



LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

Select Committee on Opening Parliament to the People

Report on Opening Parliament to the People

March 2017

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Chair's Preface

This report proposes fundamental changes to how the Assembly works to open it up to greater involvement by the people of the Northern Territory.

The Select Committee on Opening Parliament to the People was established as one of the first orders of business of the 13th Assembly. The Assembly asked the Committee to look at how the parliament can work better and be more open, transparent and accountable to the people of the Northern Territory.

The greatest change proposed by the Committee is to refer Bills to Assembly committees for public consultation. Committee inquiries into Bills will give any interested person or group the opportunity to make a submission and, where required, to speak to the committee. This will put stakeholders' views onto the public record and inform the Assembly's consideration of whether to make the proposed law. This will result in better laws as Members will know community views when amending and passing Bills.

The success of this change depends upon allowing people sufficient time to raise their concerns with the committees. On this point the Queensland experience is instructive. The Committee heard unanimous support from Members of the Queensland Parliament for similar reforms they adopted in 2010. However, over time the effectiveness of this consultation was eroded by the Parliament not allowing committees sufficient time to hear from the community. This resulted in amendment of their Constitution last year to require a minimum period of six weeks for committee inquiries into Bills.

Committees enable the Assembly as a body to consult with the community. They provide the opportunity for people to put their views on the Assembly's record and speak to the Assembly through committee hearings. The report proposes establishing two portfolio scrutiny committees which would be responsible for monitoring Government performance under each Ministerial portfolio. In addition to examining Bills, these committees would conduct inquiries into issues of public concern and perform a range of other scrutiny functions, such as alerting the Assembly to any impact Bills may have on people's rights. This will greatly increase opportunities for people to be active participants in the Assembly's deliberations in a range of areas.

The report also recommends strengthening how the Assembly deals with petitions people make to the Assembly by providing for petitions signed by 1,000 people to be debated and for responses to petitions to be debated at the request of four Members. This will give greater prominence to the concerns raised by petitioners.

The Committee has also recommended a number of changes regarding the recognition of Traditional Owners, the ongoing reform of Question Time, improving the information services available to Members and ensuring the Assembly conforms with recommended benchmarks for democratic institutions.

The Committee's recommendations were initially drawn from a range of earlier discussion papers which the Committee put into a Green Paper on Parliamentary Reform released in October 2016. The Committee received 13 submissions in

response and heard from nine witnesses at a public hearing last December. All submissions and witnesses were broadly supportive of the proposed changes while making further proposals for change. The Committee also sought comment from the Leader of Government Business, the Hon Natasha Fyles MLA, on its draft recommendations to give the Committee the opportunity to address any concerns the Government might raise before reporting to the Assembly. The Committee then met with the Minister to reconcile key differences of opinion. I thank the Minister for the assistance she gave the Committee and her open approach to improving how the Assembly works.

On behalf of the Committee, I would like to thank all who submitted or appeared before the Committee. Their feedback has been invaluable and resulted in a number of changes to the Committee's proposals.








I would also like to thank the members of the Committee for their commitment to championing a more open, transparent and responsive Assembly for all Territorians.

A handwritten signature in blue ink, consisting of several overlapping loops and a long horizontal tail extending to the right.

Jeff Collins MLA

Chair

Committee Members

	Mr Jeff COLLINS MLA: Member for Fong Lim	
	Party:	Territory Labor
	Committee Membership	
	Standing:	Legal & Constitutional Affairs, Subordinate Legislation and Publications
	Select:	Opening Parliament to the People
	Chair:	Opening Parliament to the People, Legal & Constitutional Affairs, Subordinate Legislation and Publications
	Mrs Robyn LAMBLEY MLA: Member for Araluen	
	Party:	Independent
	Committee Membership	
	Standing:	Standing Orders
	Select:	Opening Parliament to the People
	Deputy Chair:	Opening Parliament to the People
	Ms Ngaree AH KIT MLA: Member for Karama	
	Party:	Territory Labor
	Committee Membership	
	Standing:	Standing Orders
	Select:	Opening Parliament to the People
	Mr Gary HIGGINS MLA: Member for Daly	
	Party:	Country Liberals
	Parliamentary Position:	Leader of the Opposition
	Committee Membership	
	Standing:	Standing Orders, House
	Select:	Opening Parliament to the People
	Mr Chansey Paech MLA: Member for Namatjira	
	Party:	Territory Labor
	Parliamentary Position:	Deputy Speaker
	Committee Membership	
	Standing:	House
	Select:	Opening Parliament to the People
	Mr Gerry WOOD MLA: Member for Nelson	
	Party:	Independent
	Committee Membership	
	Standing:	Privileges
	Select:	Opening Parliament to the People
	Mrs Kate WORDEN MLA: Member for Sanderson	
	Party:	Territory Labor
	Committee Membership	
	Standing:	Public Accounts
	Select:	Opening Parliament to the People
	Chair:	Public Accounts
On 15 February 2017, Member for Stuart, Mr Scott McConnell MLA was discharged from the Committee and replaced by Member for Namatjira, Mr Chansey Paech MLA.		

Committee Secretariat

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Terms of Reference

1. A Select Committee on the subject of Opening Parliament to the People be appointed comprising the Members for Fong Lim, Stuart, Sanderson, Karama, Daly, Nelson and Araluen.
2. The Committee is to inquire into options for parliamentary reform, particularly increased participation in the legislative process and policy debates and improving the effectiveness of Question Time, having regard to, among other things, the Parliamentary Reform - Opening Parliament to the People (Labor Policy Discussion Paper) and Restoring Integrity to Government – Trust and Integrity Reform Discussion Papers published by the then Opposition ahead of the Northern Territory Election and the Discussion Paper on Assembly Committee Reform tabled by the Speaker on 25 August 2015 and other proposals which the 12th Assembly Standing Orders Committee deferred for consideration of the 13th Assembly.
3. The Committee is to report to the Assembly by 31 March 2017.

Resolved by the Legislative Assembly on 19 October 2016

Recommendations

Recommendation 1

The Committee recommends that the Assembly adopts the proposals set out in its Green Paper for establishing portfolio based scrutiny committees and referring Bills to those committees, subject to the further recommendations set out below, by agreeing to the draft Sessional Orders at Appendix B of this report.

Recommendation 2

The Committee recommends that the Assembly establish two portfolio scrutiny committees with seven Members with the membership of the committees reflecting the composition of the Assembly.

Recommendation 3

The Committee recommends that on tabling in the Assembly all reports from statutory bodies, and in particular the Electoral Commissioner's Election Reports, should stand referred to the relevant scrutiny committee for inquiry and report.

Recommendation 4

The Committee recommends that there be portfolio scrutiny committees called the:

- a) *Justice and Families Committee* that covers the portfolios of Children, Attorney-General and Justice, Health, Housing and Community Development, Education, and Territory Families; and
- b) *Finance and Planning Committee* that covers the portfolios of Chief Minister, Aboriginal Affairs, North Australia, Police, Fire and Emergency Services, Trade, Business and Innovation, Treasurer, Infrastructure, Planning and Logistics, Essential Services, Public Employment, Primary Industry and Resources, Environment and Natural Resources, Tourism and Culture and Corporate and Information Services.

Recommendation 5

The Committee recommends that:

- a) the Assembly commence sittings on Wednesdays at 2.00 pm to enable the portfolio scrutiny committees to conduct business on those mornings, and
- b) in addition to their Wednesday morning meetings, the portfolio scrutiny committees adopt the practice of holding public hearings on Bills on the Mondays of weeks in which the Assembly sits as far as practicable.

Recommendation 6

The Committee recommends that the portfolio scrutiny committees make use of subcommittees as provided under the Standing Orders to assist in the management of their workload.

Recommendation 7

The Committee recommends that the provision for participation by Members who are not on a committee at committee meetings under Standing Order 193(2) be extended to include the private meetings of the committee.

Recommendation 8

The Committee recommends that the Assembly allows for the substitution of Members of a committee for specified periods of time or inquiries.

Recommendation 9

The Committee recommends that the Chair of the portfolio scrutiny committees be a Government Member.

Recommendation 10

The Committee recommends that all Bills be required to be referred to a portfolio scrutiny committee for a period spanning at least three sittings of the Assembly (noting that the committee may complete its inquiry at any time during the period of referral), unless the Assembly declares the Bill to be urgent.

Recommendation 11

The Committee recommends that the Government develops a system for providing briefing materials to the relevant portfolio scrutiny committee on the introduction of Bills in consultation with the committees.

Recommendation 12

The Committee recommends that the portfolio scrutiny committee have a general power to initiate inquiries within their portfolio areas.

Recommendation 13

The Committee recommends that the Assembly require any Member who is introducing a Bill to table a statement on whether the Bill is compatible with Human Rights, as defined in the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cwlth).

Recommendation 14

The Committee recommends that the Assembly provide that any person or organisation aggrieved by subordinate legislation operating in contravention of fundamental legislative principles be able to make a complaint in writing to the relevant portfolio scrutiny committee and, unless the committee unanimously agrees not to proceed with the complaint, the committee will give the complainant the opportunity to address the committee.

Recommendation 15

The Committee recommends that the Assembly appoint an Estimates Committee each year to consider the annual appropriation Bill, Government owned corporations' statements of corporate intent, and annual reports.

Recommendation 16

The Committee recommends that the Government consider amendments to the *Audit Act* to enable the Auditor-General to audit Agencies' performance information.

Recommendation 17

The Committee recommends that the written questions system under Chapter Eight of the Standing Orders be the only system used for questions in advance for Estimates hearings.

Recommendation 18

The Committee recommends that the time within which a Minister must respond to written questions should be modified so that any written question asked within a week of the introduction of an appropriation Bill must be responded to at least one clear day before the first day of the Estimates hearings.

Recommendation 19

The Committee recommends that the Estimates Committee:

- a) holds a total of 60 hours of hearings
- b) determine the proportion of those hours to occur on the Appropriation Bill and Government owned corporations in June and on Annual Reports in November during the days allocated in the Assembly's meeting schedule.

Recommendation 20

The Committee recommends that the Government provide appropriate budget supplementation to the Department of the Legislative Assembly to provide for adequate secretariat support, committee expenses and a community liaison officer.

Recommendation 21

The Committee recommends that the Government provide funding to enable independent recording and broadcast of video from the Litchfield and Ormiston rooms.

Recommendation 22

The Committee recommends that the Assembly require the portfolio scrutiny committees to each produce an annual report of their activities.

Recommendation 23

The Committee recommends that:

- 1) the Assembly provides that any petition conforming with Standing Orders with more than 1,000 signatures be set down on the Notice Paper as an Order of the Day to note the petition, unless the Speaker determines that it is frivolous, vexatious, has already been debated, would anticipate a debate, or should be combined with another petition, with the debate to comprise two Members

speaking for up to five minutes each and two Members speaking for up to three minutes each,

- 2) the Assembly provides that each Minister's response to a petition tabled in the Assembly is set down on the Notice Paper for the following day only to be called on after the consideration of 'Committee reports, Auditor-General's reports and Government responses' whereupon if four Members rise in their place in support of putting the question 'that the response be noted' then the debate will proceed with two Members speaking for up to five minutes each and two Members speaking for up to three minutes each,
- 3) the Assembly requires that only people residing in the Northern Territory may petition the Assembly, and
- 4) the Standing Orders Committee investigate the options for enabling electronic petitions through the Assembly's website.

Recommendation 24

The Committee recommends that the Standing Orders Committee review the operation of the October 2016 reforms to Question Time after 12 months and consider whether further reforms would contribute to a more effective Question Time.

Recommendation 25

The Committee recommends that Standing Order 7 be amended to provide for an Acknowledgement of Country in accordance with an order of the Assembly.

Recommendation 26

The Committee recommends that the Assembly refer to the Standing Orders Committee the review of procedures for Ministers to report matters to the Assembly and the debate of important issues in the Assembly, including whether debates on ministerial statements should be subject to global time limits and whether there should be additional processes for debating substantive issues of public policy.

Recommendation 27

The Committee recommends that the Standing Orders Committee consider options for making the Assembly more closely align with the Latimer House Guidelines for the Commonwealth and the Commonwealth Parliamentary Association Benchmarks for Democratic Legislatures with respect to an independent parliamentary service and parliamentary appropriation and whether the Assembly should undertake a periodic review of its compliance with these guidelines.

Recommendation 28

The Committee recommends that the House Committee inquire into and report on the provision of adequate financial analysis services for Members, including whether such services should be provided by a Parliamentary Budget Office.

Recommendation 29

The Committee recommends that the House Committee investigate the appropriate level and model of library services for Members of the Legislative Assembly, having regard to services provided in other jurisdictions, the research support needs of Members, and the need for independence in Members' research support.

Recommendation 30

The Committee recommends that the Standing Orders Committee review the operation of those recommendations of this Committee adopted by the Assembly after 12 months with a view to making recommendations for improvement and the incorporation of effective reforms into the Standing Orders before the end of this Assembly.

Chapter 1 Background

- 1.1 The Legislative Assembly established the Select Committee on Opening Parliament to the People on 19 October 2016 to explore options for parliamentary reform with particular reference to increasing participation in the legislative process and policy debates and improving the effectiveness of Question Time.
- 1.2 The Committee issued a *Green Paper on Parliamentary Reform* (the Green Paper) on 26 October 2016 to seek comment on a range of proposals for parliamentary reform and additional ideas on how to best open parliament to the people, and called for submissions to the Committee by 28 November 2016.
- 1.3 In accordance with the reference from the Assembly, the Committee developed the Green Paper from proposals in *Parliamentary Reform - Opening Parliament to the People (Labor Policy Discussion Paper)* and *Restoring Integrity to Government – Trust and Integrity Reform Discussion Paper* published by the then Opposition ahead of the Northern Territory election, the *Discussion Paper on Assembly Committee Reform* tabled by the Speaker on 25 August 2015, and other proposals which the 12th Assembly Standing Orders Committee deferred for consideration of the 13th Assembly.
- 1.4 The Green Paper proposals included:
 - Establishing two portfolio based scrutiny committees to inquire into and report on:
 - Any matter referred by the Assembly or a Minister
 - The provisions of Bills and subordinate legislation (eg, regulations)
 - The impact of Bills and subordinate legislation on rights, liberties and the institution of Parliament
 - Public accounts and Auditor-General's reports
 - Performance, operation and Annual Reports of Government Agencies
 - The annual Budget Appropriation Bill and Estimates
 - Referring all but urgent Bills to the scrutiny committees for community consultation.
 - Allocating Wednesday mornings of sitting weeks for committees
 - Allocating the remainder of Wednesdays to non-Government questions and General Business
 - Allowing debate of petitions with more than 500 signatures
 - Reducing restrictions on supplementary questions
 - Reviewing prayers and inclusion of an Acknowledgement of Country.
- 1.5 The Committee received 13 submissions which provided feedback on the specific proposals contained in the Green Paper as well as additional reform options for

consideration by the Committee and Assembly to further enhance the parliamentary process and increase public consultation. The Committee held public hearings on 5 December 2016 where it heard evidence from nine witnesses.

- 1.6 The Committee reviewed the parliamentary systems of a number of Westminster Parliaments, in particular those with portfolio scrutiny committees, to identify best practices and options for increasing public participation in the legislative and committee processes. The Committee undertook a visit to the Queensland Parliament on 9 November 2016 and met with Members of all parties to discuss their views and experience of the Queensland parliamentary reforms and the effectiveness of their committee system.
- 1.7 The Committee then developed 27 draft recommendations, which it referred to the Leader of Government Business for comment on 20 February 2017. The Leader of Government Business provided feedback on 10 March 2017. The Committee met with the Leader of Government Business on 22 March 2017 to discuss this feedback.

Chapter 2 Participation and Review

- 2.1 Core functions that committees perform for parliaments include interaction with the community, scrutiny of Government activity, and review of legislation.

Participation within a representative democracy

- 2.2 The *Northern Territory (Self Government) Act 1978* (Cwlth) provides for a system of representative government, where the Legislative Assembly comprising elected Members (s 13) has the power to make laws for the peace, order and good government of the Territory (s 6) with decisions determined by the majority of Members voting (s 27).
- 2.3 As Members are elected to make decisions on behalf of electors, it is vital that we maintain communication with our electors. Members do this individually through our participation in the community and our electorate offices, and for party members through our political parties.
- 2.4 The meetings of the Assembly give Members the opportunity to raise issues on behalf of the electors. In the Chamber Members make arguments on how best to meet the needs of the Territory and publicly vote on proposed laws and resolutions. Chamber debates enable a competition of ideas on how best to serve the Territory, and enable the electors to see how Members are representing them. The meetings of the Assembly give Members a voice on behalf of their electors, but should individual electors venture onto the floor they are classified as 'strangers'.
- 2.5 However, while the floor of the Assembly is reserved for elected Members, the Assembly moves out into the community and invites participation by individuals through its committees.
- 2.6 Committees are an extension of the Assembly. Committees enable the Assembly to move out of the Chamber, and enable individuals and organisations in the community to have their say on the public record and participate in the Assembly's debates.
- 2.7 Committees provide a unique opportunity for public participation and consultation as:
- they can move around the Territory and adapt their way of operating to suit specific needs
 - their proceedings form part of the official record of the Assembly and are reported to the Assembly
 - people who participate are protected by parliamentary privilege
 - hearings and submissions are normally made public so subject to public scrutiny and debate
 - Members from all parties and independents are on committees so they are inclusive of a range of viewpoints

- the focus on specific problems provides opportunities for cooperative work between Members
 - although rarely required, committees have powers to compel evidence and protect participants.
- 2.8 To date the Assembly has used committees to enable people to participate in its proceedings in an ad hoc manner. For example, it used committees to enable people to have their say on the Rights of the Terminally Ill Bill in 1995, to consult on difficult policy problems such as controlling the drug 'ice', and preventing foetal alcohol spectrum disorder and youth suicide, to publicly examine government services such as the management of housing on town camps, and to enable a public review of the Government decision to redevelop Richardson Park. However, such opportunities for public participation in the Assembly's proceedings have been the exception rather than the rule.
- 2.9 Reforming the Assembly's committee system will open up new opportunities for participation. In particular, the referral of Bills to committees for public consultation will enable Territorians to be active participants in the law making process.

Place of Review

- 2.10 Making laws and holding the Government to account are key functions of the Assembly. Following the Westminster tradition, most Australasian parliaments have an Upper House that reviews legislation introduced in the Lower House and provides additional scrutiny of Government activity. The two Australasian parliaments that have abolished their upper houses, Queensland and New Zealand, have found the need to develop strong committee systems to both review legislation and provide robust scrutiny of Government performance. The Queensland Committee System Review Committee in 2010 reported:

One of the key functions of a parliament is scrutiny of the executive. Proper scrutiny of the executive helps to ensure accountability and transparency and in turn better administration.

Queensland has a history of a strongly entrenched two-party system of government, with rigid party discipline. With members being elected from single-member constituencies through an optional preferential voting system, our Parliament frequently includes large government majorities. The additional level of scrutiny that can be provided by an Upper House is absent in Queensland since the abolition of the Legislative Council in 1922. Parliament becomes dominated by the government of the day.

