neither the purpose of the e-petition process is clear, nor is why the current system is inadequate.

The Committee also has concerns that an e-petitions system may be open to abuse and, indeed, may facilitate a new, modern way to abuse the petitions system through electronic means.

The point of difference between this Committee and other Australian jurisdictions that have implemented an e-petitions process is that the Committee already inquires into every petition that is automatically referred under the Standing Orders of the Legislative Council. No other State Parliament has a dedicated committee that considers all petitions, often involving the detailed and in-depth scrutiny of the matters raised by the principal petitioner.

The Committee understands that the Parliament must evolve its procedures to be in line with technology and the community's needs, however, it does not support what may amount to innovation for its own sake. The Committee therefore does not support the temporary order enclosed in your correspondence and does not support the development of an e-petitions process in the Legislative Council in 2016.

Yours sincerely

**Hon Simon O'Brien MLC**
Chairman