



Mr Ken O'Dowd MP
Chair, Standing Committee on Petitions
Parliament House, Canberra
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Dear Mr O'Dowd

Thank you for the opportunity to make a submission to the Petitions Committee's inquiry into aspects of the House of Representatives petitioning system relating to security and accessibility.

I understand from the terms of reference that your inquiry is focused particularly, although not entirely, on electronic petitioning. The House's e-petitioning system, which was developed by my department and the Department of Parliamentary Services (DPS) is now in its fifth year. In this time e-petitioning has proven popular, with 1,216 e-petitions presented in the House since the system's inception.

Accessibility and security are both important aspects of the e-petitioning system. On the one hand, petitioning—long held to be a fundamental right of the citizen¹—should be open and accessible to all Australians. On the other, it can be useful for Members of the House to have confidence that the identity of petitioners and the scale of petitioning are both accurately reflected, as petitions can provide a measure of a community's strength of feeling on an issue.² These considerations need to be carefully balanced, as measures to ensure the security of the system may reduce accessibility.

In this submission I will place the concepts of accessibility and security in the context of the historical practice and current standing orders of the House and offer some insights into administrative processes, to assist the Committee's consideration of how to balance the priorities of access and security.

A fundamental right

As the House Procedure Committee set out when recommending the creation of the Petitions Committee, petitions are the only means by which an individual can directly place a matter before the House.³ While I do not propose to detail petitioning's history, which is well known to the Committee, it is important to note that petitioning is a well-established right.⁴ The rights of petitioners were expressed in a resolution of the House of Commons in 1669, which referred to 'the inherent right of every commoner in England to prepare and present

¹ This is discussed in more detail in *House of Representatives Practice (HRP)*, 7th edition, pp. 629-30.

² See *Making a difference: Petitioning the House of Representatives*, Standing Committee on Procedure, August 2007, p. 3

³ *Making a difference*, p. 3.

⁴ A summary of the historical development of petitioning is set out in Appendix B of *Making a difference*.

petitions to the House in case of grievance'. At the same time, the House resolved that it was a right of the Commons to receive petitions.⁵

In this context, it is incumbent on the House to allow people to exercise their right to petition, and indeed it was in that spirit that e-petitioning was introduced. In 2007, in recommending the introduction of e-petitioning, the Procedure Committee considered that 'disallowing electronic petitions in the 21st century essentially denies a growing number of petitioners the opportunity to air their grievances'.⁶ As the then Clerk noted in a submission to that inquiry, 'making the House more open to the people is an institutional obligation'.⁷ The potential for an electronic system to reduce the number of out-of-order petitions (that is, petitions which did not meet the requirements set out in the standing orders) was also seen as a benefit.⁸

Since the e-petitioning system was introduced at the beginning of the 45th Parliament, feedback has led to further improvements. For example, following the Petitions Committee's recommendations to update the web page design to improve user experience and accessibility⁹, in August 2019 enhancements were made to the system to introduce a unique web page and URL for each approved petition. On each web page, there is now the facility to easily share details of the petition through various social media platforms. Changes were also made to improve the performance of the system.

However, I am aware that at times members of the public have experienced difficulties in successfully using the e-petitions system. This might be because of language barriers, for example.¹⁰ There have also been times when high numbers of visitors to the website have affected users' experience, as was recently reported in relation to petition EN1938 in November 2020—although I should note that on that occasion only some users were affected, rather than there being a system-wide failure. Later in this submission, I provide an update on the work of the two parliamentary departments to further improve the system's accessibility and capacity.

Providing confidence in the integrity of the system

The current requirements for petitions set out in the standing orders are key to the consideration of security in e-petitioning. Under standing order 205A, a principal petitioner for an e-petition must provide their full name and address. The principal petitioner must be either a resident or citizen of Australia. While signatories to an e-petition do not need to provide their address, they must confirm they are either a resident or a citizen of Australia. In all cases, residency or citizenship is self-declared and not verified.¹¹

⁵ John Hatsell, *Precedents of proceedings in the House of Commons*, 1818, Vol 3, p. 240.

⁶ *Making a difference*, p. 38.

⁷ Mr IC Harris, submission, at page [84] of *Making a difference*.

⁸ *Making a difference*, p. 30.

⁹ *Making voices heard: Inquiry into the e-petitioning system of the House of Representatives Petitions Committee*, Standing Committee on Petitions, May 2018, p. 24.

¹⁰ For example, the Federation of Ethnic Communities' Councils of Australia submitted that the website was largely inaccessible to the communities they represented (see *Making voices heard*, p.30).

¹¹ It should be noted that a person's address by itself cannot be used to prove or disprove their residency or citizenship status: place of residence and residency status should not be conflated.

In practice, when creating an e-petition, the principal petitioner is required to supply their name, address, telephone number and email address, although only their name is published online (and their full name and address is included in the final petition presented to the House). As outlined in the online form, the principal petitioner's email address is used to contact them and to make sure they are a real person and not a software program (a 'bot'). A reCAPTCHA test provides another check that the user is human.