We must look to other means of ensuring accountability and scrutiny.

A healthy parliamentary committee system is important for this reason. Additionally, a strong and well-resourced system of parliamentary committees can enhance the interaction between the Parliament and the community.¹

- 2.11 The Northern Territory Legislative Assembly has a similar need to properly review proposed laws and hold the Government to account. An Upper House is clearly not

¹ Committee System Review Committee, *Review of the Queensland Parliamentary Committee System*, Legislative Assembly of Queensland, Brisbane, December 2010, p. xiii.

a practical solution for the Northern Territory, but like Queensland and New Zealand a strong and adequately resourced committee system could significantly improve our governance.

Chapter 3 Portfolio Scrutiny Committees

Endorsement of the Proposal

- 3.1 The submissions and witnesses consistently expressed support for the proposal that the Assembly establish a system of portfolio based scrutiny committees to consider references and examine Bills. The Committee also took note of the views expressed by Members from all parties during its visit to the Queensland Parliament supporting their system of portfolio committees on which the Committee's Green Paper proposal was based, and the widespread view that the introduction of that system brought significant improvements to the Parliament and the legislative process.
- 3.2 There were however a range of views expressed on some details of the proposal. These are discussed below.
- 3.3 Draft Sessional Orders to give effect to many of the Committee's recommendations are at Appendix B.

Recommendation 1

The Committee recommends that the Assembly adopts the proposals set out in its Green Paper for establishing portfolio based scrutiny committees and referring Bills to those committees, subject to the further recommendations set out below, by agreeing to the draft Sessional Orders at Appendix B of this report.

Managing the Workload

Number of Committees

- 3.4 The greatest challenge for the Northern Territory Legislative Assembly to implement a portfolio scrutiny committee system as proposed is managing the workload within an Assembly of 25 Members.
- 3.5 It would be unusual for a Minister or the Speaker to be on such a scrutiny committee, which under present arrangements leaves 16 Members. In larger parliaments shadow ministers would not normally be on such committees, but that would not be practicable in an Assembly of 25 Members.
- 3.6 The practice to date has been for committees to have between four and seven Members.
- 3.7 More Members on a committee provides a greater range of views, makes it easier to obtain a quorum, and allows for the delegation of work to subcommittees. Also, having fewer committees generally results in greater efficiency in both the use of Members' time and the amount of secretariat support required.
- 3.8 Fewer Members allows more committees to operate, thereby providing a greater division of the workload and level of specialisation.

- 3.9 The Committee does not think that a committee of less than five Members would be workable due to the challenges in readily obtaining a quorum for meetings required between sittings. The Committee also finds no advantage in six Member committees as only two can be formed from 16 Members. The options for consideration are therefore three committees of five Members or two committees of seven Members.
- 3.10 As committees represent the Assembly their representation of political parties traditionally mirrors that of the Assembly as far as practicable. The present Assembly comprises 72% Labor, 8% CLP and 20% independent Members. That composition can be most fairly reflected in a seven Member committee, with four Government (57%), one Opposition (14%), and two independent (28%).
- 3.11 Five Member committees would result in committees comprising either three Government (60%), one Opposition (20%) and one independent (20%); or three Government (60%), no Opposition (0%) and two independents (40%).
- 3.12 Consequently two committees with seven Members would better reflect the Assembly, allow greater scope to establish subcommittees, and could readily achieve quorum. However, two committees provide little opportunity for dividing the workload.
- 3.13 On the assumption that two committees of seven Members could effectively divide up aspects of its work between two subcommittees of three Members, the Committee proposes that initially the Assembly establish two portfolio scrutiny committees with seven Members. The number of scrutiny committees should remain under review as experience may show that three would be a more effective number.

Recommendation 2

The Committee recommends that the Assembly establish two portfolio scrutiny committees with seven Members with the membership of the committees reflecting the composition of the Assembly.

Specialist Committees

- 3.14 Questions were raised in submissions and at the hearings regarding whether it would be preferable to establish or maintain certain specialist committees.

Electoral Matters

- 3.15 The Electoral Commissioner noted that the Assembly had not had a committee that considered electoral matters. In contrast:

Queensland, also with a unicameral parliament addresses electoral issues through the Legal Affairs and Community Safety Committee and at the federal level, electoral issues are examined by the Joint Standing Committee on Electoral Matters. These bipartisan committees seek public submissions, conduct hearings and publish reports on electoral matters.²

² Electoral Commissioner, Submission No. 1, 2016, p. 2.

3.16 The Committee notes that the parliaments of New South Wales and South Australia also have committees that deal with electoral matters and the Australian Capital Territory Assembly has referred Electoral Act amendments to a select committee.

3.17 The Commissioner also noted that the *Electoral Act* requires him to provide Parliament a report on the conduct of each election:

Following tabling of this report, the current practice in the Northern Territory is for the Department of the Chief Minister (DCM) to be assigned the responsibility of preparing a cabinet submission proposing amendments to the *Electoral Act* with the NTEC providing technical electoral advice. This process sometimes involves public consultation through submissions (that have historically not been made public), and there have never been hearings to further scrutinise recommendations and issues raised in the election report or public submissions.

Historically, Electoral Bills have proposed amendments that address some of the recommendations in the NTEC's election report and often consider other reforms not contemplated. For example, the 2015 Electoral Bill proposed a change to an optional preferential voting system, which was not contemplated in the 2012 election report. In this instance, the Commission issued an information paper outlining its position and issues for parliament to consider on proposed amendments to the *Electoral Act*, which were not contemplated in the 2012 report but proposed in the Bill.³

3.18 The Electoral Commissioner proposed that his election reports be considered by a committee, which would seek public input on report recommendations as well as other issues not contemplated in the report, including holding public hearings on proposals for electoral reform.

3.19 The Committee endorses these views and considers that the Commissioner's Election Reports should be reviewed by the relevant portfolio scrutiny committee. The Committee further considers that all reports from statutory bodies tabled in the Assembly should stand referred to the relevant committee.

Recommendation 3

The Committee recommends that on tabling in the Assembly all reports from statutory bodies, and in particular the Electoral Commissioner's Election Reports, should stand referred to the relevant scrutiny committee for inquiry and report.

Public Accounts

3.20 The Green Paper proposed absorbing the role of the Public Accounts Committee into the portfolio scrutiny committees. This would involve the Auditor-General briefing the relevant portfolio committee regarding issues raised in her audit reports and that committee following up on issues as it saw fit.

3.21 The Committee asked the Auditor-General about how this change had worked from the Auditor's view in Queensland:

³ Electoral Commissioner, Submission No. 1, 2016, pp. 2-3.

The former Auditor-General of Queensland, who is now the Auditor-General for Victoria, certainly believes that the process has worked quite well and recently we met as a council, which we do several times a year. His view was that it worked well. The specifics around procedural issues we did not go into but there is—from my perspective, it would work just as easily to have two committees as one Public Accounts Committee.⁴

- 3.22 Given the benefits of the relevant portfolio committee receiving the professional assistance of the Auditor-General, the efficiencies gained through reducing the number of committees, and the Auditor-General's view that this arrangement is quite workable, the Committee considers that the Public Accounts role should be taken on by the proposed portfolio scrutiny committees.

Division of Portfolios

- 3.23 The Green Paper proposed dividing responsibility for Agencies according to which of the four clusters they belong to. Thus one committee would cover Children, Families and Central Agencies and the other would cover Development, Tourism, Environment and Culture. This provides advantages of having the committees' responsibilities align with related policy areas and administrative lines of accountability.

- 3.24 The Agency clusters are:

Chief Minister (Central)

- Department of the Chief Minister
- Office of the Commissioner for Public Employment
- Department of Treasury and Finance
- Department of Attorney-General and Justice
- Department of Corporate and Information Services.

Children and Families

- Department of Health
- Department of Education
- Territory Families
- Northern Territory Police, Fire and Emergency Services
- Department of Housing and Community Development.

Development

- Department of Trade, Business and Innovation
- Department of Infrastructure, Planning and Logistics

⁴ Julie Crisp, in Committee Transcript, 5 December 2016, p. 13.

- Department of Primary Industry and Resources.

Tourism, Environment and Culture

- Department of Tourism and Culture
 - Department of Environment and Natural Resources.
- 3.25 A number of submissions were concerned that this division by Agency super-cluster would result in a significant imbalance in the workload between the committees. The Committee shares this concern. If there had been one committee covering the Children, Families and Central Agencies clusters in the last Assembly it would have had responsibility for 135 Bills while a second committee covering Development, Tourism and Culture clusters would have been responsible for 30.
- 3.26 Some alignment with the clusters could be maintained while evening up the workload by structuring the committees' portfolios around the line agency clusters but dividing the Central Agencies between the committees, with Attorney-General and Justice going with Children and Families and the other portfolios going with Development, Tourism, Environment and Culture.
- 3.27 Under this arrangement, the committees would cover the Ministerial portfolios as follows:

Justice and Families Committee

- Children (Manison)
- Attorney-General and Justice (Fyles)
- Health (Fyles)
- Housing and Community Development (McCarthy)
- Education (Lawler)
- Territory Families (Wakefield).

Finance and Planning Committee

- Chief Minister (Gunner)
- Aboriginal Affairs (Gunner)
- Northern Australia (Gunner)
- Police, Fire and Emergency Services (Gunner)
- Trade, Business and Innovation (Gunner)
- Treasurer (Manison)
- Infrastructure, Planning and Logistics (Manison)
- Essential Services (McCarthy)
- Public Employment (McCarthy)
- Primary Industry and Resources (Vowles)

- Environment and Natural Resources (Moss)
 - Tourism and Culture (Moss)
 - Corporate and Information Services (Moss).
- 3.28 Had these committees existed during the previous Assembly, the Justice and Families Committee would have had responsibility for 101 Bills while the Finance and Planning Committee would have had 64 Bills.
- 3.29 The Committee considers that this allocation maintains a high level of commonality of themes and alignment with the Agency clusters while also providing a more even workload.

Issues based committees

- 3.30 In commenting on the Committee's draft recommendations, the Leader of Government Business proposed that the committees' responsibilities be allocated according to issues rather than portfolios:
- It is proposed that the following committees be established:
- a) Social and Legal Committee – this committee would take on responsibilities of Social matters, and the former Legal and Constitutional Affairs, and Subordinate Legislation Committees;
 - b) Economic and Scrutiny Committee – this committee would take on responsibilities of Economic matters, and the former Public Accounts Committee.
- 3.31 Having issues based committees would make it simpler to manage matters that covered a number of portfolios. However, as discussed later in this Chapter, the management of cross-portfolios matters by portfolio based committees is not a significant problem. Once a committee was inquiring into a matter within its portfolio area, it would be able to obtain evidence from agencies outside its portfolio area.
- 3.32 Replacing the Assembly's current issues based committee system with portfolio based committees was one of the key elements of the Green Paper's proposal to provide a robust system of committee scrutiny. It aligns the committees' responsibilities with those of Ministers and Agencies so the lines of scrutiny can follow the lines of government accountability. It also ensures there is a committee identifiably responsible for each area of Government activity.
- 3.33 Keeping issue based committees as proposed above also involves providing different functions for the two committees; removing the public accounts and estimates functions from the Social and Legal Committee. This would further weaken that committee's ability to monitor Agencies' performance in delivering on social issues.
- 3.34 The Committee does not consider that Government activity can be divided between social and economic, but that sound financial management and the delivery of outcomes is equally required of all areas of Government.

- 3.35 The Committee therefore considers that for the Assembly to keep its current issues based approach to committee responsibility would forgo an opportunity to significantly strengthen the effectiveness of the Assembly's committees.

Recommendation 4

The Committee recommends that there be portfolio scrutiny committees called the:

- a) ***Justice and Families Committee* that covers the portfolios of Children, Attorney-General and Justice, Health, Housing and Community Development, Education, and Territory Families; and**
- b) ***Finance and Planning Committee* that covers the portfolios of Chief Minister, Aboriginal Affairs, North Australia, Police, Fire and Emergency Services, Trade, Business and Innovation, Treasurer, Infrastructure, Planning and Logistics, Essential Services, Public Employment, Primary Industry and Resources, Environment and Natural Resources, Tourism and Culture and Corporate and Information Services.**

How to manage crossover issues

- 3.36 The Auditor-General's submission noted that the allocation of portfolios to two scrutiny committees may result in situations where a number of agencies have responsibilities for a particular matter and these agencies are allocated across both committees. The example cited was the 12th Assembly's Public Accounts Committee which held hearings relating to the Palmerston Regional Hospital with witnesses appearing from the Departments of Chief Minister, Health, and Infrastructure.
- 3.37 Issues that cross over into agencies outside a committee's portfolio responsibilities will frequently arise due to the complexity of public policy matters. In most cases this will be resolved simply by the committee to which an issue is referred, or has undertaken an investigation into an area, calling for evidence from the relevant agencies regardless of whether the agency falls within the committee's portfolio area. At times this may require consultation between the committees to avoid duplication of effort.
- 3.38 In his submission to the Committee, Mr Doran PSM proposed the creation of joint subcommittees to inquire into matters where the allocation of agencies falls across both portfolio committees.
- 3.39 In the New Zealand and Scottish Parliaments, committees have the power to establish joint subcommittees to scrutinise cross-departmental proposed legislation. If a lead agency cannot be identified for a crossover issue, a joint subcommittee could be established to inquire into the particular issue.
- 3.40 The problem of crossover issues in the Northern Territory is ameliorated somewhat by the wide scope of issues each committee would cover. The Committee considers that in a parliament of the Assembly's size it will be easier to manage crossover issues through informal liaison between committee Members. The Committee does not therefore propose any formal mechanism for the management of crossover

issues at this stage. The Assembly may wish to revisit whether any formal mechanism such as joint subcommittees is required should this prove to be an issue over time.

Allocating time for Committees

- 3.41 The Committee's Green Paper proposed that Wednesday mornings of sitting weeks be set aside for Committee meetings which, depending on the committees' needs, would allow up to five hours' time for meetings. This is the approach adopted by the Queensland Parliament.
- 3.42 Allocating time for committee meetings during sitting days has a range of advantages, such as providing a regular meeting pattern that is easier for stakeholders to plan around, visibly integrating the committee process into the legislative process, reducing the cost of travel expenses that are required for committee meetings on non-sitting days, and making it easier to organise committee meetings when all Members are available.
- 3.43 The Opposition's submission did not support this proposal as five hours of committee meetings would leave little time for preparation for the Opposition and independents' Question Time and General Business on Wednesdays.⁵ As an alternative, the Opposition recommended that every sitting day morning be available for committee meetings. This is the practice of the New Zealand Parliament, which sits as the whole House from 2.00 pm on each of its three sitting days in a week. Alternatively the Leader of the Opposition indicated that allocating Tuesday or Thursday mornings would be workable but that Opposition Members would not be available for hearings on Wednesday mornings.
- 3.44 The Committee notes that a significant difference between the Northern Territory and the Queensland Parliaments is that the small number of Members in the Northern Territory Assembly creates a need for shadow ministers, and in the present Assembly also the Leader of the Opposition, to be on the scrutiny committees, whereas in the Queensland Parliament shadow ministers are not required to be on such committees so are free to attend to other parliamentary duties on Wednesday mornings. Consequently replacing what is currently time allowed for preparation for sittings on Wednesdays with extended committee meetings would create an acutely concentrated workload for the Opposition.
- 3.45 Another difference with Queensland is the large number of portfolios the Northern Territory committees would cover. Having more days during sittings to meet would assist with management of that workload.
- 3.46 In discussion with the Committee the Leader of Government Business indicated that Tuesday and Thursday mornings were required for Government Business.
- 3.47 The Committee considers that allocating Wednesday mornings of sitting weeks for committee meetings would greatly assist the committees manage their increased

⁵ Leader of the Opposition, Submission No. 7, 2016, p. 4.

workload, but would not allow sufficient time for public hearings on Bills or other inquiries.

- 3.48 The Committee notes that while committees can hold hearings at any time when the Assembly is not sitting, there is a significant advantage in holding hearings on Bills at regular times during weeks in which the Assembly sits to enable easier access to interested stakeholders, reduce travel costs and more effectively use Members' time. As there appears to be no convenient times for extended hearings on allocated sitting days, the Committee considers that Mondays of sitting weeks would be the most convenient time to hold hearings on Bills.

Recommendation 5

The Committee recommends that:

- a) the Assembly commence sittings on Wednesdays at 2.00 pm to enable the portfolio scrutiny committees to conduct business on those mornings, and**
- b) in addition to their Wednesday morning meetings, the portfolio scrutiny committees adopt the practice of holding public hearings on Bills on the Mondays of weeks in which the Assembly sits as far as practicable.**

Subcommittees

- 3.49 Subcommittees would assist the portfolio scrutiny committees to manage their wide range of functions and make the Assembly accessible to more Territorians.
- 3.50 Standing Order 187 enables committees to appoint subcommittees of three or more Members to which the committee can refer any matter within its terms of reference. The subcommittee can then perform most of the functions of the committee, including taking and publishing evidence. A subcommittee cannot report to the Assembly or publish its findings but reports back to its parent committee which may report to the Assembly on the basis of the subcommittee's work. As with normal committee hearings, Members who are not Members of the subcommittee can participate but not vote.
- 3.51 Committees may use their subcommittees to conduct the bulk of an inquiry with the committee considering and reporting on the subcommittee's findings at the conclusion of its investigation, or it may use a subcommittee for a particular part of an inquiry, such as holding certain public hearings. Thus subcommittees could be used to divide the work of multiple inquiries between the committee's Members, or to enable a few Members to conduct hearings and consultations on behalf of the committee. Members of the Queensland Parliament informed the Committee that it found subcommittees useful for consulting in more remote parts of the jurisdiction when not all committee Members were available.

Recommendation 6

The Committee recommends that the portfolio scrutiny committees make use of subcommittees as provided under the Standing Orders to assist in the management of their workload.

Participating Members

3.52 The Assembly's Standing Order 193(2) allows any Member of the Assembly to question witnesses at public hearings as follows:

A Member of the Assembly, although not a Member of a committee, may participate in the committee's public sessions and question witnesses, unless the committee orders otherwise, but may not vote and must withdraw when the committee is deliberating or taking evidence in camera.

3.53 Allowing other Members to participate in hearings is useful when a Member has a specific interest in the matter at hand, which may particularly arise from time to time with the consideration of Bills, and when a Member of a committee wishes for another Member to pursue a matter on their behalf when they are not able to attend in person. However, the above Standing Order only allows participation in public sessions. There are a range of situations where committee proceedings that are not open to the public would nevertheless be suitable for participation by any interested Member. The Committee does not see the need for participating Members to be excluded from all closed sessions but considers that participation in such circumstances should be at the discretion of the Committee. Of course, this ability to participate does not include the ability to vote.

Recommendation 7

The Committee recommends that the provision for participation by Members who are not on a committee at committee meetings under Standing Order 193(2) be extended to include the private meetings of the committee.

