

About petitions

Introduction

- 1.1 Petitions are essentially requests by citizens or residents for action by the House of Representatives. Petitions may ask the House to:
- introduce legislation, or repeal or change existing legislation;
 - take action for a certain purpose or for the benefit of particular persons; or
 - redress a personal grievance such as the correction of an administrative error.
- 1.2 Petitioning is an ancient practice with roots in many different systems of government. In parliaments following the Westminster tradition the practice may be traced back to the reign of King Edward I in the 13th century. The present form of petitioning was developed at Westminster during the 17th century when the rights of petitioners and the power of the House of Commons to deal with petitions were affirmed by two resolutions in 1669.¹ The House of Commons' traditions of petitioning were inherited by the new Australian parliament in 1901 via the colonial legislatures. More details on the history of petitioning are in Appendix B.

¹ *House of Representatives Practice*, 5th edition, pp. 611-12.

Current petitioning practice

- 1.3 The current petitioning process in the House of Representatives encompasses the following:
- Petitions (like other documents) may only be presented to the House by a Member – though in practice they are ‘lodged’ by a Member (or in the name of a Member) and in the majority of cases the terms are read out to the House by the Clerk.
 - Members may personally present petitions in the Chamber or Main Committee during ‘statements’ and they can use the opportunity to comment on the petitions. In theory, they may also present a petition in person if it relates to a matter coming before the House though this does not happen in practice.
 - Members have certain administrative duties regarding the petitions they lodge (for example, counting the number of signatories) but they cannot personally sponsor a petition or petition the House in their own right.
 - There are a number of rules set out in the standing orders and the Clerk or Deputy Clerk checks petitions for compliance before they are presented to the House. Those which do not comply with the rules are ‘out of order’ and they are not registered in the official records of the House. These rules were revised and simplified in 2001 but many petitions are still found to be out of order.
 - Once petitions are presented to the House the terms of the petitions are recorded in Hansard. It is possible for petitions to be referred to a particular committee though this is not done in practice.
 - The Clerk then refers a copy of the petition to the Minister responsible for the administration of the matter raised in the petition. It is rare that any further action is taken, though Ministers may respond by lodging a written response to the Clerk. The Clerk then announces responses to the House (also very rare).

Enhancing the status of petitions

- 1.4 Petitions are the only means by which the individual can directly place a matter before the House and therefore have been described as 'a fundamental right of the citizen.'² While other avenues for redress of grievances now exist, ranging from formal approaches to the Commonwealth Ombudsmen or the Administrative Appeals Tribunal, to seeking media coverage of issues, only petitioning facilitates a direct link between the public and the House.
- 1.5 Petitions foster a sense of unity and purpose within a community which is publicly demonstrated when the petition is presented to the House. It has been said that petitioners tend to sign 'for community reasons, rather than for personal gain.'³ In this sense, a petition provides a measure of a community's strength of feeling on an issue, and in turn, provides Members of Parliament with a 'sounding board for concerns experienced by the voting public.'⁴
- 1.6 Petitions are presented to the House on a very wide range of matters. So far this year petitions have been received relating to every Commonwealth ministerial portfolio, although certain portfolios such as foreign affairs and health and ageing tend to attract more petitions than others (see Appendix C for the list of petitions received in 2007).
- 1.7 While petitions clearly have great democratic potential, the reality is that petitions have been far more effective in strengthening community views on an issue than in actually having that issue heard and considered by the House.
- 1.8 In the course of this inquiry the committee has come to appreciate that over time, petitions have become less than effective mainly because of deficiencies in responding to the issues raised (by the House and/or the relevant Minister). In addition, the rules for petitioning remain a difficulty and result in an unacceptable number of petitions being 'out of order'.
- 1.9 Not surprisingly, serious concerns have been raised with the committee about the status of petitions. The submissions received to this inquiry commonly expressed the belief that, under current processes, petitions have lost the respect of the House and its Members.⁵

2 *House of Representatives Practice*, 5th edition, p. 612.

3 Miss Margaret Clinch, Submission no. 3, p. 2.

4 Ms Rosalind Berry, Submission no. 5, p. 1.

5 See Miss Margaret Clinch, Submission no. 3 and Ms Rosalind Berry, Submission no. 5.

- 1.10 Although the committee is deeply concerned by this underlying message, it is heartened by the response to this inquiry and the encouragement it has received to reform the petitioning process. Submissions clearly saw the establishment of this inquiry as 'a real step towards ensuring that petitions play their true democratic role in involving the public in the government of Australia.'⁶
- 1.11 The committee is keen to see the status of petitions enhanced so that they may fulfil their potential as an important avenue of communication between the public and the House. This report reflects the committee's views on the way forward.

The committee's principles of petitioning

- 1.12 For the committee, the path ahead is underpinned by the following principles of petitioning:

1) Petitions belong to the public

- 1.13 Petitions are the most direct form of communication between the public and the House. Despite the growth of alternative forms by which matters may be raised and grievances aired, petitions continue to serve as a community building process underpinned by the key objective of having the public voice heard. This process is important to our democratic system.

2) Petitions sent to the House should be addressed by the House

- 1.14 Given that the standing orders require petitions to be addressed to the House of Representatives and to seek action by that House, the role of the House in facilitating a response should be strengthened. The House should have the capacity to respond to petitioners and advise them on the progress or outcomes of their petition.
- 1.15 The committee considers the most effective way for the House to act in relation to petitions is to establish a dedicated petitions committee.

3) Governments should respond

- 1.16 Petitioners expect and deserve a response to the matters raised in their petition. The rules should be changed to encourage greater efforts by Ministers and their departments to consider the terms of petitions which are referred to them by the House, and respond to them in a timely fashion.

6 Ms Rosalind Berry, Submission no. 5, p. 1.

4) Members' involvement should be enhanced and streamlined

- 1.17 To improve the effectiveness of petitions their status must be enhanced. Members have an important role to play in raising and debating the issues and grievances contained in petitions, and facilitating a response.

5) Rules should be relevant and fair

- 1.18 Preparing a petition should not be excessively difficult and the rules governing petitions should not prove unnecessarily onerous. The House (both Members and House staff) must provide clear and accessible information and advice on the petitioning process.
- 1.19 While the rules themselves should be reviewed, the committee believes that a redesigned proforma, accessible from the House of Representatives website and from all Members' electorate offices, would reduce the number of petitions considered 'out of order'.

6) Information technologies should be used more effectively

- 1.20 Historically, the essence of the petitioning process was the ancient right of people, irrespective of their numbers, to express serious concerns to the King. This ancient tradition can and should be modernised to reflect advances in information communication technologies.
- 1.21 In particular, the committee accepts that in the 21st century, the House can no longer ignore electronic petitions. The House of Representatives website itself also requires redesigning to make it more accessible.
- 1.22 The application of these six principles will be addressed in this report, though not in the above order.