Other signatories are asked only for their name and a verifiable email address. This information is not published online but signatories' names are included in the final petition presented to the House. The e-petitioning system uses signatories' email addresses to verify their intent to sign a petition, make sure they have not previously signed the petition and ensure that they, too, are a real person and not a bot. A reCAPTCHA test is also used to confirm that they are a human.

The petitions web pages are designed to assist petitioners to complete the online forms correctly. Mandatory fields in the online form prompt people to include required information, while a 'frequently asked questions' page provides additional information, including for troubleshooting. However, as the Committee recorded in *Making voices heard*, at times members of the public have experienced difficulties in successfully completing the forms because of the security measures in place.¹² It would be unfortunate if, in striving for greater security of the system, additional measures were introduced which made it more difficult for people to exercise their right to petition.

Further, I note that e-petitions are, in effect, subject to a higher standard of up-front checking than paper petitions. As the Committee reflected in *Making voices heard*, this is in part because, after a paper petition has been lodged, obvious invalid signatures can be identified by secretariat staff and discounted from the final signature count.¹³ However, any proposal to increase security checking through the online system would risk placing a significantly higher burden on e-petition signatories than paper petition signatories. This could be seen to be inequitable, and therefore best avoided, unless the Committee believes the risks and consequences of fraudulent representations are significantly higher for e-petitions than for paper petitions.

The secretariat is not resourced to review the names of signatories to e-petitions, as they do for paper petitions. To give a sense of scale, in 2020 there were 990,636 signatories to petitions, of which 916,385 were to e-petitions. Further, I anticipate that any outliers picked up by the secretariat over and above those identified through the current automated checking processes would only be the obvious, 'Mickey Mouse' style, names. In my view, this would not result in significant improvements to the security of the system.

A threshold issue

Another consideration is the extent of any practical impact that fraudulent representations might have on a petition's treatment. Under the current standing orders, the number of signatures that a petition receives does not affect how it might be treated by the House

¹² See pp. 18-23.

¹³ *Making voices heard*, p. 22.

(although a petition may generate attention by virtue of the high number of signatures it receives). This means that potential fraudulent representations, while of concern, may not have a material impact on the outcome of the petition in procedural terms.

Standing orders 205 and 205A set out that paper petitions and e-petitions respectively must have a principal petitioner. While other Australian citizens or residents may sign the petition, the effect of the standing orders is that a minimum of one signatory—the principal petitioner—is required for a petition to be valid.

At the same time, it is long-established practice that a whole petition is not invalidated because of a signature that seems to be false. In 1907, in voting to receive a petition, Members took the view that a petition should not be invalidated and the persons who signed the petition should not be disadvantaged, because of some individual's improper conduct. It was also considered that neither Members nor the House could ensure that every signature on every petition was genuine.¹⁴ This means that, as long as the principal petitioner is believed to be a valid signatory, the petition is valid.

After a petition has been presented to the House, it may be referred to the minister responsible for the administration of the matter raised in the petition (under standing order 209). In practice, the Committee refers a significant proportion of petitions to ministers for a response, including many with few signatures. Indeed, in the 46th Parliament (to 31 December 2020), there have been 787 petitions presented, of which 230 had five or fewer signatures, with 99 per cent of all petitions referred to the relevant minister. During that same period, 58 e-petitions with only one signatory have received ministerial responses. Similarly, it is already open to Members to refer petitions to a particular committee for consideration, under standing order 208, with no minimum number of signatures required. In other words, the number of valid signatories does not have a practical impact on how the petition is acted on by the House.

In some other parliaments, reaching certain thresholds of signatures triggers a particular response. For example, I am aware that in the United Kingdom House of Commons a petition with at least 10,000 signatures receives a response from the government, while a petition with at least 100,000 signatures will be considered for a debate in Parliament.¹⁵ The importance of ensuring the authenticity of signatures would of course increase should the House consider introducing such thresholds—for example, if it chose to implement the Committee's 2019 recommendation that petitions with at least 20,000 signatures be considered for debate in the Federation Chamber.¹⁶

However, the impact of a petition is not necessarily limited to how the House responds. As the Procedure Committee articulated, petitions 'foster a sense of unity and purpose within a community which is publicly demonstrated when the petition is presented to the House' and,

¹⁴ See HRP p. 634.

¹⁵ Erskine May's *Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, paragraph 24.22, accessed online at <https://erskinemay.parliament.uk/section/5093/epetitions/>.