Substitute Members

3.54 In addition to interested Members wishing to be involved in a matter, there may be instances where for some reason a Member of a committee is unable to attend committee meetings for a period or for a particular inquiry, or when a party wishes another Member to be its representative for a particular matter. If substitution of Members was allowed in such instances, in contrast to participation, the Member could vote in the committee and their involvement would not be subject to the discretion of the committee.

3.55 While there is a risk that excessive substitutions would erode the continuity and developed expertise of a committee, the Committee considers that this would be outweighed by the greater flexibility it provides, particularly given the wide range of matters each committee would deal with.

3.56 In many parliaments substitutions are allowed within a political party on the advice of a specified officer of the party, which following Standing Order 181 would logically be the relevant Whip. In the present Assembly, where one fifth of Members are

independents, there could be a desire for substitution between independent Members. This could be done on the written agreement of both Members.

Recommendation 8

The Committee recommends that the Assembly allows for the substitution of Members of a committee for specified periods of time or inquiries.

Government Chairs

3.57 The Leader of Government Business proposed that it be required that the Chair be a Government Member.

3.58 This is not an issue on which the Committee took evidence. It has nevertheless been the custom of the Assembly to elect a Government chair of most committees when the Government party holds the majority of Members, and Standing Orders require that the Chair of the Public Accounts Committee be a Government Member.

3.59 Therefore, the Committee has no objection to accommodating the Leader of Government Business' proposal.

Recommendation 9

The Committee recommends that the Chair of the portfolio scrutiny committees be a Government Member.

Consideration of Bills

3.60 The referral of Bills to committees is the central component of the Green Paper proposal to open Parliament to the people as it ensures Territorians have an opportunity to comment on the laws that will affect them. This proposal received widespread support in the submissions made to the committee.

3.61 As described in detail in the Green Paper, the proposal is for the Assembly to refer each Bill, other than those it deems to be urgent, to the relevant portfolio scrutiny committee following its introduction into the Assembly, the Minister's speech explaining the Bill and the Bill's first reading. The committee will then inquire into the Bill, including calls for public comments on the Bills and hearings where required, and then report to the Assembly and that report will then inform the Assembly's consideration of the Bill.

Timeframe

3.62 A key issue for this proposal is how much time to allow for consideration by the committee. Adequate consultation requires time, but unwarranted delay can be costly. In this regard the Queensland and New Zealand experience is informative.

- 3.63 Both New Zealand and Queensland provide a default period for committee consideration of six months.⁶ However, while in New Zealand the average time for consultation on a Bill is around four months,⁷ in Queensland the demand for a quick turnaround had often meant a committee was required to report back within weeks.⁸ The demand for ensuring that there was adequate consultation on Bills resulted in the *Constitution of Queensland Act* being amended to require that all Bills be referred to a committee for at least six weeks unless the Assembly declares the Bill to be urgent.⁹
- 3.64 A committee's consideration of a Bill comprises three stages:
- 1) introduction and referral of the Bill, committee's call for submissions, and initial Agency briefings,
 - 2) consideration of submissions and holding public hearings, and
 - 3) adoption and tabling of report.
- 3.65 Time is required between these periods to allow for stakeholders to prepare submissions and the committee to analyse the evidence and prepare its report.
- 3.66 There are substantial benefits with aligning the second stage of holding public hearings with a period of sittings as this:
- clearly signals that the committees' hearings on Bills are part of the Assembly's legislative process
 - makes it easier for the public to be involved as the time for hearings will be predictable and easier to plan around
 - makes participation by Members, particularly Members living outside Darwin, easier as hearings are included within their time in Darwin for the Assembly's sittings, which will also make it easier for committees to keep a quorum
 - reduces travel costs.
- 3.67 Conversely, separating the hearings on Bills from sittings would make public participation more difficult and make the process less efficient for Members.
- 3.68 Consequently, the Committee considers that the minimum time to be allowed for the referral of a Bill to a committee should span three sets of sittings, allowing time for written public comment after the Bill's introduction, to be followed by hearings as required at the subsequent sittings, and the tabling and consideration of the committee's report at the third set of sittings.
- 3.69 For simple, non-controversial Bills the committee would report back to the Assembly well before the end of the referral allowing the passage of the Bill to continue.

⁶ SO 295, New Zealand House of Representatives, *Standing Orders: in effect from 15 August 2014*, p. 87; SO 136(1), Legislative Assembly of Queensland, *Standing Rules and Orders of the Legislative Assembly*, p. 32.

⁷ Committee of the Legislative Assembly, *Review of the Parliamentary Committee System*, Report No. 17, Parliamentary Committees Queensland Parliament, Brisbane, February 2016, p. 76.

⁸ Neil Laurie, Queensland, Committee of the Legislative Assembly, *Review of the Parliamentary Committee System*, Submission No. 14, 2016, p. 5.

⁹ s 26B, *Constitution of Queensland Act*.

Typically, if no issues were raised requiring further consideration, then the committee would give the Assembly a 'no issues' report at the sittings following the Bill's introduction.

- 3.70 The Committee notes that the imposition of unreasonable timeframes caused the Queensland Parliament to impose a constitutional minimum for a committee's consideration of a non-urgent Bill. The Committee considers that setting a minimum time for the duration of Bills would help ensure adequate consultation. The Clerk of the Legislative Assembly noted:

The Assembly is in charge of its own destiny at all times. The Assembly can always determine something has to happen outside of the standing orders. Standing orders say you have to have a month between the presentation of a Bill and the question being put that it be read a second time. The Assembly can overcome any standing order if it wants to.¹⁰

- 3.71 While the Assembly would be able to suspend the Sessional Order to allow a shorter time for inquiry for a Bill, including a minimum period would set the standard.
- 3.72 The time required for an inquiry that spans three sittings is determined by the Assembly's sitting pattern. Having pairs of sitting weeks spread throughout the year between one and three months apart, as with the schedule for 2017, makes it easier for committees to manage their workload but results in requiring more weeks for the consideration of a Bill. If the Government was concerned with the length of time required for Bill inquiries this could be addressed by scheduling sittings more frequently throughout the year.

Recommendation 10

The Committee recommends that all Bills be required to be referred to a portfolio scrutiny committee for a period spanning at least three sittings of the Assembly (noting that the committee may complete its inquiry at any time during the period of referral), unless the Assembly declares the Bill to be urgent.

Agency Briefings and Coordination

- 3.73 The NT Public Sector Agencies' submission noted that Agencies undertake extensive consultation and analysis processes before a Bill is introduced into the Assembly, and that "it will be important to avoid the potential for confusion and fatigue in the consultation process, and to ensure that an additional consultation process adds value."¹¹ The submission goes on to explore options for working with scrutiny committee consultation:

One option which may assist in achieving efficiencies in terms of Scrutiny Committee consultation processes is to augment existing Government agency consultation processes. Currently, the extent of consultation depends on the complexity, sensitivity, scale of impact, etc. of the proposal. The consultation process that agencies employ and the results of consultation are generally part of the broader policy development and Cabinet Submission process. It may be

¹⁰ Committee Transcript, 5 December 2016, p. 7.

¹¹ Department of the Chief Minister, Submission No. 9, 2016, p. 4.

that Scrutiny Committee work could be informed by such agency consultation processes where appropriate.

Another area for consideration is the Regulatory Impact Statement (RIS) process which is a component of the Regulatory Making Framework...¹²

- 3.74 The Committee agrees that it will strengthen the process if the scrutiny committees can make use of the consultation and analysis work that has been done by Agencies. The effectiveness of the committees' examination of Bills will be enhanced if the committees can access early and full briefing material from Agencies on each Bill. Formalising procedures for such briefings, such as the Agencies providing a briefing pack to the relevant committee on referral including, where appropriate, the Regulatory Impact Statement and information from consultations, should increase efficiency.
- 3.75 There would also be benefit in establishing a routine for oral briefings.

Recommendation 11

The Committee recommends that the Government develops a system for providing briefing materials to the relevant portfolio scrutiny committee on the introduction of Bills in consultation with the committees.

References

- 3.76 The Green Paper proposed that the portfolio scrutiny committees inquire into any matter referred by the Assembly or a Minister. While the committees were to have a range of scrutiny functions within their portfolio areas the Green Paper did not propose a general power of self-referral within the committee's portfolio area.
- 3.77 Some Members expressed the view that the committees should have a general power of self-referral. The Committee notes that the most recent reforms to the Queensland portfolio committees included the power, in relation to its portfolio area, to "initiate an inquiry into any other matter it considers appropriate".¹³
- 3.78 The Clerk of the Legislative Assembly noted:
- A strong Assembly likes its committees to have plenty of power because the committees are always responsible back to the Assembly anyway. If they are self-referring, they cannot make decisions, they have to refer it back to the Assembly and the Assembly makes a decision one way or another about what they want to do with the recommendation from the committee.¹⁴
- 3.79 The inclusion of such a self-referral power would make its scrutiny powers within its portfolio area complete. This would also avoid the procedural burden of seeking a reference from the Assembly or a Minister to pursue a matter of importance outside its general terms of reference, or technical arguments regarding whether a specific matter required a separate reference.

¹² Department of the Chief Minister, Submission No. 9, 2016, p. 4.

¹³ *Parliament of Queensland Act 2001*, s 92(1)(d) (Qld).

¹⁴ Committee Transcript, 5 December 2016, p. 7.

- 3.80 The risks of including such a power are that the committees inquire into matters which are not a priority of the Assembly and distract from its agenda, or overburden themselves with too many references. Given that the committees will be broadly representative of the Assembly, and will have regard to balancing their own workload, the Committee does not consider that these risks are great.

Recommendation 12

The Committee recommends that the portfolio scrutiny committee have a general power to initiate inquiries within their portfolio areas.

Fundamental Legislative Principles: Bills and Subordinate Legislation

Application of fundamental legislative principles

- 3.81 The Green Paper proposed that the portfolio scrutiny committees consider whether any Bill introduced and any instrument of a legislative or administrative character which the Assembly may disallow or disapprove has sufficient regard to the rights and liberties of individuals and the institution of parliament, using the terms of the ‘fundamental legislative principles’ defined in s 4 of the *Legislative Standards Act 1992* (Qld). This would substantially divide the present role of the Subordinate Legislation and Publications Committee between the portfolio scrutiny committees and expand it to include the scrutiny of Bills.
- 3.82 The NT Public Sector Agencies’ submission noted that there may be times when parliament may wish to abrogate some of these principles, for example that “there may be the rare occasion in government decision-making where Parliament wishes to abrogate the right of natural justice.”¹⁵
- 3.83 The Committee notes that the reason for the scrutiny of compliance of laws with fundamental legislative principles is not to prevent any deviation from those principles but to ensure that any such deviation is only done consciously after having had regard to the implications of doing so. Such scrutiny is to make sure that whenever it is proposed that the Assembly make a law which erodes established rights, such as procedural fairness, this is drawn to the Assembly’s attention so it can determine whether the erosion of the right is proportional to the public benefit to be achieved.

Statements of compatibility

- 3.84 A number of parliaments require a Member introducing a Bill to also provide a statement on whether the Bill is compatible with human rights and, if it is not, the justification for the incompatibility.
- 3.85 This process had its genesis in jurisdictions, such as the United Kingdom, Victoria and the Australian Capital Territory, that were introducing a Bill of Rights that

¹⁵ Department of the Chief Minister, Submission No. 9, 2016, p. 8.

remained subject to Parliament. This process has more recently been introduced into the Federal Parliament, despite the absence of a Bill of Rights, with 'human rights' being defined as:

the rights and freedoms recognised or declared by the following international instruments:

- (a) the International Convention on the Elimination of all Forms of Racial Discrimination done at New York on 21 December 1965 ([1975] ATS 40);
- (b) the International Covenant on Economic, Social and Cultural Rights done at New York on 16 December 1966 ([1976] ATS 5);
- (c) the International Covenant on Civil and Political Rights done at New York on 16 December 1966 ([1980] ATS 23);
- (d) the Convention on the Elimination of All Forms of Discrimination Against Women done at New York on 18 December 1979 ([1983] ATS 9);
- (e) the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment done at New York on 10 December 1984 ([1989] ATS 21);
- (f) the Convention on the Rights of the Child done at New York on 20 November 1989 ([1991] ATS 4);
- (g) the Convention on the Rights of Persons with Disabilities done at New York on 13 December 2006 ([2008] ATS 12).¹⁶

3.86 The advantages of such a practice is that it provides early advice to the Parliament on the rights impacts of Bills and the reasons for those impacts, and requires those developing a Bill to give consideration to any possible rights implications before the Bill is introduced. It would also assist the portfolio scrutiny committees perform their assessment of the rights implications of Bills.

3.87 The disadvantage is that it places an additional administrative burden on the proposer of a Bill. However, in instances where a Bill clearly does not impact on human rights, this burden would not be great. In those instances where a Bill may have such an impact, it is appropriate that the proposer analyses those impacts and be required to justify them.

Recommendation 13

The Committee recommends that the Assembly require any Member who is introducing a Bill to table a statement on whether the Bill is compatible with Human Rights, as defined in the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cwlth).

Complaints About Regulations

3.88 Under the Green Paper proposal, the portfolio scrutiny committees review subordinate legislation for compliance with fundamental legislative principles while they are subject to disallowance.

3.89 Professor Ned Aughterson brought to the Committee's attention a procedure in New Zealand whereby a person or organisation aggrieved by the operation of a

¹⁶ Section 3(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cwlth).

regulation can bring a complaint to the Regulation Review Committee and, unless the committee unanimously agrees not to proceed, the committee must give the complainant an opportunity to address the committee.¹⁷

- 3.90 The Regulation Review Committee, in contrast to the Northern Territory equivalent, is able to review regulations at any time and not just while subject to disallowance. This is a significant difference as a regulation's impact on fundamental legislative principles may not always be apparent until it has been in operation for some time.
- 3.91 The risks of opening up longstanding subordinate legislation to inquiry and report by the committees are minimal. As the power to disallow would have passed the purpose of any report would be to recommend that the Government make a change. If the committees are given a general inquiry power as recommended above, this would become possible in any case.
- 3.92 The risk of providing for such a complaint procedure is that it may take up the time of the committee. However, this risk is small as vexatious or insubstantial complaints can be dismissed by unanimous agreement of the committee, and it is a matter of prioritisation by the committee to determine what action to take on any complaint it hears.
- 3.93 The Committee considers that this complaint procedure would further open Parliament to the people by enabling a person to raise specific concerns regarding existing regulations' compliance with fundamental legislative principles. The Committee considers that such a complaint procedure should not be expanded to general questions of policy, for which the established policy development mechanisms are more appropriate.
- 3.94 While the New Zealand Regulation Review Committee's complaint procedure applies to regulations only, a similar complaint procedure for the Assembly's portfolio scrutiny committees could logically be extended to Acts as well. However, any Act would have already been subject to the scrutiny of the Assembly when it was passed and there would be a risk of such a review procedure being used to inappropriately revisit decisions the Assembly has already made. Given the many competing demands on the committees' time, the Committee does not favour the extension of such a complaints procedure to Acts.

Recommendation 14

The Committee recommends that the Assembly provide that any person or organisation aggrieved by subordinate legislation operating in contravention of fundamental legislative principles be able to make a complaint in writing to the relevant portfolio scrutiny committee and, unless the committee unanimously agrees not to proceed with the complaint, the committee will give the complainant the opportunity to address the committee.

¹⁷ Standing Order of the New Zealand House of Representatives 320.

Estimates and Annual Reports

- 3.95 Submissions generally expressed support for having hearings on Annual Reports in addition to the annual Estimates hearings and it was recognised that this would enhance transparency and provide a more effective review of Agency performance than what is possible through the Estimates hearings alone.
- 3.96 Concerns about the resource implications of additional hearings, or about the reduced effectiveness of Estimates if the time for those hearings was decreased, led to differing views about the timing and content of the hearings. Concerns were also raised about reduced accessibility of the hearings if the two committees held hearings at the same time.
- 3.97 The NT Public Sector Agencies' submission stated:

While it is noted this proposal would provide enhanced transparency, consideration must also be given to the impact on public resources and therefore on government service delivery of two separate scrutiny sessions. There is a concern that the two proposed scrutiny sessions will result in a doubling of the considerable agency preparation time which currently occurs for the June Estimates hearings. This carries a commensurate risk of significant diversion of agency resources from core service delivery provision, and what could be argued to be an unwarranted expenditure of effort and resources.

Estimates preparations are very resource intensive for NT Public Sector agencies. If this model is adopted, it will be critical to ensure that the scrutiny sessions are designed and tightly managed so that the questioning aligns with the objective of the session (the forthcoming year's budget or past year's performance). If this is done, it is expected that agency preparation effort can be focused accordingly and streamlined, although a number of agencies have expressed doubt about the likelihood of any streamlining and are concerned about the resource implications of this split approach. On this point, it is noted that agency annual reports contain elements of identification of future priorities as well as past performance reporting and it is recommended that, as suggested in the Green Paper, the annual report scrutiny sessions deal only with past performance, otherwise the exercise will likely result in overlap with the June budget scrutiny session with the risk of doubling up of effort and diversion from service delivery activity.¹⁸

- 3.98 The Auditor-General, in addition to advocating for two weeks' hearings on both Estimates and Annual Reports, advocated for a structured approach to the examination of Annual Reports:

Whilst acknowledging the additional workload perceived by Agencies in presenting formally to scrutiny committees twice per year, scrutinising the Annual Reports would likely provide a more robust evaluation of performance following the tabling of Annual Reports. It would be useful to establish a template to support the scrutiny of Annual Reports which requires the Agencies to report against their key performance indicators as established in Budget Paper 3 relevant to the Annual Report under consideration. This would enable consistency in analysis of Annual Reports. The *Audit Act* currently provides the Auditor-General with a mandate to audit the systems an Agency maintains in order to effectively manage its performance however does not enable the Auditor-General to audit the Agency's actual effectiveness, efficiency and economy in meeting objectives. Amending the *Audit Act* in this regard may

¹⁸ Department of the Chief Minister, Submission No. 9, 2016, p. 6.

enable the Auditor-General to more effectively support the scrutiny committees' proposed Annual Report evaluation.¹⁹

- 3.99 While some Members expressed concerns about the logistics of having reasonable time to review annual reports before hearings, the Clerk of the Legislative Assembly commented:

You have three months from the end of the financial year for the head of the agency to get their annual report to their minister and their minister to get it into parliament. The whole process could be streamlined and tightened up to make sure the committee gets its annual reports and knows what is in them by 1 October no matter what. It is a matter for some discipline on the part of the departments and ministers to make sure those annual reports are in and publically available.²⁰

Estimates Committee

- 3.100 In discussions with the Committee the Leader of Government Business expressed concern regarding the Green Paper's proposal for the two portfolio scrutiny committees to hold the Estimates hearings on the annual appropriation Bill. The Government expressed a strong preference for keeping the practice of having a single dedicated committee for consideration of the Appropriation Bill and Budget Estimates.
- 3.101 The Committee concurred that having a dedicated Estimates Committee had worked well to date and that the separation of the Estimates process from the portfolio scrutiny committees would not have a significant impact their operation.
- 3.102 The Committee therefore agreed that the Estimates and Annual Reports hearing should be conducted by an Estimates Committee established after the introduction of the annual appropriation Bill.

Recommendation 15

The Committee recommends that the Assembly appoint an Estimates Committee each year to consider the annual appropriation Bill, Government owned corporations' statements of corporate intent, and annual reports.

Resource implications

- 3.103 The Committee notes the concerns about the resource implications of hearings on Annual Reports in addition to Estimates. However, the Committee considers that the remedy for this lies not in avoiding such scrutiny but by improving the committees' ability to provide structured scrutiny and the Agencies' performance reporting systems.
- 3.104 The Committee considers that the Auditor-General can play an important role in assisting the committees understanding performance information and developing a systematic approach to analysing it. However, the Committee notes that the Auditor-General's ability to assist the committees in this regard is somewhat constrained

¹⁹ Auditor-General of the Northern Territory, Submission No. 3, 2016, p. 3.

²⁰ Committee Transcript, 5 December 2016, p. 7.

compared to other Auditors-General throughout Australia due to the lack of a function to audit the actual effectiveness, efficiency and economy of Agencies in meeting their objectives. Enabling the Auditor-General to bring their professional expertise to assist the committees in the examination of performance information would facilitate a more focussed scrutiny of Annual Reports. The Committee therefore considers that the Government should explore strengthening the Auditor-General's role in this area.

Recommendation 16

The Committee recommends that the Government consider amendments to the *Audit Act* to enable the Auditor-General to audit Agencies' performance information.

Answers to advance written questions

- 3.105 The Auditor-General noted that "the Estimates process could be enhanced by requiring comprehensive answers to advance questions to be provided in writing for tabling sufficiently early for more directed questioning during the Estimates hearings as required."²¹
- 3.106 Previous Estimates Committees and Governments have taken a range of approaches to advance questions. Usually the authority under which such questions have been asked is the power given to all Members to ask Ministers written questions under Standing Order 113.
- 3.107 The Standing Orders' written questions empowers any Member to ask any Minister questions relating to public affairs or any matter of administration for which they are responsible and these questions must be answered within 30 days. These questions and answers are published in the Question Paper and form part of the Parliamentary Record.
- 3.108 Using the existing written questions system removes the extra administration, and consequential potential for confusion, that arises if a second written questions system is specifically created for Estimates. However, problems have arisen in the past with this system due to:
1. questions not being asked more than 30 days before Estimates hearings
 2. treating written questions as a special category of Estimates questions and not answering them in accordance with the prescribed procedure
 3. written questions not being answered within the required timeframe.
- 3.109 The first problem can be addressed by Members ensuring that they submit their questions in a timely manner. A simple consistent approach from year to year would help establish this practice. However, while the 30 day timeframe would be sufficient for general questions, it may not provide sufficient time for questions arising from

²¹ Auditor-General of the Northern Territory, Submission No. 3, 2016, p. 3.

Budget papers. This could be addressed by changing the timeframe for questions to be asked and answered following the introduction of the Appropriation Bill.

- 3.110 The second problem can be addressed by not supplementing the written questions system with other informal mechanisms. In previous Estimates, Ministers have proffered additional systems for handling advance questions outside that agreed by the Assembly. Such alternative systems require additional administrative arrangements and create informal rules which can confuse processes. A simple reliance on the Assembly's written questions system would avoid these problems.
- 3.111 The Committee notes that receiving written answers to questions will reduce a Minister's capacity to make clarifying remarks giving full context to the written answer. The Committee therefore proposes that the Estimates Committee provide Ministers with sufficient time to briefly address any comments they may have on the answers they provided to the Assembly in writing.
- 3.112 The third problem of questions not being answered within the required timeframe arguably occurred due to uncertainty about the status of written questions asked in anticipation of Estimates, and whether they were required to be answered at the relevant hearing. The Committee considers that simplified use of the Assembly's written questions system should solve this problem.

Recommendation 17

The Committee recommends that the written questions system under Chapter Eight of the Standing Orders be the only system used for questions in advance for Estimates hearings.

Recommendation 18

The Committee recommends that the time within which a Minister must respond to written questions should be modified so that any written question asked within a week of the introduction of an appropriation Bill must be responded to at least one clear day before the first day of the Estimates hearings.

Timeframe

- 3.113 The Green Paper proposed one week of hearings on Estimates and one week on Annual Reports, with Estimates hearings occurring in June after the introduction of the Appropriation Bill and Annual Report hearings occurring in November after departments' Annual Reports are tabled.
- 3.114 Concerns were raised about reducing the amount of time for Estimates to allow time for hearings on annual reports. This was a significant matter for debate within the Committee. A number of Members were concerned about any reduction in the time allowed for Estimates hearings and proposed that the hearings on Annual Reports be held in addition to the practice of having 60 hours for Estimates. In discussions, the Leader of Government Business indicated that the Government wished to maintain the current allocation of a total of 60 hours for Estimates and Annual Report hearings.

- 3.115 The Committee considered that the allocation of the available 60 hours for hearings between Estimates in June and on Annual Reports in November would be best made by the Estimates Committee.

Recommendation 19

The Committee recommends that the Estimates Committee:

- a) holds a total of 60 hours of hearings**
- b) determine the proportion of those hours to occur on the Appropriation Bill and Government owned corporations in June and on Annual Reports in November during the days allocated in the Assembly's meeting schedule.**

Methods of Engagement

- 3.116 The discussion above covers functions of the proposed portfolio scrutiny committees and how these can improve the effectiveness of the Assembly and provide opportunities for public participation. The level of participation will also be affected by how the committees go about engaging with the community.
- 3.117 The traditional approach to committee engagement is seeking public submissions and inviting individuals to appear at hearings. The Assembly's committees have used a range of other communication methods in the past, such as public forums in specific locations where local community members can discuss issues with Members of the committee and each other, facilitated discussions where a friend of a stakeholder group brings together interested individuals and facilitates a discussion with the committee, and committees attending meetings of a key stakeholder, such as a local council, to discuss issues of concern. Site visits have also provided a range of opportunities for committees to discuss issues of concern.
- 3.118 During this inquiry people made a range of other suggestions on how committees can further engage with a wider cross section of the community, including creating greater understanding of how the Assembly works, championing school visits and via social media.
- 3.119 The Committee agrees with the Clerk that "[w]e have a lot of work to do in the Northern Territory about explaining what committees are and how committees work and making that relevant to people".²² The Committee also accepts the timeliness of the broader challenge that East Arnhem Councillor Kaye Thurlow, a retired teacher of 30 years, who stated that "[i]t is a prime chance in this time of parliament to actually give people better education of how parliament operates."²³
- 3.120 Councillor Kaye Thurlow continued:

The Indigenous communities are very reliant on the Northern Territory parliament for managing many issues for them and yet they have very little

²² Committee Transcript, 5 December 2016, p. 3.

²³ Committee Transcript, 5 December 2016, p. 26.

understanding of how they can work with the government, ask questions of the government and how the government actually works.²⁴

3.121 The East Arnhem Regional Council's submission further stated:

It is believed that with a stronger understanding of the functions of Parliament community members will have a more positive and confident understanding of decisions being made by the Parliament that have a direct impact on their day to day lives. A more open parliamentary process will give an opportunity for our community members to feel included and to participate in some way in the process and reduce the impression of exclusion.²⁵

3.122 The Committee were very pleased to gain a youth perspective from Mr Samuel Swan, Member of the Chief Minister's Round Table for Young Territorians, whose keen interest and passion of parliamentary affairs is noteworthy. Mr Swan cited the importance of visits to schools, telling the Committee "the passion and interest can start earlier and that will be carried on throughout"²⁶ with the possibility that "the electoral roll percentage [of youth] could be increased".²⁷ Councillor Thurlow also informed the Committee that in her 30 years of teaching she did not remember any educational program about the Northern Territory Government ever coming to her school.

3.123 The Committee likewise welcomed the suggestion from Mr Swan of using social media as a way to get the communications out about engagement opportunities for youth, including the use of cross promotion techniques from media accounts such as the *NT News*. The use of a social media channel was also suggested by the NT Public Sector Agencies.²⁸

3.124 Furthermore, Mr Swan's suggestion that legislation reforms be submitted to the Chief Minister's Round Table, to glean a youth perspective, was also noted.

3.125 The Committee agrees that the portfolio scrutiny committees will need to continue to innovate to develop effective means of engaging people from across the Territory. Key to this will be sufficient funding of committee support to provide such services as social media channels, education and community liaison. This is discussed further below.

Committee Support

3.126 The portfolio scrutiny committees will require adequate secretariat services to provide research, logistic and administrative support. Without increased support the committees will not be able to effectively perform their range of functions. This could lead to public frustration with ineffective processes and consequential damage to the reputation of the Assembly, a significant burden on Members that would impact on

²⁴ Committee Transcript, 5 December 2016, p. 25.

²⁵ East Arnhem Regional Council, Submission No. 13, 2016, p. 4.

²⁶ Committee Transcript, 5 December 2016, p. 33.

²⁷ Committee Transcript, 5 December 2016, p. 33.

²⁸ Department of the Chief Minister, Submission No. 9, 2016, p. 4.

their capacity to perform their other duties, and ultimately a failure to obtain the planned benefits of the reform.

- 3.127 While the proposed consolidation of the number of committees will increase the efficiency with which support is provided to the committees, this would not make up for the increased workload of considering Bills, increased scrutiny and potentially increased inquiry references.
- 3.128 In his submission the Clerk of the Legislative Assembly, Mr Michael Tatham, outlined the minimum support such committees would require to be a secretary and senior research officer for each committee in addition to administrative support, which would take the total cost of Assembly committee support to \$1.2 million. Additional references could result in the need for additional research officers on a temporary or shared basis.
- 3.129 The Committee notes that this is a small price for an effective system of parliamentary scrutiny and review. It is only a fraction of the cost of \$6.7 million Tasmania pays to support its Legislative Council which performs similar functions, or the \$5 million estimated for the cost of an Independent Commission Against Corruption.²⁹
- 3.130 The Committee also notes that this increased support would require less funding than was spent on Assembly committee support in 2011-12.³⁰
- 3.131 In addition to general secretariat support, the Committee noted that some parliaments employ specialist community engagement officers to assist committees communicate with stakeholder groups. Members of the Queensland Parliament commended to the Committee the work of their Indigenous Liaison Officer who does important groundwork within communities in building understanding of, and links with, committees to enable more effective communication. When asked about the effectiveness of such a role, Ms Thurlow of the East Arnhem Regional Council commented:

Yes, quite often in communities a parliamentarian, or the Chief Minister or someone, comes to the community for a specific reason but the community is not even aware of what that reason is or what the parameters are in which he is coming to the community to investigate. So in that case it often happens that people will raise any sort of issues about anything and the reason the person has come to the community may be subverted by all these other issues that people raise. To understand what a committee is looking for specifically would be really helpful, I think, so people can focus on, 'Okay, they are coming to talk about these issues; we will focus on what our issues are regarding that.' I think that would be helpful in advance—to give them warning.³¹

- 3.132 Mr Tatham also noted the importance of liaison officers who could take time to build understanding before consultations occurred on a specific matter:

The process of that engagement is how you approach it and take time—we found in that statehood process we would send in advance teams a day before to go and talk to them about why someone was coming tomorrow and what they

²⁹ Clerk's Submission, p 6.

³⁰ Clerk's Submission, p 6.

³¹ Committee Transcript, 5 December 2016, p. 26.

were going to do. We made sure we had a whole process in place so by the time we got to the end of that learning of how to actually consult well on things that we were not going to give you things, nice presents—people still were not necessarily engaged all the time. We got to a stage where we understood how to best engage on things that people were not going to get excited about immediately.³²

- 3.133 The Committee considers that opening Parliament to the people requires not only having effective programs within the Parliament to enable people to engage but also the ability to communicate those programs and make them accessible to those who are not already involved. The Committee therefore considers that the committees should have specialist community engagement support.

Recommendation 20

The Committee recommends that the Government provide appropriate budget supplementation to the Department of the Legislative Assembly to provide for adequate secretariat support, committee expenses and a community liaison officer.

Meeting and Broadcast Facilities

- 3.134 A significant aspect of opening Parliament to the people is making its proceedings easily accessible. This is particularly important for proceedings such as committee hearings where people may want to follow what is said so they can make their own informed contribution to the debate. The Assembly's sittings and committees' public hearings are streamed on the Parliament's website to assist this. A broadcast quality feed of this video is also available to media outlets so they can rebroadcast proceedings without having a camera in attendance.
- 3.135 At present Parliament House only has infrastructure to record video and audio of a single proceeding. The Chamber and the Litchfield Room (Parliament House's main committee room) are connected to a single video control room and recording system. Consequently the video recording and in-house Hansard recording system can only follow one proceeding at a time.
- 3.136 With the introduction of two portfolio scrutiny committees it is highly desirable for Parliament House to have the infrastructure to record and webcast the proceedings of both committees simultaneously. Providing an independent control, recording and distribution system for the Litchfield Room would enable the recording and broadcasting of proceedings in both the Chamber and the Litchfield Room. However, for some hearings the Chamber will not be a very accessible venue and its regular use on sitting days may cause inconvenience for Members. It would therefore be preferable if both the Litchfield and Ormiston Rooms were able to record and broadcast video of proceedings.

³² Committee Transcript, 5 December 2016, p. 6.

Recommendation 21

The Committee recommends that the Government provide funding to enable independent recording and broadcast of video from the Litchfield and Ormiston rooms.

Committee Annual Reports

- 3.137 The Local Government Association of the Northern Territory submission recommended that the portfolio scrutiny committees provide annual reports on their activities.
- 3.138 Standing Orders only require the Public Accounts Committee to provide an annual report. As the PAC undertakes a range of functions in addition to inquiries leading to a report, its annual report provides a useful opportunity to report to the Assembly on those activities that do not form part of a formal inquiry and provides an overall view of its activities. Annual reporting by the portfolio scrutiny committees would similarly provide an opportunity for them to report to the Assembly on the full range of their activities and to review and assess their operations.

Recommendation 22

The Committee recommends that the Assembly require the portfolio scrutiny committees to each produce an annual report of their activities.

Chapter 4 Debating Petitions

- 4.1 The Territory Labor Discussion Paper *Parliamentary Reform: Opening Parliament to the People* canvasses options for enabling the community to determine what is considered in Parliament, such as debating petitions over a set threshold of signatures. The Committee's Green Paper proposed that after a petition that has 500 or more signatures is read in the Assembly, any Member may ask that the petition be debated. If that request is supported by four Members rising in their places, the Member may give notice of a motion regarding the petition which will be set down for the time for Matters of Public Importance with the same time limits. Standing Order 43 determines that the total debate time for a Matter of Public Importance is two hours, with the Proposer and next Member speaking allocated 20 minutes each and any other Members allocated 15 minutes.³³

Debates on Petitions in other Jurisdictions

- 4.2 In the UK House of Commons, petitions with over 100,000 signatures are considered by the Petitions Committee for debate in Westminster Hall. Debates on one or more petitions are scheduled on a Monday from 4.30 pm for up to three hours. There is a presumption that all petitions with over 100,000 signatures will be debated unless the subject has recently been debated or will be in the near future; or the issue is being pursued through another avenue such as a parliamentary or government body; or the subject is unsuitable for debate in parliament. Petitions with fewer than 100,000 signatures may be debated if there is widespread support in the House for a debate to be scheduled.³⁴
- 4.3 Petition debates that take place in Westminster Hall are general debates about the issues raised by the petition and cannot result in a vote to implement a request contained within a petition. The Petition Committee can make a request to the Backbench Business Committee for time to debate the petition in the House of Commons Chamber if there is evidence of widespread cross-party interest and a point of debate has emerged that would be suitable for a substantive motion.³⁵
- 4.4 In the Parliaments of New South Wales and Queensland, the Sessional Orders allow for the automatic discussion of petitions that have more than 10,000 signatures. These petitions are set down as an Order of the Day for discussion on the Thursday of the next sitting week and any further petitions received are set down on succeeding Thursdays. A total of 16 minutes speaking time is allocated to a petition with the first and second Members allocated five minutes each and two

³³ Legislative Assembly of the Northern Territory, *Standing Orders: In Force as of April 2016*, Legislative Assembly of the Northern Territory, Darwin, 2016, p. 12.

³⁴ UK Parliament, *How the Committee makes decisions*, viewed on 7 December 2016, <http://www.parliament.uk/business/committees/committees-a-z/commons-select/petitions-committee/role/how-the-committee-makes-decisions/>.

³⁵ UK Parliament, *How the Committee makes decisions*, viewed on 7 December 2016, <http://www.parliament.uk/business/committees/committees-a-z/commons-select/petitions-committee/role/how-the-committee-makes-decisions/>.

other Members allocated three minutes each. No substantive motions are allowed on the petitions.³⁶

Electronic Petitions

- 4.5 The Leader of the Opposition noted that the Green Paper does not include consideration of new technologies or non-traditional methods of engagement.
- 4.6 The Parliaments of Queensland, Tasmania and the Australian Capital Territory permit electronic petitions (e-petitions). The eligibility requirements to sign an e-petition require that petitioners must be a resident, elector or citizen of their respective jurisdiction.³⁷
- 4.7 The e-petition processes in each of these jurisdictions are similar. The Principal Petitioner must seek the sponsorship of a Member of Parliament, or in the case of Queensland, the Principal Petitioner may alternatively seek sponsorship from the Clerk. The e-petition is then assessed by the Clerk to ensure that it meets all requirements set out in Standing and Sessional Orders and if these requirements are met, it is posted on the Parliament's website. E-petitions are open on the Parliament's website for a period of between one week and six months and the length of time that the e-petition remains open is jointly determined by the Principal Petitioner and the sponsor. Once the e-petition has closed, it is presented in a hard copy format to the Parliament.
- 4.8 In 2016 the House of Representatives amended Standing Orders to allow e-petitions to be signed online and the progress of the petitions to be monitored. Both paper petitions and e-petitions are vetted by the Standing Committee on Petitions to ensure they comply with Standing Orders. E-petitions are open on the Parliament's website for a period of four weeks and after the e-petition has closed, it is presented to the House by the Chair of the Standing Committee on Petitions.
- 4.9 The Australian jurisdictions that do not have e-petition functionality on their websites all require that signatures to a petition are original and hand written, with the exception of the Northern Territory. Standing Order 119(9) of the Legislative Assembly of the Northern Territory states:
- any petition signed by electronic means or which claims to have been electronically endorsed by petitioners will be certified by the presenting Member that to the best of his or her knowledge the petition has been endorsed by the number of petitioners claimed.³⁸
- 4.10 Standing Orders 119(6) and 119(9) allow for e-petitions to be presented by a Member to the Assembly. The primary differences between the Northern Territory and the other jurisdictions that allow e-petitions is the absence of a functionality on

³⁶ Legislative Assembly of New South Wales, *Sessional and Other Orders: Fifty-Sixth Parliament, First Session No. 4*, 23 March 2016, p. 18; Queensland Parliament, *Sessional Orders of the Legislative Assembly 55th Parliament (First Session)*, 1 November 2016, pp. 3, 5, 7.