¹⁶ *Your voice can change our future: The inquiry into the future of petitioning in the House*, Standing Committee on Petitions, February 2019, p. 49.

further, can be 'a sounding board for concerns'.¹⁷ Members may also refer to the number of signatures as an indication of the strength of community sentiment, not only when presenting the petition but when debating a matter identified in the petition.¹⁸

Conversely, concerns about fraudulent signatures or the system's security may lead to debate which distracts from the substance of the petition. Having some security measures, such as those already in place, helps reduce the likelihood of such concerns being raised. There may be some further, relatively modest steps to help make the system more secure, such as requiring a mobile phone number in order to perform additional checks. However, the potential to discourage or even disenfranchise would-be petitioners—for example, those without mobile phones—would need to be carefully considered.

I should note that, while the creation of the e-petitions system has led to some new concerns about fraud, it has also addressed some earlier concerns. For example, in its 1999 *It's your House* report, when proposals relating to electronic petitions were based on email distribution, the Procedure Committee identified a potential difficulty with ensuring a electronic petition had not been altered after people had signed it.¹⁹ A clear advantage of the current e-petitioning system website is that the terms of a petition, once set by the principal petitioner, cannot be altered and are clearly displayed on the website immediately above the fields filled out by any subsequent signatories.

Use of official records

The inquiry's terms of reference include consideration of 'the use of official records for verification purposes'. While this could increase the level of confidence in signatories' identity and reduce the risk of fraudulent representations, it would be a very significant alteration to current processes and has the potential to decrease accessibility.

A first consideration is which records would be suitable to check against. No one ideal solution is apparent. For example, having a 'Digital Identity' (a service managed by the Digital Transformation Agency which helps someone prove their identity in order to access government services online) is currently voluntary and therefore could not be relied on as a way to verify the identity of all those seeking to sign an e-petition.

Many official records would not be suitable or available to check against, for reasons such as privacy. Other sources that could be considered each have their own limitations and benefits. While I do not propose to canvass these options in any detail, I note that it would be complex to adopt them as a source for verification. Potential options would need to be considered very carefully in respect of the possible impact on users, the appropriateness of the source and the capacity of the e-petitioning system.

¹⁷ *Making a difference*, p. 3.

¹⁸ As recent examples, see: Dr Haines, HR Deb (8.12.2020) p 10950; Dr Leigh, HR Deb (9.11.2020) p 9035; Ms Hammond, HR Deb (10.11.2020) p 9258; Ms Steggall HR Deb (2.09.2020) p 6354.

¹⁹ *It's your House: Community involvement in the procedures and practices of the House of Representatives and its committees*, Standing Committee on Procedure, October 1999, pp. 12-13.

In particular, the Committee would need to take into account:

- the complexity of changed arrangements, as well as any additional time required to complete verification, and whether this might discourage would-be petitioners
- any other impost on potential petitioners, including the need to provide additional details (say, a home address) for data-matching purposes
- whether all citizens and residents would be captured by the data set used for cross-matching—for example, if there were a requirement to appear on the electoral roll, this would exclude those residents who do not have a right to vote and would also in effect impose a minimum age requirement, as only Australian citizens aged 16 and above can enrol to vote
- any technical or legal changes required to facilitate access to other records, including any permissions required to access official records and any additional levels of security needed to allow the e-petitioning system to either access or securely hold more personal information
- what other reconfiguration might be required to the current system.

I anticipate that using official records for verification is likely to increase the complexity and, correspondingly, reduce the accessibility of the system for would-be petitioners. From a technical perspective, the parliamentary departments would need to work with the owner of the relevant official records, to redesign the current system. Cost implications would potentially be considerable.

The introduction of an age limit

The terms of reference of the inquiry also refer to the introduction of an age limit. Currently there is no minimum age requirement for petitioners. As the Committee noted in *Making voices heard*, at present school children can and do petition the House.²⁰ This means that the introduction of an age limit would affect a cohort of people who currently exercise this right.

Further, if the Committee were minded to recommend the use of certain official records for verification purposes, it would be important to consider whether this would impose an effective age limit, as discussed earlier, for example, in relation to the electoral roll.

Concluding remarks

Establishing an appropriate level of security for the e-petitions system is a balancing act, as security measures can have a detrimental impact on accessibility. The historical practice of the House with regard to fraudulent signatures, the long-standing view of petitioning as a fundamental right and the lack of thresholds for action on petitions suggest that the accessibility of the system would be a primary consideration. That said, security measures which do not dissuade or prevent members of the public from signing a petition are both appropriate and useful, as they provide a degree of reassurance to Members and to the

²⁰ *Making voices heard*, p. 11.

public about the extent to which a petition can be relied on as a reflection of public sentiment.

It might assist the Committee to know that my department is now working with DPS on a project to further improve the experience for external users of the e-petitions system. Accessible web page design is a key focus of this work, responding to the Committee's recommendation to increase understanding of the petitions process through the use of explanatory symbols, imagery and plain English.²¹ Further performance improvements will also be part of this suite of changes.

I trust that this information assists the Committee with its inquiry. I would be pleased to elaborate on any matters contained in this submission, should the Committee wish.

Yours sincerely

Claressa Surtees
Clerk of the House
18 February 2021

²¹ *Making voices heard*, p. 24.