³⁷ The Committee notes that while Queensland and the Australian Capital Territory stipulate these requirements within their Standing Orders, Tasmania's Standing Orders do not and the eligibility requirements are simply included in the reference material about e-petitions on their website.

³⁸ Legislative Assembly of the Northern Territory, *Standing Orders: In Force as of April 2016*, Legislative Assembly of the Northern Territory, Darwin, 2016, p. 34.

the Assembly's website for petitioners to sign a petition through the website and the lack of petitioner eligibility requirements to sign e-petitions.

Issues for consideration

Thresholds

- 4.11 As previously noted, the Green Paper proposed setting the threshold for petitions to be debated in the Assembly at 500 or more signatures. During the 11th Assembly 59 petitions were presented to the Assembly while during the 12th Assembly 64 petitions were presented. Of these petitions 39% and 52% respectively had over 500 signatures, 15% and 33% had in excess of 1,000 signatures, while 5% and 14% had more than 2,000 signatures.³⁹
- 4.12 Consideration must be given to the appropriate threshold level for debating petitions to balance ensuring that petitions that are debated have an appropriate level of community support while not disadvantaging smaller community groups. In determining the threshold it should be noted that there are other avenues through which a Member can raise issues in the Assembly that are identified in a petition which does not meet the signature threshold amount.
- 4.13 By one measure the 500 signatures suggested in the Green Paper is comparable to the other jurisdictions examined. The United Kingdom's 100,000 threshold represents 0.22% of electors; New South Wales' 10,000 represents 0.2% of electors, and Queensland's 10,000 represents 0.36%. In the Northern Territory, 500 signatures would represent 0.36% of electors. However by other measures 500 signatures is very low by comparison. One hundred thousand signatures represents 143% of the number of electors in a typical United Kingdom electorate, and 10,000 signatures represents 20% of an average electorate in New South Wales and 31% of an average Queensland electorate. By contrast, 500 signatures represents around 9% of an electorate in the Northern Territory.
- 4.14 The high proportion of petitions that have previously had 500 signatures, and the fact that 500 signatures represents less than 10% of a single electorate, leads the Committee to the view that a higher threshold would be more appropriate. A threshold of 1,000 signatures would closer reflect the relative size of Northern Territory electorates in comparison with New South Wales and Queensland and in the previous Assembly would have resulted in the debate of a third of petitions presented.

³⁹ Legislative Assembly of the Northern Territory, *Index of Petitions to the 11th Assembly*, viewed on 7 December 2016, https://parliament.nt.gov.au/_data/assets/pdf_file/0010/382933/Index-to-Petitions-and-Petition-Responses.pdf; Legislative Assembly of the Northern Territory, *Index to Petitions of the 12th Assembly*, viewed on 7 December 2016, [https://parliament.nt.gov.au/_data/assets/pdf_file/0019/375310/Index to Petitions and Petition Responses 12th-Assembly.pdf](https://parliament.nt.gov.au/_data/assets/pdf_file/0019/375310/Index_to_Petitions_and_Petition_Responses_12th-Assembly.pdf).

Process

- 4.15 The proposal in the Green Paper for a two hour debate on the support of four Members with the option for a substantive motion would allow significant discussion of the issues raised and a statement of the view of the Assembly to ensue. However, practically speaking such time could only be devoted to a small number of petitions.
- 4.16 A 16 minute debate without a motion being put provides an opportunity for Members to expand on the issue raised by a petition in the Assembly. As the discussion is short it would be feasible to allow for a greater number of debates. While this process would not result in a vote on the petition, if any Member considered it to be a priority they would be able to give a notice of motion in the usual manner.
- 4.17 The Committee notes that many petitions relate to specific matters that may not require long debate, and many more popular petitions relate to matters of controversy that will be debated in other business in the Assembly.
- 4.18 Given the trade-off that must be made between the time allowed for debate and the number of petitions that can be debated, the Committee considers a process allowing for the automatic discussion of petitions over a certain threshold of 16 minutes comprising two Members speaking for five minutes each and two Members speaking for three minutes each provides the greatest opportunity for key issues regarding petitions to be placed on the public record, and therefore contributes the most to opening the Parliament to the people.

Non-conforming petitions

- 4.19 It is common practice for Members to seek the leave of the Assembly to present petitions that do not conform to Standing Orders. This is done to allow those who are seeking to have a view heard by the Assembly to do so despite not meeting the requirements of a petition.
- 4.20 The Leader of Government Business proposed that the automatic debate of petitions with 1,000 signatures not be extended to petitions that do not conform to Standing Orders. The Committee agrees that it is appropriate to limit the automatic debate to those petitions that conform to the Assembly's procedural requirements, such as being properly signed or stating what is being asked of the Assembly.

Responses to Petitions

- 4.21 The Committee noted that a vital part of the petition process was the Minister's response. As this is where the Government identifies what it is doing regarding the issues raised by the petition, the Committee considered that responses should be subject to a higher level of scrutiny. Following up on the response would help ensure adequate action by the Government on the issues raised.
- 4.22 The Committee therefore concluded that opportunity should be provided for Members to debate Government responses to petitions. As not all responses would require debate, the Committee proposes that a debate proceed if supported by four Members, as is currently the case for Matters of Public Importance. The debate

would comprise two Members speaking for five minutes and two for three minutes each and no substantive question, as is proposed for debates on petitions.

e-Petitions

- 4.23 As noted above, the Assembly presently allows petitions to be electronically signed but does not facilitate the provision of electronic petitions through its website.
- 4.24 One issue with the Assembly's existing rules is that they do not impose a residency requirement for petitioners. While a petition has always been expected to be made by people within the relevant jurisdiction, imposing a residency requirement has not been necessary as the likelihood of significant number of people from outside the jurisdiction signing a physical petition has been small. However, the risk that significant numbers from outside the jurisdiction may sign an electronic petition increases as the physical impediments are removed. This risk of out of jurisdiction petitioners is also less tolerable if the number of petitioners affects whether the petition is debated. The Committee therefore considers that Standing Orders should require that petitioners be residents of the Northern Territory.
- 4.25 The Leader of Government Business proposed in correspondence that this requirement be strengthened to limiting the right to petition to those on the electoral roll. This would have the unacceptable consequence of removing the right to petition of Territorians who are not on the roll. The Committee notes that the right to petition is merely the right to have your concerns placed before the Assembly. It does not, like the right to vote, include any decision-making power. The Committee is of the view that all who are resident within the Territory, and therefore subject to the laws of the Assembly and the Government's administration, should be able to raise their concerns with the Assembly, regardless of, for example, whether they are children or not Australian citizens.
- 4.26 The Committee further notes that the Electoral Commissioner advised that the *Electoral Act* does not permit him to provide an extract of the electoral roll to the Clerk of the Legislative Assembly, and independent Members are only provided an extract of the roll for their electoral division. Also, any use of electoral roll extracts for purposes other than those provided in s 14 of the *Electoral Act* is an offence and there is no regulation under the *Electoral Act* to provide a copy of the roll for such a purpose. The Committee therefore considers that being on the electoral roll would not be a workable condition.
- 4.27 Making provision for e-petitions through the Assembly's website would be an effective way of both making it easier to submit e-petitions and to impose residency requirements. However, the practicality of establishing such a feature on the site has not been explored by the Committee.

Recommendation 23

The Committee recommends that:

- 1) the Assembly provides that any petition conforming with Standing Orders with more than 1,000 signatures be set down on the Notice Paper as an Order of the Day to note the petition, unless the Speaker**

determines that it is frivolous, vexatious, has already been debated, would anticipate a debate, or should be combined with another petition, with the debate to comprise two Members speaking for up to five minutes each and two Members speaking for up to three minutes each,

- 2) the Assembly provides that each Minister's response to a petition tabled in the Assembly is set down on the Notice Paper for the following day only to be called on after the consideration of 'Committee reports, Auditor-General's reports and Government responses' whereupon if four Members rise in their place in support of putting the question 'that the response be noted' then the debate will proceed with two Members speaking for up to five minutes each and two Members speaking for up to three minutes each,
- 3) the Assembly requires that only people residing in the Northern Territory may petition the Assembly, and
- 4) the Standing Orders Committee investigate the options for enabling electronic petitions through the Assembly's website.

Chapter 5 Reforming Question Time

- 5.1 On 25 October 2016 the Assembly commenced reforming Question Time by only allowing Opposition and independent Members to ask questions on Wednesdays. This provides one Question Time a week free from ‘Dorothy Dix’ questions while maintaining all Members’ right to ask questions on other days. This reform was accompanied by a prohibition on the same Minister being asked consecutive questions to ensure Ministers have a break in questioning to allow them to refer to notes.⁴⁰
- 5.2 The Green Paper suggested further options of lifting the restriction on the number of supplementary questions and instead allowing supplementary questions at the discretion of the Speaker, removing the restriction on repeating a question, and reducing the time allowed to ask a question to 30 seconds.
- 5.3 The East Arnhem Regional Council’s submission expressed support for a number of the Question Time reforms proposed in the *Parliamentary Reform Labor Policy Discussion Paper*, including strengthening the Speaker’s power to ensure relevance of answers, having an electorate focussed Question Time and having a Chief Minister’s Question Time. Ms Thurlow also raised an example of how Question Time could be used to provide information on an important issue of local concern.⁴¹
- 5.4 Mr McNeill’s submission considered that the October 2016 reforms appear to have operated satisfactorily and they and the 30 second time limit for asking questions should be trialled for six to 12 months.
- 5.5 Mr Doran’s submission noted some frustration with the recent restriction on asking consecutive questions on Wednesdays and expressed some support for relaxing the restriction on supplementary questions and limiting questions to 30 seconds, noting that the latter may also require a higher relevance test to ensure the benefit of ‘to-the-point’ answers.
- 5.6 The Opposition’s submission expressed concern that the prohibition on consecutive questions at Wednesday’s Question Time reduced scrutiny.
- 5.7 No strong consensus emerged regarding what further reforms should be made to Question Time. The Committee therefore considered that the recent reforms should be allowed more time following which the Standing Orders Committee should consider what further changes would improve Question Time.

Recommendation 24

The Committee recommends that the Standing Orders Committee review the operation of the October 2016 reforms to Question Time after 12 months and consider whether further reforms would contribute to a more effective Question Time.

⁴⁰ Assembly Hansard, 25 October 2016.

⁴¹ Committee Transcript, 5 December 2016, p. 27.

Chapter 6 Prayers and Acknowledgement of Country

Prayers

6.1 Prayers are a feature of the routine of business in all Australian Houses of Parliament at the State, Territory and Commonwealth level except the Australian Capital Territory Legislative Assembly. In the Northern Territory, Standing Order 7 provides for prayers to be conducted by the Speaker or a nominee at the commencement of each day in accordance with an order of the Assembly.⁴² This requires each new Assembly to determine the form such prayers will take.

6.2 On 26 October 2016, the Thirteenth Assembly resolved to retain the prayer of the previous Assembly, which includes the parliamentary prayer as read in the House of Representatives followed by the Lord's Prayer:

Almighty God we humbly beseech thee to vouchsafe thy blessing upon this Assembly. Direct and prosper our deliberations to the advancement of thy glory and the true welfare of the people of the Northern Territory.

Our Father, which art in heaven, hallowed by thy name, thy kingdom come, thy will be done on earth as it is in heaven. Give us this day our daily bread, and forgive us our trespasses as we forgive them that trespass against us, and lead us not into temptation, but deliver us from evil, for thine is the kingdom, and the power and the glory, forever and ever, Amen.⁴³

6.3 As summarised in Table 1 below, some form of the parliamentary prayer followed by the Lord's Prayer is also currently practiced in the majority of other Australian legislatures.

Table 1: Prayers by Legislature

Jurisdiction	Parliamentary Prayer	Lord's Prayer	Standing Order
House of Representatives	Yes	Yes	Form of prayers provided for in SO38.
Senate	Yes	Yes	Form of prayers provided for in SO50.
Qld Legislative Assembly	No	Yes	Provision for prayers in Routine of Business (SO58), form not specified.
NSW Legislative Assembly	Yes	No	Form of prayer provided for in SO39.
NSW Legislative Council	Yes	Yes	Form of prayers provided for in SO28.
Vic Legislative Assembly	No	Yes	Prayers not provided for in Standing Orders.
Vic Legislative Council	No	Yes	Form of prayer provided for in SO4.02.
SA House of Assembly	Yes	Yes	Form of prayers provided for in SO39.
SA Legislative Council	Yes	Yes	Form of prayers provided for in SO51.
Tas House of Assembly	Yes	Yes	Form of prayers provided for in SO32.
Tas Legislative Council	Yes	Yes	Prayers provided for in SO28, form not specified.
WA Legislative Assembly	No	Yes	Provision for prayers in Routine of Business (SO58), form not specified.
WA Legislative Council	Yes	Yes	Provision for prayers in Routine of

⁴² Legislative Assembly of the Northern Territory, *Standing Orders: In Force as of April 2016*, Legislative Assembly of the Northern Territory, Darwin, 2016, p.4.

⁴³ Legislative Assembly of the Northern Territory, *Thirteenth Assembly Sessional Orders as adopted 26 October 2016*, Legislative Assembly of the Northern Territory, Darwin, 2016, p.4.

Jurisdiction	Parliamentary Prayer	Lord's Prayer	Standing Order
			Business (SO14), form not specified.
ACT Legislative Assembly	No	No	Period of silence (SO30).

6.4 Acknowledging the increasingly multicultural and multi-faith nature of Australian society, in 1995 the ACT Legislative Assembly resolved to break with tradition and adopt a 'prayer or reflection'.⁴⁴ As such, Standing Order 30 provides that:

Upon the Speaker taking the Chair at the commencement of each sitting, and a quorum of Members being present, the following shall be read:

Members, at the beginning of this sitting of the Assembly, I would ask you to stand in silence and pray or reflect on our responsibilities to the people of the Australian Capital Territory.⁴⁵

6.5 Recent debate has questioned the extent to which prayers in parliament undermines the spirit of Section 116 of the Australian Constitution regarding religious observance.⁴⁶ To date, attempts to abolish prayers in the Senate (1997 and 2014) and the NSW Legislative Council (2001 and 2003) have been unsuccessful.⁴⁷ In November 2016 the issue was raised in Queensland. However, since Standing Orders do not require the reading of Prayers, Premier Palaszczuk noted that it was a matter for the Speaker.⁴⁸

Acknowledgement of Country

6.6 The Legislative Assembly meets and conducts its business on Larrakia land, and the jurisdiction of the Northern Territory extends across lands of a number of Aboriginal peoples.

6.7 The Committee notes that apart from the Northern Territory and Western Australian parliaments, an Acknowledgement of Country is included in the routine of business in all other jurisdictions. However, as detailed in Table 2 below, the form, frequency and extent to which acknowledgements of country are provided for in Standing Orders varies across legislatures.

Table 2: Acknowledgement of Country by Legislature

Legislature	SO	When	Form
House of Representatives	38	Each sitting day prior to prayers	<i>I acknowledge the Ngunnawal and Ngambri peoples who are the traditional custodians of the Canberra area and pay respect to the</i>

⁴⁴ Mark McRae, Derek Abbott, Tom Duncan (eds), *Companion to the Standing Orders of the Legislative Assembly for the Australian Capital Territory*, ACT Legislative Assembly, Canberra, 2009, p. 114.

⁴⁵ Legislative Assembly for the Australian Capital Territory, *Standing Orders and Continuing Resolutions of the Assembly*, ACT Legislative Assembly, Canberra, June 2016, p.10.

⁴⁶ See for example: Ian Hunter, 'Parliament and Prayer' in *Flinders Journal History and Politics*, vol. 26, 2010 pp. 27 – 38; Anne Twomey, *Prayers in Parliament*, August 2012, viewed 21 November 2016, http://blogs.usyd.edu.au/cru/2012/08/prayers_in_parliament_and_the_1.html.

⁴⁷ Parliament of Australia, Questions on Notice: '4. Prayers – practices in other legislatures (Senator McKenzie)', 27 February 2014, viewed 26 November 2016, http://www.aph.gov.au/Parliamentary_Business/Senate_Estimates/fapactte/estimates/add1314/parliamentary/index.

⁴⁸ Jason Tin, 'Premier says ditching the Lord's Prayer 'matter for Speaker', in *The Courier Mail*, viewed 24 November 2016, <http://www.couriermail.com.au/news/queensland/queensland-government/premier-says-ditching-lords-prayer-matter-for-speaker/news-story/6f1ebf457ae866dbf89ffe5c424ba21d>

Legislature	SO	When	Form
			<i>elders, past and present, of all Australia's Indigenous peoples.</i>
Senate	50	Each sitting day after prayers	Acknowledgement as above
Qld Legislative Assembly	-	First day of each sitting week after prayers	<i>The Speaker acknowledges the Traditional Owners of the land upon which Parliament is assembled.</i>
NSW Legislative Assembly	39(2)	Each sitting day after prayers	<i>We acknowledge the Traditional Owners, the Gadigal People of the Eora Nation. We also acknowledge the Traditional Owners of the lands we represent and thank them for their custodianship of country.</i>
NSW Legislative Council	-	First day of each sitting period after prayers	Same as the Legislative Assembly
ACT Legislative Assembly	30	First day of each sitting period prior to the 'Prayer or Reflection'	<i>The Speaker shall acknowledge that the Assembly is meeting on the lands of the traditional custodians.</i>
Vic Legislative Assembly	-	First day of each sitting week after prayers	<i>We acknowledge the traditional Aboriginal owners of the land on which we are meeting. We pay our respects to them, their culture, their elders past, present and future, and other elders from other communities who may be here today.</i>
Vic Legislative Council	-	First day of each sitting week after prayers	<i>On behalf of the Victorian state Parliament I acknowledge the Aboriginal peoples, the traditional custodians of this land which has served as a significant meeting place of the first people of Victoria. I acknowledge and pay respects to the elders of the Aboriginal nations in Victoria, past and present, and welcome any elders and members of the Aboriginal communities who may visit or participate in the events or proceedings of Parliament in this week.</i>
SA House of Assembly	-	Each sitting day after prayers	<i>Honourable members, I respectfully acknowledge the traditional owners of this land upon which this parliament is assembled and the custodians of the sacred lands of our state.</i>
SA Legislative Council	-	Each sitting day after prayers	<i>We acknowledge Aboriginal and Torres Strait Islander peoples as the traditional owners of this country throughout Australia, and their connection to the land the community. We pay our respects to them and their cultures, and to the elders both past and present.</i>
Tas House of Assembly	33	First day of sitting periods after prayers ¹	<i>We acknowledge the traditional people of the land upon which we meet today, the Mouheneener people.</i>
Tas Legislative Council	-	As Above	Acknowledgement as above

¹ (a) the first day of sitting after an election;
(b) the first day of sitting for the calendar year;
(c) the first day of the budget sittings; and

(d) the first day of the Spring sittings.

- 6.8 As noted by Reconciliation Australia, an Acknowledgement of Country can be given by both Indigenous and non-Indigenous people and provides an opportunity to show respect for Traditional Owners and the continuing connection of Aboriginal and Torres Strait Islander people to Country.⁴⁹ While there are no set protocols or wording for acknowledgments of country, Reconciliation Australia suggests that such statements may take the following forms:

General: I'd like to begin by acknowledging the Traditional Owners of the land on which we meet today. I would also like to pay my respects to Elders past and present.

Specific: I'd like to begin by acknowledging the Traditional Owners of the land on which we meet today, the (people) of the (nation) and pay my respects to Elders past and present.⁵⁰

Consideration of Issues

- 6.9 The Green Paper invited submissions on whether the Assembly should retain its current prayers, adopt different prayers or a time of reflection, and whether, and what form of acknowledgement of country should also be included.

- 6.10 Of the submissions received, four addressed the issue of prayers and acknowledgement of country. With regards to prayers, two considered it appropriate to retain the current practice of starting the parliamentary day with prayers. While Mr McNeill favoured maintaining the "existing traditional prayers"⁵¹, the Auditor-General for the Northern Territory, Ms Julie Crisp, noted that she had "no specific comments as to the form or content."⁵²

- 6.11 Mr Brendan Doran PSM, however, suggested that something more contemporary and inclusive, such as the ACT precedent, would be the most appropriate and noted that:

If some gesture to the Judeo-Christian context of Westminster practice is preferred, the current NTLA Parliamentary Prayer could be retained. The language is inclusive enough to be acceptable to all Abrahamic religions (including Islam) and perhaps a number of other faith traditions.

The Lord's Prayer is more problematic in contemporary society and both current NTLA Prayers would not find favour with Atheists, Buddhists and strict adherents to traditional Aboriginal beliefs.⁵³

- 6.12 While not proposing any specific form or content, the submission from the Leader of the Opposition, Mr Gary Higgins, also favoured a more contemporary and inclusive approach:

⁴⁹ Reconciliation Australia, *Welcome to and Acknowledgement of Country*, viewed 21 November 2016, <https://www.reconciliation.org.au/wp-content/uploads/2016/05/Welcome-to-and-Acknowledgement-of-Country.pdf>.

⁵⁰ Reconciliation Australia, *Welcome to and Acknowledgement of Country*.

⁵¹ Ian McNeill PSM, Submission No. 5, 2016, p.3.

⁵² Julie Crisp (Auditor-General for the Northern Territory), Submission No. 3, 2016, p. 4.

⁵³ Brendan Doran PSM, Submission No. 8, 2016, p. 6.

The Opposition is of the view that the Assembly is there for the benefit and welfare of all Territorians and in that regard it should make efforts to modernise Parliamentary practice.⁵⁴

- 6.13 The aforementioned submissions also supported the inclusion of an Acknowledgment of Country. As Mr Doran pointed out:

the addition of Acknowledgement of Country is not only appropriate for the NT but long overdue. A general formula acknowledging traditional ownership/custodianship of Territory would seem most inclusive and reflect the Assembly's interest in greater outreach to all regions.⁵⁵

Mr McNeill also suggested that consideration be given to a generic form which acknowledges both traditional custodians and elders of the Northern Territory and Australia's Indigenous peoples, similar to that read in the House of Representatives.⁵⁶

- 6.14 As mentioned previously, Standing Order 7 currently provides for the conduct of prayers each day with the form and content determined by the Assembly. While the Committee acknowledges the arguments for and against retention of the parliamentary prayer and the Lord's Prayer, it is of the view that this is a matter for further consideration by the Assembly. The Committee does, however, consider it appropriate for Standing Orders to provide for an Acknowledgement of Country, with the form and content subject to an Order of the Assembly.

Recommendation 25

The Committee recommends that Standing Order 7 be amended to provide for an Acknowledgement of Country in accordance with an order of the Assembly.

⁵⁴ Leader of the Opposition, Submission No. 7, 2016, p. 7.

⁵⁵ Brendan Doran PSM, Submission No. 8, 2016, p. 6.

⁵⁶ Ian McNeill PSM, Submission No. 5, 2016, p.3.

Chapter 7 Ministerial Reports

- 7.1 In its submission the Labour Caucus proposed the introduction of ‘Ministerial Reports’ to “enable important issues that may not warrant a full ministerial statement to be debated in parliament”.⁵⁷
- 7.2 The submission proposed the following procedure:
- Notice of the topic for discussion should be given on a previous sitting day to allow all members of parliament adequate time to prepare contributions.
- Time limits for contributions would be 20 minutes for the first two speakers and 15 minutes for each subsequent contribution with no member being able to speak twice. Debate would be capped at two hours.⁵⁸
- 7.3 The Assembly had a procedure for ministerial reports from 2001 until 2009 that allowed five minute statements from Ministers to which one Opposition Member, and later also one independent Member, could respond for two minutes and the Minister could reply for two minutes. The total time allowed for Ministerial reports was no more than 30 minutes each sitting day.
- 7.4 No other Australian Lower Houses debates ministerial reports and all but the Australian Capital Territory Legislative Assembly limit time for ministerial statements. The South Australian House of Assembly does not provide for any response to the 15 minutes allowed to a Minister. The New South Wales and Queensland Legislative Assemblies allow a single Opposition nominee equal time as a Minister, and this is also the usual practice in the House of Representatives. The Western Australian Legislative Assembly allows three minute ‘brief ministerial statements’ which are not debated, as well as 20 minute ministerial statements to which the Opposition is allowed one 15 minute reply and other parties with at least five Members are allowed five minutes.
- 7.5 It is not clear to the Committee how providing for ministerial reports in addition to ministerial statements would further open parliament to the people. However, the Committee considers that the limitation of debates on matters not leading to a substantive question to contributions of 20 and 15 minutes and a global time limit of two hours has merit. It is arguable that issues requiring a full debate should be focussed on a substantive question so the debate is relevant to the issue of importance and the Assembly expresses a view on the matter. The Committee considers that such matters are best considered by the Standing Orders Committee.

Recommendation 26

The Committee recommends that the Assembly refer to the Standing Orders Committee the review of procedures for Ministers to report matters to the Assembly and the debate of important issues in the Assembly, including whether debates on ministerial statements should be subject to global time

⁵⁷ Territory Labor Caucus, Submission No. 6. 2016, p 2.

⁵⁸ Territory Labor Caucus, Submission No. 6. 2016, p 2.

limits and whether there should be additional processes for debating substantive issues of public policy.

Chapter 8 Meeting International Benchmarks

- 8.1 The Committee noted that the Queensland Parliament used the Commonwealth Parliamentary Association's *Benchmarks for Democratic Legislatures* as a framework for assessing its committee system.⁵⁹ The Clerk of the Legislative Assembly also brought to the Committee's attention the Latimer House Principles, which informed those benchmarks, as a useful objective guide for assessing parliamentary procedures.
- 8.2 The Australian Capital Territory in 2008 formally adopted the Latimer House Principles (see Appendix C) and in 2012 resolved to commission an independent review of its governance against the principles once in each Assembly.⁶⁰
- 8.3 The Committee considers that the Latimer House Principles and associated *Benchmarks for Democratic Legislatures* provide a useful framework for assessing the current proposals for reform.

Latimer House principles & CPA Benchmarks

- 8.4 At the 2003 Commonwealth Heads of Government meeting in Abuja, Nigeria, Prime Minister John Howard joined other Heads of Government in endorsing the *Latimer House Guidelines*, as agreed by Law Ministers, which specify the Commonwealth Principles on the accountability of and relationship between the three branches of Government.⁶¹ As such, the objective of these Principles is:
- to provide, in accordance with the laws and customs of each Commonwealth country, an effective framework for the implementation by governments, parliaments and judiciaries of the Commonwealth's fundamental values.⁶²
- 8.5 To facilitate strengthening and assessment of parliamentary democracy and accountability, in December 2004 the Commonwealth Parliamentary Association (CPA), in conjunction with the World Bank Institute, the United Nations Development Program, and the National Democratic Institute for International Affairs, established a study group to develop a "commonly accepted set of standards that parliaments could 'sign-on to.'" ⁶³ In December 2006 the study group released its *Recommended Benchmarks for Democratic Legislatures* consisting of 87 benchmarks that seek to address the main features of a fully functioning and empowered democratic parliament.

⁵⁹ Committee System Review Committee, *Review of the Queensland Parliamentary Committee System*, Legislative Assembly of Queensland, Brisbane, December 2010, p.27 ; Committee of the Legislative Assembly, *Review of the Parliamentary Committee System*, Report No. 17, Parliamentary Committees Queensland Parliament, Brisbane, February 2016, pp. 21-24.

⁶⁰ David Skinner and Tom Duncan, 'Reviewing the Latimer House Principles: The A.C.T. Experience.' Paper presented to the 43rd Presiding Officers and Clerks Conference, Solomon Islands, July 2012, pp.2-3.

⁶¹ Commonwealth Parliamentary Association, *Commonwealth (Latimer House) Principles on the Three Branches of Government*, April 2004, pp. 1-7 viewed 7 December 2016, <http://www.cpahq.org/cpahq/cpadocs/Latimer%20House%20Principles.pdf>

⁶² Commonwealth Parliamentary Association, *Commonwealth (Latimer House) Principles*, p.9

⁶³ Commonwealth Parliamentary Association, *Benchmarks for Democratic Legislatures: A Study Group Report*, December 2006, p. 7, viewed 8 December 2016, http://www.agora-parl.org/sites/default/files/cpa_-_benchmarks_for_democratic_legislatures_a_study_group_report_-_20.12.2006_-_en_-_standards.pdf.

- 8.6 The Committee was concerned to learn that there are a number of “areas where the Northern Territory Legislative Assembly has reported a negative result to Commonwealth Parliamentary Association surveys concerning the Latimer House Principles.”⁶⁴ The Committee notes that the proposed reforms will enable the Assembly to meet a number of the benchmarks regarding the “effectiveness of law making as an essential element of the good governance agenda”.⁶⁵ Namely, that:
- 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.
 - 6.3.1 Opportunities shall be given for public input into the legislative process.
 - 6.3.2 Information shall be provided to the public in a timely manner regarding matters under consideration by the Legislature.⁶⁶
- 8.7 However, the Clerk noted two areas where the Assembly continues to fall short of the Benchmarks are an independent parliamentary service and parliamentary appropriation.⁶⁷

Independent Parliamentary Service

- 8.8 The *Latimer House Guidelines for the Commonwealth*, included as an annex to the principles, recommends that “Parliament should be serviced by a professional staff independent of the regular public service.”⁶⁸ In support of this guideline, the CPA benchmarks state that:
- 5.1.1 The Legislature shall have an adequate non-partisan professional staff to support its operations including the operations of its committees.
 - 5.1.2 The Legislature, rather than the executive branch, shall control the parliamentary service and determine the terms of employment.
 - 5.1.3 The Legislature shall draw and maintain a clear distinction between partisan and non-partisan staff.
 - 5.4.1 The head of the parliamentary service shall have a form of protected status to prevent undue political pressure.
 - 5.4.2 Legislatures should, either by legislation or resolution, establish corporate bodies responsible for providing services and funding entitlements for parliamentary purposes and providing for governance of the parliamentary service.
 - 5.4.3 All staff should be subject to a code of conduct.⁶⁹
- 8.9 There is some recognition of these principles within the Northern Territory, with the *Public Sector Management and Employment Act* deeming the Speaker to be the

⁶⁴ Michael Tatham (Clerk of the Legislative Assembly), Submission No. 2, 2016, p. 1.

⁶⁵ Commonwealth Parliamentary Association, *Commonwealth (Latimer House) Principles*, p.12.

⁶⁶ Commonwealth Parliamentary Association, *Recommended Benchmarks for Democratic Legislatures*, pp. 5 & 8.

⁶⁷ Michael Tatham (Clerk of the Legislative Assembly), Submission No. 2, 2016, p. 1; Committee Transcript, 5 December 2016, p. 3 and p. 4.

⁶⁸ *Commonwealth (Latimer House) Principles on the Three Branches of Government*, Annex, Guideline VIII(4), p. 22.

⁶⁹ Commonwealth Parliamentary Association, *Recommended Benchmarks for Democratic Legislatures*, pp. 6-8.

Commissioner for Public Employment for staff of the Department of the Legislative Assembly⁷⁰ and the Public Sector Code of Conduct making provision for DLA staff assisting all Members,⁷¹ however the *Public Sector Employment and Management Act* makes the Clerk subject to the direction of the Chief Minister and the administrative arrangements order specifies the Department as accountable to the Chief Minister. Nevertheless, a tradition of an independent parliamentary service endures despite its limited recognition in law. As noted by the Clerk of the Legislative Assembly:

An interesting thing that occurs in the Northern Territory is the Speaker appears every year at estimates. Why? She has no input in the Budget. She does not appear in the Cabinet and promote what is required of the Budget. The Cabinet minister for the budget is the Chief Minister; however, there is a nice history of pretending we have a bit of separation there by the Speaker turning up every year at estimates and talking about the Budget.

She has very little to do with the appropriation, almost nothing to do with the appropriation. She does not have a meeting with the Treasurer and yet she appears every year at estimates and talks about the Budget.

It has become this nice idea that the Speaker is running a department; the Speaker does not run the department at all in terms of the administrative arrangements. The Department of the Legislative Assembly does not belong to the Speaker; it belongs to the Chief Minister.

...

I think the thing is also because there have not necessarily been any great problems as well. That is to do with the fact that there is a level of respect and understanding that the government is not forced to separate itself; it chooses to separate itself.

The Chief Minister of the day will say to the Speaker of the day, 'You will run that show'. It will be by more of a gentleperson's agreement than an actual fact of the law requiring that to occur. The fact that we have had nice arrangements in place is perhaps good enough but perhaps not good enough.⁷²

- 8.10 The Committee understands that elsewhere in Australia, and in the majority of other Commonwealth jurisdictions, the independence of the parliamentary service, in particular the Office of the Clerk, is enshrined in the constitution or some other form of legislation.⁷³ However, as the ACT found when considering the most appropriate legislative basis for its legislature's support agency, in small jurisdictions the benefits of a "cadre of well-qualified, competent and loyal staff experienced in parliamentary procedures"⁷⁴ has to be weighed up against the development and maintenance of

⁷⁰ *Public Sector Employment and Management Act 2012* (NT), Part 1, s 3.

⁷¹ Office of the Commissioner for Public Employment, *Code of Conduct Employment Instruction Number 12*, Darwin NT, Office of the Commissioner for Public Employment, 14 December 2011, p.5.

⁷² Committee Transcript 5 December 2016, pp. 3-4.

⁷³ Julia Knight, *Status of the Clerk: Are Mozambique and Tanzania the Most Appropriate role Models for the Northern Territory?*, January 2013, viewed 7 December 2016

http://www.aspg.org.au/research_papers/Julia%20KnightStatus%20of%20the%20Clerk.pdf, pp. 14-15.

⁷⁴ Commonwealth Parliamentary Association, *Administration and Financing of Parliament*, November 2005, viewed 7 December 2016, http://www.cpahq.org/cpahq/Main/Document_Library/Administration_and_Finance/Administration_and_Financing_of_Parliament_Study_Group_Report.aspx, p. 10.

“an entirely separate set of governance and administrative arrangements in parallel with the existing [public] service.”⁷⁵

- 8.11 By way of compromise, in 2012 the ACT passed the *Legislative Assembly (Office of the Legislative Assembly) Act* which provides for:
- the establishment of an Office of the Legislative Assembly as an autonomous instrumentality
 - codification of the roles, functions and independence of the Office and that of the Clerk
 - provisions for the appointment, suspension and termination of the Clerk by the Speaker.⁷⁶
- 8.12 Apart from the Clerk, all other staff of the Legislative Assembly remain ACT public servants. The rationale for maintaining a single public sector employment framework in the case of small legislatures includes staff mobility to ensure parliamentary officers a reasonable prospect for career progression, and the fact that being part of the wider public service effectively increases the potential recruitment pool available to the Office of the Legislative Assembly. As noted by Tom Duncan, Clerk of the ACT Legislative Assembly, introduction of the *Legislative Assembly (Office of the Legislative Assembly) Act*:
- provides for a robust legislative and administrative framework for the legislature’s support agency and gives effect to the separation of powers doctrine within the constraints of the ACT’s constitutional system.⁷⁷

Parliamentary Appropriation

- 8.13 Latimer House Guidelines for the Commonwealth provide that “An all-party committee of members of parliament should review and administer parliament’s budget which should not be subject to amendment by the executive”⁷⁸ and the CPA Benchmarks state that “Only the Legislature shall be empowered to determine and approve the budget of the Legislature.”⁷⁹
- 8.14 Following the ACT’s introduction of the *Legislative Assembly (Office of the Legislative Assembly) Act*, amendments were made to its *Financial Management Act* to provide for a separate appropriation Act for the office of the Legislative Assembly in accordance with the aforementioned guidelines and benchmarks. As Speaker Shane Rattenbury MLA noted at the time, these amendments represented

⁷⁵ Tom Duncan, ‘Enshrining Independence – The Establishment of the Office of the Legislative Assembly.’ Paper presented to the 43rd Presiding Officers and Clerks Conference, Solomon Islands, July 2012, p. 9.

⁷⁶ Legislative Assembly (Office of the Legislative Assembly) Act (ACT) 2012.

⁷⁷ Tom Duncan, ‘Enshrining Independence – The Establishment of the Office of the Legislative Assembly.’ Paper presented to the 43rd Presiding Officers and Clerks Conference, Solomon Islands, July 2012, p. 10.

⁷⁸ Commonwealth (Latimer House) Principles on the Three Branches of Government, Annex, Guideline VII(6), p. 22.

⁷⁹ Commonwealth Parliamentary Association, *Recommended Benchmarks for Democratic Legislatures*, p. 23.

“a major advancement in providing for the effective separation of the legislative arm of the government from the executive arm.”⁸⁰

- 8.15 The Committee is concerned that the Legislative Assembly appears to fall short of these Commonwealth guidelines in respect to an independent parliamentary service and parliamentary appropriation and considers that consideration should be given as to how this could be best addressed.

Recommendation 27

The Committee recommends that the Standing Orders Committee consider options for making the Assembly more closely align with the Latimer House Guidelines for the Commonwealth and the Commonwealth Parliamentary Association Benchmarks for Democratic Legislatures with respect to an independent parliamentary service and parliamentary appropriation and whether the Assembly should undertake a periodic review of its compliance with these guidelines.

Parliamentary Budget Office

- 8.16 Mr McNeill suggested the establishment and financial support of an independent Parliamentary Budget Office ⁸¹ for the Northern Territory, informing the Committee that:

the separation of the parliamentary service, having a separate parliamentary appropriation and the installation of a parliament budget office, or officer, is very much in line with best practice as included in the Latimer House Principles, which are broadly accepted across the Commonwealth. I suspect that if it is the job of the committee to proceed with other options for parliamentary reform under its current remit, which appears to be fairly broad, that those items could be taken into account.

Indeed, the resourcing of the new committee system is very important, and most of that is financial, and unless the parliament itself has some clout, it will very be dependent on the good will, or otherwise, of the government at budget time to allocate the appropriate funds.⁸²

- 8.17 Parliaments have identified the need for Members to have access to financial and economic analytical services. Federally in 2009, the then Leader of the Opposition, Hon Malcolm Turnbull MP in his budget reply spoke to the Coalition’s belief in the creation of an Australian version of America’s Congressional Budget Office which provides the Congress with objective and impartial advice and analysis on fiscal

⁸⁰ Shane Rattenbury, MLA, cited in Tom Duncan, ‘Enshrining Independence – The Establishment of the Office of the Legislative Assembly.’, p. 5; see also *Financial Management Act (ACT) 1996*, s. 20.

⁸¹ Ian McNeill PSM, Submission No. 5, 2016, p.5.

⁸² Ian McNeill PSM, in Committee Transcript, 5 December 2016, p.22.

policy and the effects of new policies.⁸³ Both the Federal⁸⁴ and New South Wales⁸⁵ Parliaments held their own inquiries into the establishment of Parliamentary Budget Offices in 2011. These inquiries have led to different models of their respective Parliamentary Budget Offices.

Federal

- 8.18 The Parliamentary Budget Office informs the Federal Parliament through the provision of independent and non-partisan analysis of the budget cycle, fiscal policy and the financial implications of proposals. It was established in 2013, through amendments to the *Parliamentary Service Act 1999*, and has an appropriation up to \$6 million.⁸⁶
- 8.19 The Parliamentary Budget Office is headed by an Independent Statutory Officer, the Parliamentary Budget Officer (PBO), who is appointed on 4 year terms, with a maximum of two terms, on a full-time basis⁸⁷ and is assisted by Parliamentary Service employees.⁸⁸ The appointment process is jointly driven by the President of the Senate and the Speaker of the House of Representatives⁸⁹ and also requires approval of the Joint Committee for Public Accounts and Audit.⁹⁰
- 8.20 The PBO's functions are:
- Outside the caretaker period for a general election, to prepare policy costings on request by Senators and Members, with the requests and the PBO's responses to be kept confidential if so directed by the requestor.
 - During the caretaker period for a general election, to prepare costings of publicly announced policies on request by authorised members of parliamentary parties or independent parliamentarians, with the requests and the PBO's responses to be made public.
 - To prepare responses (other than policy costings) to requests relating to the budget from Senators and Members, with the requests and the PBO's responses to be kept confidential if so directed by the requestor.
 - To prepare submissions to inquiries of parliamentary committees, on request by such committees, with the requests and the PBO's responses to be made public.

⁸³ Hansard, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansard%2F2009-05-14%2F0177%22>.

⁸⁴ The Parliament of the Commonwealth of Australia, Joint Select Committee on the Parliamentary Budget Office, http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=jscpbo/report/fullreport.pdf.

⁸⁵ Parliament of New South Wales, Joint Select Committee on the Parliamentary Budget Office, <https://www.parliament.nsw.gov.au/committees/DBAssets/InquiryReport/ReportAcrobat/5419/Inquiry%20into%20the%20Parliamentary%20Budget%20Office.pdf>.

⁸⁶ *Parliamentary Service Act 1999* (Cwlth), s 64D.

⁸⁷ *Parliamentary Service Act 1999* (Cwlth), s 64X.

⁸⁸ *Parliamentary Service Act 1999* (Cwlth), s 64A(2).

⁸⁹ Defined as the "Presiding Officers" in the *Parliamentary Service Act 1999* (Cwlth), s 7.

⁹⁰ *Parliamentary Service Act 1999* (Cwlth), s 64XA.

- After a general election, to report on the budget impacts of the election commitments of designated parliamentary parties.⁹¹
 - To conduct, on his or her own initiative, research and analysis of the budget and fiscal policy settings, with the results of this work to be made public.⁹²
- 8.21 In order to perform its statutory functions, the PBO requires access to information and documents owned, held, managed or administered by Commonwealth bodies. There are legislative working arrangements⁹³ between the PBO and other Commonwealth Bodies. These currently include:
- Memorandum of Understanding between the Parliamentary Budget Officer and the Heads of Commonwealth Bodies in relation to the provision of information and documents
 - Australian Government protocols governing the engagement between Commonwealth Bodies and the Parliamentary Budget Officer.⁹⁴
- 8.22 The PBO also publishes guidance documents to Senators and Members.⁹⁵
- 8.23 For clarification, outside and during a caretaker period, the PBO must also release publically:
- Policy costing requests, responses and/or withdrawals⁹⁶ as long they are not subject to the treatment of the confidential information provisions⁹⁷
 - Responses (other than policy costings) to requests relating to the budget by Parliamentary Committees and Senators or Members of the House of Representatives unless directed to treat the request as confidential⁹⁸
 - Requests for submissions to Parliamentary inquiry committees and the PBO's response itself
 - Results of any other work done in the performance of his/her functions including, in limited circumstances⁹⁹, any public statement in the public interest.

⁹¹ During the caretaker period for a general election, means a political party at least 5 members of which were members of the Parliament of the Commonwealth immediately before the caretaker period.

⁹² *Parliamentary Service Act 1999* (Cwth), s 64D.

⁹³ *Parliamentary Service Act 1999* (Cwth), s 64F.

⁹⁴ Working arrangements with Commonwealth Bodies,

http://www.apb.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Budget_Office/arrangements.

⁹⁵ Parliamentary Budget Office,

http://www.apb.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Budget_Office/guidance.

⁹⁶ *Parliamentary Service Act 1999* (Cwth), s 64U.

⁹⁷ *Parliamentary Service Act 1999* (Cwth), s 64V.

⁹⁸ *Parliamentary Service Act 1999* (Cwth), s 64H(3)(d).

⁹⁹ *Parliamentary Service Act 1999* (Cwth), s 64V.

New South Wales

- 8.24 In New South Wales, the Parliamentary Budget Officer (PBO) is appointed as an independent officer and operates only in the lead-up to NSW general elections and in accordance with the *Parliamentary Budget Officer Act 2010* (NSW). The NSW PBO is appointed for the duration of about nine months supported by Parliamentary Service staff and consultants if required.¹⁰⁰
- 8.25 The NSW PBO must be selected from a list of at least two persons recommended by a panel comprising of the Ombudsman, the Information Commissioner, and the Chairperson of the Independent Pricing and Regulatory Tribunal.¹⁰¹
- 8.26 Part 4 of the *Parliamentary Budget Officer Act 2010* (NSW) gives parliamentary leaders the obligation to have costed within five days of the election due date all the policies of the leader's party that are proposed to be implemented if the party is elected to Government at the next State general election and that are likely to impact on the current and relevant forward budget estimates. The NSW PBO is required to prepare costings of election policies to parliamentary leaders as soon as possible¹⁰² and that parliamentary leader may release those costings publically.¹⁰³ Furthermore, the NSW PBO is required to prepare a separate budget impact statement, for the respective policies of each parliamentary leader, which shows the impact of all the costed policies on specific financial indicators¹⁰⁴ 15 days before a State general election.¹⁰⁵
- 8.27 The NSW PBO may also issue guidelines¹⁰⁶ and revise, provide or release any of the election policy costings and budget impact statements to correct any errors.¹⁰⁷
- 8.28 The Committee considers that the Members of the Legislative Assembly, and the Northern Territory public, have a similar need for the financial analysis support provided by these PBOs. The Committee therefore proposes that the House Committee extend its consideration of support to Members to how best to meet this need for financial analytical services.

Recommendation 28

The Committee recommends that the House Committee inquire into and report on the provision of adequate financial analysis services for Members, including whether such services should be provided by a Parliamentary Budget Office.

¹⁰⁰ *Parliamentary Budget Officer Act 2010* (NSW), s 11.

¹⁰¹ *Parliamentary Budget Officer Act 2010* (NSW), s 6(2).

¹⁰² *Parliamentary Budget Officer Act 2010* (NSW), s 21.

¹⁰³ *Parliamentary Budget Officer Act 2010* (NSW), s 22.

¹⁰⁴ *Parliamentary Budget Officer Act 2010* (NSW), s 23(2A).

¹⁰⁵ *Parliamentary Budget Officer Act 2010* (NSW), s 23.

¹⁰⁶ *Parliamentary Budget Officer Act 2010* (NSW), s 25.

¹⁰⁷ *Parliamentary Budget Officer Act 2010* (NSW), s 26.

Members' Research Support

8.29 It has long been recognised that Members of parliament need independent research services to effectively discharge their duties. In recognition of this every other parliament in Australia has a library for its Members.¹⁰⁸

8.30 With the State Library moving into the new Parliament building in 1995, the Assembly's library facilities were taken over and the (former) Department of Arts and Museums provided library services to the Assembly in return for accommodation under a Memorandum of Understanding (MOU).

8.31 Mr McNeill informed the Committee:

that arrangement lapsed within a few years of the occupation of the building and, my understanding is that very little direct research capacity, in particular legislative research, is provided by the current library to the Assembly and its committees. That could easily be reconstituted. The inevitable requirement is for finance and staff. Whether it is the Committee's role to take up that issue in its report, or for the Speaker, perhaps, to engage the government on. The framework is there. It only needs to be renewed, strengthened and supported.¹⁰⁹

8.32 The Department of Tourism and Culture's submission outlined the service it provides to Members of the Legislative Assembly:

The Northern Territory (NT) Library currently operates a Parliamentary Library Service at Parliament House, to support Members of the Legislative Assembly, their staff and parliamentary staff in their official duties. This work includes answering inquiries and sourcing documents, providing alert services and training staff in the use of online information resources. The services provided by the Parliamentary Library Service are defined by a Memorandum of Understanding (MOU) between the (former) Department of Arts and Museums and the Legislative Assembly.¹¹⁰

8.33 The Department outlined the general services provided by other Parliamentary Libraries in Australia:

All Australian parliaments provide a similar library service to members and staff. In all jurisdictions except the NT, the Australian Capital Territory and Western Australia these services also extend to the provision of research papers, particularly relating to Bills coming before parliament. These papers generally set out the background to the Bill and summarise key research and data. They are prepared by research specialists employed within the parliamentary library service.

In some cases (Commonwealth, New South Wales and Victoria) these research papers are made publicly available online. Providing such access to these papers improves public knowledge of the legislative agenda, and fosters a deeper understanding of the issues that the Parliament is considering.¹¹¹

8.34 The Department also alerted the Committee to the opportunity that exists "to create a research service within the NT Library's Parliamentary Library Service in line with

¹⁰⁸ The Australian Capital Territory Legislative Assembly had library services provided by the Department of Territory and Municipal Services until the library services were transferred to the Assembly's Secretariat on 1 July 2009 to ensure that Members had a dedicated service. http://apla.org.au/act_library/, accessed 22 December 2016.

¹⁰⁹ Committee Transcript, 5 December 2016, p. 22.

¹¹⁰ Department of Tourism and Culture, Submission No. 12, 2016, p. 1.

¹¹¹ Department of Tourism and Culture, Submission No. 12, 2016, p. 1.

many other jurisdictions.”¹¹² The services could also extend to the provision of research papers, particularly relating to proposed Bills including background, summaries of key research and data which is prepared by specialists. The Department suggested that the size and scope of the service could be addressed through a revised MOU between the Legislative Assembly and the Department of Tourism and Culture together with the funding for salaries and a new space within the NT Library.

- 8.35 The Committee strongly supports expanding the level of library services provided to Members to better equip them to perform their duties and inform the public debate on Bills and other significant issues. The Committee also notes that the issues regarding an independent parliamentary service discussed above also extend to the provision of library services and considers that a more robust model of service provision would be for library staff under the employment of the Department of the Legislative Assembly to have access to the State Library’s resources.

Recommendation 29

The Committee recommends that the House Committee investigate the appropriate level and model of library services for Members of the Legislative Assembly, having regard to services provided in other jurisdictions, the research support needs of Members, and the need for independence in Members’ research support.

¹¹² Department of Tourism and Culture, Submission No. 12, 2016, p. 1.

Chapter 9 Review

- 9.1 The Committee has recommended the implementation of its proposed changes through Sessional Orders amending the Standing Orders for the remainder of this session of the Assembly. This is to allow the changes to be tried, and where required modified, before their incorporation into the Standing Orders.
- 9.2 The changes should be included into the Standing Orders when the Assembly considers they ought to be its established practice. This helps provide continuity from one Assembly to the next and avoids delays on the commencement of a new Assembly due to the need to decide anew what procedures to adopt.
- 9.3 The Committee therefore considers that the recommendations adopted should be subject to a program of review leading to decisions on which changes should be incorporated into the Standing Orders before the end of this Assembly.

Recommendation 30

The Committee recommends that the Standing Orders Committee review the operation of those recommendations of this Committee adopted by the Assembly after 12 months with a view to making recommendations for improvement and the incorporation of effective reforms into the Standing Orders before the end of this Assembly.

Appendix A: Submissions Received and Public Hearings

Submissions Received

1. Northern Territory Electoral Commission
2. Clerk of the Legislative Assembly of the Northern Territory
3. Auditor-General of the Northern Territory
4. Professor Ned Aughterson
5. Ian McNeill PSM
6. Territory Labor Caucus
7. Gary Higgins – Leader of the Opposition
8. Brendan Doran PSM
9. Department of the Chief Minister
10. Local Government Association of the Northern Territory
11. NT Greens
12. Department of Tourism and Culture
13. East Arnhem Regional Council

Public Hearings

Darwin: 5 December 2016

- Clerk of the Legislative Assembly of the Northern Territory
- Auditor-General of the Northern Territory
- Brendan Doran PSM
- Professor Ned Aughterson
- Ian McNeill PSM
- East Arnhem Regional Council
- NT Greens
- Chief Minister's Round Table of Young Territorians

Comment on Draft Recommendations

The Committee sought comment from the Leader of Government Business on draft recommendations on 20 February 2017, which was provided on 10 March 2017. The Committee then met with the Leader of Government Business on 22 March 2017.

Note: Copies of the material above is available on the Assembly's website:
<https://parliament.nt.gov.au/>.

Appendix B: Draft Motions to Implement the Committee’s Recommendations

Draft Sessional Order for Portfolio Scrutiny Committees and the Referral of Bills

That for the duration of this session of the 13th Assembly certain Standing Orders be amended as follows:

Insert at the end of Standing Order 39(1) (Matters not open to debate) the following Sessional Order:

- (k) “that the Bill now be read a first time” (although a speech explaining the Bill is allowed – SO 143)
- (l) amendments recommended by a portfolio scrutiny committee “be adopted as part of the Bill” (SO 145)

Insert:

- (a) into the table in Standing Order 43 (Speech time limits) the following Sessional Order:

Bills	
Motions for managing Bills under Standing Order 144A(1)	
Mover	5 minutes
Member next speaking	5 minutes
Consideration in detail of appropriation Bill (Standing Order 144C(4))	
Whole debate not to exceed	5 hours
Ministers and Leader of the Opposition	20 minutes
Other Members	10 minutes

- (b) at the end of Standing Order 43:

- (5) consideration in detail of an appropriation Bill under Standing Order 144C(4)

Suspend Standing Order 143 and replace it with the following Sessional Order:

STANDING ORDER 143 (AS SUSPENDED AND REPLACED BY SESSIONAL ORDER)

First Reading of a Bill

- (1) On presenting a Bill the Member will table a signed Explanatory Statement and a statement on whether the Bill is compatible with Human Rights, as defined in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cwlth) unless the Bill is an annual appropriation Bill.
- (2) The Member will then move “That the Bill now be read a first time” and give a speech explaining the Bill (‘explanatory speech’). This question will be put without amendment or debate.
- (3) If the question for the first reading of the Bill fails, the Bill shall proceed no further.

Insert the following new Sessional Orders after Standing Order 144:

SESSIONAL ORDER 144A

Bill’s referral to a portfolio scrutiny committee

- (1) After the first reading of a Bill other than an annual appropriation Bill, the Member in charge of the Bill is to immediately move either:
 - (a) a motion referring the Bill to a particular portfolio scrutiny committee for report by a particular date, or
 - (b) “that the Bill be declared to be urgent”.
- (2) The date by which the committee must report must not be earlier than the first meeting day of the second set of meetings following the first reading (ie, the second resumption of meetings after a period of at least two weeks when the Assembly has not met).
- (3) The mover and one other Member may speak for up to five minutes to this motion and then the question is to be put.
- (4) This motion may be amended, but if the motion, with or without amendment, is defeated, then the Bill shall proceed no further.
- (5) If the Bill is declared to be urgent, the Member in charge of the Bill shall move:
 - (a) “that the Bill be now read a second time”, or
 - (b) “that the second reading of the Bill be made an order of the day for a later hour”.
- (6) After the first reading of an annual appropriation Bill, the second reading of the Bill is to be set down on the notice paper as an order of the day for a later hour.

SESSIONAL ORDER 144B

Portfolio scrutiny committee reports on Bills

- (1) A portfolio scrutiny committee's report on a referred Bill may recommend whether to pass the Bill and may recommend amendments to the Bill that are relevant to the subject matter of the Bill.
- (2) The committee must table its report on a Bill by the date set by the Assembly for report.
- (3) The Assembly may change the date set for a report on a Bill by motion.
- (4) Following the tabling of a report on a Bill, or expiry of the date for report, the second reading of the Bill will be set down on the notice paper as an order of the day.

SESSIONAL ORDER 144C

Estimates Committee consideration of appropriation Bills

- (1) After an annual appropriation Bill has been read a second time the Assembly shall establish an Estimates Committee to consider:
 - (a) the annual appropriation Bills and related papers
 - (b) the statements of corporate intent of any Government owned corporations; and
 - (c) Agency annual reports.
- (2) The Assembly is by Order to:
 - (a) allocate the dates for the committees' hearings;
 - (b) set a date by which the committees must report on the appropriation Bill to the Assembly; and
 - (c) make any other provisions relating to the committees' consideration of the appropriation Bills as it sees fit.
- (3) The Estimates Committee will determine the times it will hold hearings on the days allocated by the Assembly, provided that the total time for all hearings of the Committee will not exceed 60 hours, and the time for hearings on the Appropriation Bill for each of the Chief Minister and Treasurer will not exceed 8 hours and for each other Minister shall not exceed 7 hours.
- (4) On the presentation of the committee's report on the annual appropriation Bill to the Assembly, or the expiry of the time by which the committee is to report, the Assembly will consider the question "that the Committee's report be noted and the expenditure proposed in the appropriation Bill be agreed to". The time limits for this debate will be Ministers and Leader of the Opposition 20 minutes; other Members 10 minutes; and the question must be put after 5 hours.
- (5) When this motion has been agreed to by the Assembly, the third reading may be taken into consideration immediately.

Suspend Standing Order 145 and replace with:

STANDING ORDER 145 (AS SUSPENDED AND REPLACED BY SESSIONAL ORDER)

Second Reading of a Bill

On the order of the day for the second reading of a Bill being called on:

- (1) If a committee report on the Bill has recommended any amendments to the Bill, the Member in charge of the Bill may move that any or all of the amendments be adopted as part of the Bill and the question shall be put without amendment or debate.
- (2) The Member in charge of the Bill shall move either:
 - (a) “that the Bill be now read a second time”; or
 - (b) “that the second reading of the Bill be made an order of the day for a later hour (or day)”.

Suspend Standing Order 146 and Standing Order 147.

Suspend Standing Order 176 and replace with:

STANDING ORDER 176 (AS SUSPENDED AND REPLACED BY SESSIONAL ORDER)

Portfolio Scrutiny Committees

- (1) Two portfolio scrutiny committees shall be appointed at the commencement of each Assembly.
- (2) The Assembly will allocate each Ministerial portfolio and related Government Agencies, or parts of a Government Agencies, to a portfolio scrutiny committee.
- (3) The functions of the portfolio scrutiny committees shall be, in relation to their portfolio areas, to inquire and report on:
 - (a) any matter referred to it:
 - (i) by the Assembly;
 - (ii) by a Minister; or
 - (iii) on its own motion.
 - (b) any Bill referred to it under Standing Order 144A;
 - (c) in relation to any Bill read a first time in the Assembly, and any instruments of a legislative or administrative character which the Assembly may disallow or disapprove:
 - (i) whether that legislation has sufficient regard to the rights and liberties of individuals, including whether the legislation:

- (A) makes rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review; and
 - (B) is consistent with principles of natural justice; and
 - (C) allows the delegation of administrative power only in appropriate cases and to appropriate persons; and
 - (D) does not reverse the onus of proof in criminal proceedings without adequate justification; and
 - (E) confers power to enter premises, and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer; and
 - (F) provides appropriate protection against self-incrimination; and
 - (G) does not adversely affect rights and liberties, or impose obligations, retrospectively; and
 - (H) does not confer immunity from proceeding or prosecution without adequate justification; and
 - (I) provides for the compulsory acquisition of property only with fair compensation; and
 - (J) has sufficient regard to Aboriginal tradition; and
 - (K) is unambiguous and drafted in a sufficiently clear and precise way.
- (ii) whether that legislation has sufficient regard to the institution of Parliament, including whether a Bill:
- (A) allows the delegation of legislative power only in appropriate cases and to appropriate persons; and
 - (B) sufficiently subjects the exercise of a delegated legislative power to the scrutiny of the Legislative Assembly; and
 - (C) authorises the amendment of an Act only by another Act;
- or whether an instrument:
- (D) is within the authorising law which allows the instrument to be made; and
 - (E) is consistent with the policy objectives of the authorising law; and
 - (F) contains only matter appropriate to subordinate legislation; and
 - (G) amends statutory instruments only; and

- (H) allows the subdelegation of a power delegated by an Act only in appropriate cases and to appropriate persons and if authorised by an Act.
 - (d) the integrity, economy, efficiency and effectiveness of government financial management by examining the public accounts, reports of the Auditor-General, and any other reports tabled pursuant to the *Financial Management Act* or the *Audit Act*;
 - (e) the performance and operation of Agencies;
 - (f) the reports by statutory bodies tabled in the Assembly, including the relevant committee examining recommendations of the Electoral Commissioner tabled under section 313 of the *Electoral Act*.
- (4) Each portfolio scrutiny committee shall consist of seven Members.
 - (5) The Committee will elect a Government Member as Chair.
 - (6) Each committee will provide an annual report of its activities to the Assembly.

Suspend Standing Orders 177 and replace with

STANDING ORDER 177 (AS SUSPENDED AND REPLACED BY SESSIONAL ORDER)

Complaints regarding subordinate legislation

- (1) Where a complaint is made to the relevant portfolio scrutiny committee or to the chair of the committee by a person or organisation aggrieved at the operation of an instrument of a legislative or administrative character which the Assembly may disallow or disapprove (regardless of whether or not the time during which such disallowance or disapproval can be made has expired), the complaint must be placed before the committee at its next meeting for the committee to consider whether, on the face of it, the complaint relates to one of the matters under Standing Order 176(3)(c).
- (2) The committee will give the person or organisation making the complaint an opportunity to address it on whether the instrument has sufficient regard to the rights and liberties of individuals or the institution of parliament unless the committee agrees by unanimous resolution not to proceed with the complaint.

Suspend Standing Order 178

Insert after Standing Order 181:

STANDING ORDER 181A (AS INSERTED BY SESSIONAL ORDER)

Substitution of Members

- (1) In the case of illness or inability to attend by a Member of a committee, or where a Member decides to stand down from a committee for a period of time or for a particular inquiry,
 - (a) where the Member is a Government or Opposition Member, the relevant Whip may nominate in writing to the Speaker another Member to attend that committee for a period of time or particular inquiry, or
 - (b) where the Member is not a party-aligned Member, that Member may nominate in writing to the Speaker another Member to attend that committee for a period of time or particular inquiry, with the letter of nomination being signed by both Members.
- (2) Where a Member is appointed in accordance with (1), that Member has all the rights of the Member replaced.
- (3) Where the Member substituted in accordance with (1) is the Chair or Deputy Chair, the committee will elect a Member to be the Chair or Deputy Chair for the duration of the substitution.

Omit from Standing Order 193(2) “public” and “and must withdraw when the committee is deliberating or taking evidence in camera”.

Draft Sessional Order for Appointing Scrutiny Committees

- (1) Pursuant to Standing Order 176 (as suspended and replaced by Sessional Order), the Assembly appoints the following portfolio scrutiny committees:
 - (a) A committee called the Justice and Families Committee to which is allocated the portfolios of Children, Attorney-General and Justice, Health, Housing and Community Development, Education, and Territory Families; and
 - (b) A committee called the Finance and Planning Committee to which is allocated the portfolios of Chief Minister, Aboriginal Affairs, North Australia, Police, Fire and Emergency Services, Trade, Business and Innovation, Treasurer, Infrastructure, Planning and Logistics, Essential Services, Public Employment, Primary Industry and Resources, Environment and Natural Resources, Tourism and Culture and Corporate and Information Services.
- (2) The Members of the portfolio scrutiny committees will be four Government Members and one Opposition Member nominated to the Speaker in writing by the respective Whip and two non-party aligned Members to be appointed by motion

Draft Sessional Order regarding response times for written questions before Estimates.

That for the duration of this session of the 13th Assembly Standing Order 114(2) be amended by:

- (a) inserting after "receipt", " , apart from questions asked within 7 calendar days after the introduction of an annual appropriation Bill, in which case the Minister should respond within 30 days and at least one clear day before the commencement of Estimates hearings on that appropriation Bill".

Draft Sessional Order on Debate of Petitions signed by 1,000 or more persons

That for the duration of this session of the 13th Assembly:

1. Insert into Standing Order 121 after "allowed" the words " , except for petitions set down on the Notice Paper under Standing Order 121A"
2. Insert the following new Sessional Order after Standing Order 121:

STANDING ORDER 121A

Debate on Petitions signed by 1,000 or more persons

- (1) The subject matter of every petition tabled in the Assembly and announced by the Clerk as having been signed by 1,000 or more persons and conforming with Standing Orders shall be set down on the Notice Paper as an Order of the Day for the noting of petitions, unless the Speaker determines that:
 - (a) the subject matter of the petition is so frivolous or vexatious as to not warrant the attention of the Assembly by way of debate under this sessional order; or
 - (b) a debate on a petition on the same subject has already taken place in the same session; or
 - (c) a debate on a petition would anticipate debate on another order on the notice paper; or
 - (d) other petitions on the same subject are also set down on the notice paper, in which case all such petitions shall be combined in the same order.
- (2) In determining whether a debate on the same subject has already taken place in the same session under (1)(b) the Speaker will have regard to whether the subject of the petition is the same in substance (not form) as a previous petition which has already been debated in that session.
- (3) Motions that the Assembly take note of a petition will be brought on for debate according to the adopted Routine of Business, in the order in which they are placed on the notice paper.

- (4) The mover and next Member speaking may speak for five minutes each and two other Members may speak for three minutes each after which the question shall be put.
- (5) If a Member does not seek the call when the Order of the Day to note a petition is called on that Order will lapse.
- (6) The motion to note the petition cannot be amended.
- (7) A Member shall not call a lack of quorum during the debate.

3. Insert into the table in Standing Order 43 (Speech time limits) the following Sessional Order:

Petitions	
Motions to note	
Mover	5 minutes
Member next speaking	5 minutes
Two other Members	3 minutes

4. Insert into the Sessional Order on the Routine of Business after “Discussion pursuant to Standing Order 66 (Matter of Public Importance)”, “Debate on petitions signed by 1,000 or more persons”.

Draft Sessional Order on Debate of Government Responses to Petitions

That for the duration of this session of the 13th Assembly:

1. Insert the following new Sessional Order after Standing Order 123:

STANDING ORDER 123A

Debate on Government responses to petitions

- (1) A response to a petition presented to the Assembly shall be listed on the Notice Paper for the next meeting day as ‘Government Responses to Petitions Tabled Last Meeting’.
- (2) According to the adopted Routine of Business, the Speaker shall in turn read the title of each Government response to a petition tabled last meeting and ask if the Assembly wishes to note the response.
- (3) If four Members rise in their place to seek the call, the Speaker shall give the call to the first Member rising to move “that the Assembly takes note of the response to the petition”.
- (4) The mover and next Member speaking may speak for five minutes each and two other Members may speak for three minutes each after which the question shall be put.
- (5) The motion to note the response cannot be amended.

- (6) A Member shall not call a lack of quorum during the debate.
- (7) Once the Speaker has asked if the Assembly wishes to note the response under (2) above, the response will no longer be listed on the Notice Paper for the next day.

2. Insert into the table in Standing Order 43 (Speech time limits) the following Sessional Order:

Response to Petitions Motions to note	
Mover	5 minutes
Member next speaking	5 minutes
Two other Members	3 minutes

3. Insert into the Sessional Order on the Routine of Business as the final item for each day "Consideration of Government responses to petitions".

Draft Sessional Order on Requiring Petitioners be a Resident of the Northern Territory

That for the duration of this session of the 13th Assembly Standing Order 119 be amended by inserting after clause (6):

- (6A) every petitioner must be a resident of the Northern Territory and include their address on the petition

Draft Sessional Order on Acknowledgement of Country

That for the duration of this session of the 13th Assembly Standing Order 7 be suspended and replaced with:

STANDING ORDER 7

Acknowledgement of Country and Prayers

An acknowledgement of country and prayers are conducted by the Speaker or nominee at the commencement of each day in accordance with an order of the Assembly.

Draft referral to the Standing Orders Committee

The Standing Orders Committee inquire into and report on:

- (1) options for enabling electronic petitions through the Assembly's website, including the costs of establishing and maintaining such a facility.
- (2) the first 12 months of the operation of the October 2016 reforms to Question Time and whether further reforms would contribute to a more effective Question Time.

- (3) options for making the Assembly more closely align with the Latimer House Guidelines for the Commonwealth and the Commonwealth Parliamentary Association Benchmarks for Democratic Legislatures with respect to an independent parliamentary service and parliamentary appropriation and whether the Assembly should undertake a periodic review of its compliance with these guidelines.
- (4) the first 12 months of the operation of the recommendations of the Select Committee on Opening Parliament to the People adopted by the Assembly.
- (5) by November 2019, whether any of the Sessional Orders adopted during this Assembly should be incorporated into the Standing Orders.

Draft referral to the House Committee

The House Committee inquire into and report on:

- (1) the provision of adequate financial analysis services for Members of the Legislative Assembly, including whether such services should be provided by a Parliamentary Budget Office.
- (2) the appropriate level and model of library services for Members of the Legislative Assembly, having regard to services provided in other jurisdictions, the research support needs of Members, and the need for independence in Members' research support.

Appendix C: Latimer House Principles

Continuing Resolution 8A: Legislative Assembly for the Australian Capital Territory¹¹³

LATIMER HOUSE PRINCIPLES

Endorsement of the Commonwealth (Latimer) House Principles on the Three Branches of Government

Resolution agreed by the Assembly

11 December 2008 (amended 23 February 2012)

That:

(1) Preamble

Members of the Legislative Assembly endorse and adopt the Commonwealth (Latimer) House Principles on the Three Branches of Government as agreed by Law Ministers and endorsed by the Commonwealth Heads of Government Meeting, Abuja, Nigeria, 2003.

Members do so in acknowledgment that the principles express the fundamental values they believe should govern the relationship between the three branches of government in the Australian Capital Territory.

The Principles

(2) **Objective**

The objective of these Principles is to provide, in accordance with the laws and customs of each Commonwealth country, an effective framework for the implementation by governments, parliaments and judiciaries of the Commonwealth's fundamental values.

(a) The Three Branches of Government

Each Commonwealth country's parliaments, executives and judiciaries are the guarantors in their respective spheres of the rule of law, the promotion and protection of fundamental human rights and the entrenchment of good governance based on the highest standards of honesty, probity and accountability.

(b) Parliament and the Judiciary

- (i) Relations between parliament and the judiciary should be governed by respect for parliament's primary responsibility for law making on the one hand and for the judiciary's responsibility for the interpretation and application of the law on the other hand.
- (ii) Judiciaries and parliaments should fulfil their respective but critical roles in the promotion of the rule of law in a complementary and constructive manner.

¹¹³Legislative Assembly for the Australian Capital Territory, *Standing Orders and Continuing Resolutions of the Assembly*, ACT Legislative Assembly, Canberra, June 2016, pp. 87-90.

(c) Independence of Parliamentarians

- (i) Parliamentarians must be able to carry out their legislative and constitutional functions in accordance with the Constitution, free from unlawful interference.
- (ii) Criminal and defamation laws should not be used to restrict legitimate criticism of parliament; the offence of contempt of parliament should be narrowly drawn and reporting of the proceedings of parliament should not be unduly restricted by narrow application of the defence of qualified privilege.

(d) Independence of the Judiciary

An independent, impartial, honest and competent judiciary is integral to upholding the rule of law, engendering public confidence and dispensing justice. The function of the judiciary is to interpret and apply national constitutions and legislation, consistent with international human rights conventions and international law, to the extent permitted by the domestic law of each Commonwealth country.

To secure these aims:

- (i) Judicial appointments should be made on the basis of clearly defined criteria and by a publicly declared process. The process should ensure:
 - (A) equality of opportunity for all who are eligible for judicial office;
 - (B) appointment on merit; and
 - (C) that appropriate consideration is given to the need for the progressive attainment of gender equity and the removal of other historic factors of discrimination.
- (ii) Arrangements for appropriate security of tenure and protection of levels of remuneration must be in place.
- (iii) Adequate resources should be provided for the judicial system to operate effectively without any undue constraints which may hamper the independence sought.
- (iv) Interaction, if any, between the executive and the judiciary should not compromise judicial independence. Judges should be subject to suspension or removal only for reasons of incapacity or misbehaviour that clearly renders them unfit to discharge their duties. Court proceedings should, unless the law or overriding public interest otherwise dictates, be open to the public. Superior Court decisions should be published and accessible to the public and be given in a timely manner. An independent, effective and competent legal profession is fundamental to the upholding of the rule of law and the independence of the judiciary.

(e) Public Office Holders

- (i) Merit and proven integrity, should be the criteria of eligibility for appointment to public office.
- (ii) Subject to (i), measures may be taken, where possible and appropriate, to ensure that the holders of all public offices generally reflect the composition of the community in terms of

gender, ethnicity, social and religious groups and regional balance.

(f) Ethical Governance

Ministers, members of parliament, judicial officers and public office holders in each jurisdiction should respectively develop, adopt and periodically review appropriate guidelines for ethical conduct. These should address the issue of conflict of interest, whether actual or perceived, with a view to enhancing transparency, accountability and public confidence.

(g) Accountability Mechanisms

(i) Executive Accountability to Parliament

Parliaments and governments should maintain high standards of accountability, transparency and responsibility in the conduct of all public business. Parliamentary procedures should provide adequate mechanisms to enforce the accountability of the executive to parliament.

(ii) Judicial Accountability

Judges are accountable to the Constitution and to the law which they must apply honestly, independently and with integrity. The principles of judicial accountability and independence underpin public confidence in the judicial system and the importance of the judiciary as one of the three pillars upon which a responsible government relies. In addition to providing proper procedures for the removal of judges on grounds of incapacity or misbehaviour that are required to support the principle of independence of the judiciary, any disciplinary procedures should be fairly and objectively administered. Disciplinary proceedings which might lead to the removal of a judicial officer should include appropriate safeguards to ensure fairness. The criminal law and contempt proceedings should not be used to restrict legitimate criticism of the performance of judicial functions.

(iii) Judicial review

Best democratic principles require that the actions of governments are open to scrutiny by the courts, to ensure that decisions taken comply with the Constitution, with relevant statutes and other law, including the law relating to the principles of natural justice.

(h) The law-making process

In order to enhance the effectiveness of law making as an essential element of the good governance agenda:

- (i) there should be adequate parliamentary examination of proposed legislation;
- (ii) where appropriate, opportunity should be given for public input into the legislative process; and
- (iii) parliaments should, where relevant, be given the opportunity to consider international instruments or regional conventions agreed to by governments.

(i) Oversight of Government

The promotion of zero-tolerance for corruption is vital to good governance. A transparent and accountable government, together with freedom of expression, encourages the full participation of its citizens in the democratic process. Steps which may be taken to encourage public sector accountability include:

- (i) The establishment of scrutiny bodies and mechanisms to oversee government, enhances public confidence in the integrity and acceptability of government's activities. Independent bodies such as public accounts committees, ombudsmen, human rights commissions, auditors-general, anti-corruption commissions, information commissioners and similar oversight institutions can play a key role in enhancing public awareness of good governance and rule of law issues. Governments are encouraged to establish or enhance appropriate oversight bodies in accordance with national circumstances.
- (ii) Government's transparency and accountability is promoted by an independent and vibrant media which is responsible, objective and impartial and which is protected by law in its freedom to report and comment upon public affairs.

(j) Civil Society

Parliaments and governments should recognise the role that civil society plays in the implementation of the Commonwealth's fundamental values and should strive for a constructive relationship with civil society to ensure that there is broader opportunity for lawful participation in the democratic process.

- (2A) In the second year after a general election, following consultation with the Standing Committee on Administration and Procedure, the Speaker shall appoint a suitably qualified person to conduct an assessment of the implementation of the Latimer House Principles in the governance of the ACT with the resultant report:
 - (a) to be tabled in the Legislative Assembly by the Speaker; and
 - (b) to be referred to the Standing Committee on Administration and Procedure for inquiry and report.
- (3) This resolution has effect from the commencement of the Seventh Assembly and continues in force unless and until amended or repealed by this or subsequent Assembly.

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