

41ST PARLIAMENT



Procedure and Privileges Committee

Report 6

Review of E-Petitions

Presented by
Mr Stephen Price, MLA
October 2024

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Review of E-Petitions

Report No. 6

Presented by

Mr Stephen Price, MLA

Deputy Speaker of the Legislative Assembly

Laid on the Table of the Legislative Assembly on 17 October 2024

Recommendation

Recommendation 1:

That the Temporary Order for e-petitions be incorporated into the Standing Orders for the Legislative Assembly of Western Australia.

Review of E-Petitions

Introduction

On 29 November 2023, the Legislative Assembly resolved to trial an e-petitions Temporary Order.

The trial order applied for a period of six months between Tuesday, 13 February 2024 until Friday, 16 August 2024. The Temporary Orders and trial were recommendations contained in the fifth report of the Procedure and Privileges Committee (PPC), titled *Electronic Petitions*.

In resolving to trial e-petitions, the House also requested the PPC review the operation of the Temporary Order.¹

This report is the requested review.

E-Petitions

Petitions are an ancient mechanism whereby the public can formally bring a grievance to the attention of the Parliament and request a remedy. They have been described as ‘the oldest of all parliamentary forms, the fertile seed of all proceedings in the House of Commons’,² and as Erskine May states ... ‘[t]he right to petition Crown and Parliament is of great antiquity and important to both constitutional and procedural development...’.³

Traditionally, petitions addressed to the Parliament take the form of a written document outlining an issue of concern, requesting the legislature to heed the ‘prayer’ of the petition and take some action. In the Legislative Assembly subscribers to a paper petition provide their name, address and signature (or mark) and a Member of the Legislative Assembly (“MLA”) presents the petition to the House on behalf of the petitioners. The petition is the only way an individual can directly place grievances before the Parliament.

E-Petitions have the same effect as traditional petitions, but differ in that they are ‘signed’ by petitioners electronically and ‘facilitated’ by an MLA. In all other respects, an e-petition is no different from a contemporary petition.

The key distinction between a traditional petition and an e-petition is that the online nature of the e-petition means that is convenient for people to sign, and easy to disseminate via online platforms, boosting engagement and civic participation.

¹ Votes and Proceedings No. 160, Wednesday 29 November 2024

² J Redlich *The Procedure of the House of Commons: a study of its history and its present form*, Constable, London, 1918, vol II, p 239.

³ Erskine May, *Parliamentary Practice*, 21st Edition, p 754.

The Temporary Order

The Temporary Orders adopted by the Assembly in November 2023 established a mechanism to facilitate e-petitions in conformity with the Standing Orders of the Legislative Assembly.

In large part, the technical wording of the Assembly's Temporary Order was based on the Temporary Order adopted by the Legislative Council of Western Australia in September 2021, which in turn has similarities to the Orders in Tasmania and Queensland.

Your Committee acknowledges the Legislative Council as the forerunners of e-petitioning in the Parliament of Western Australia, and for their work with the Parliamentary Services Department in developing an e-petitions platform that could readily accommodate e-petitions for the Assembly as well.

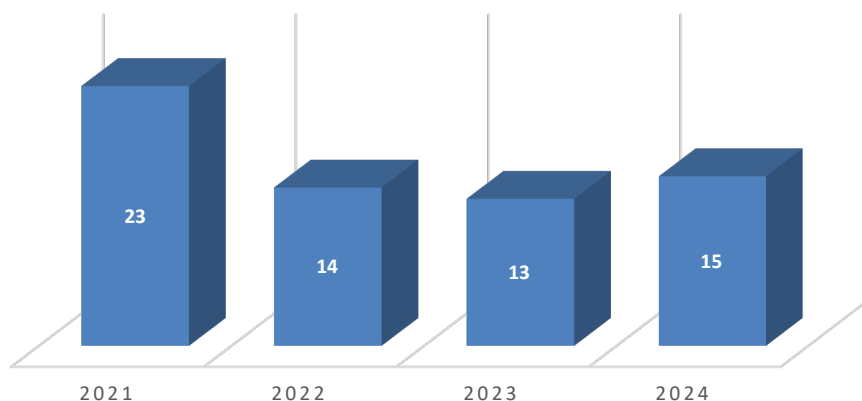
Your Committee also notes the 73rd Report of the Standing Committee on Procedure and Privileges of the Legislative Council of Western Australia,⁴ and has had the benefit of considering the discussions contained therein.

Review of the e-petitions trial

Your Committee has conducted a preliminary review of the e-petitions trial for the purpose of determining what the next steps for the Assembly ought to be.

The current trial has provided valuable insight regarding the technical operation of petitions, and the potential for technology to enhance access, participation and interest in the business of the Assembly.

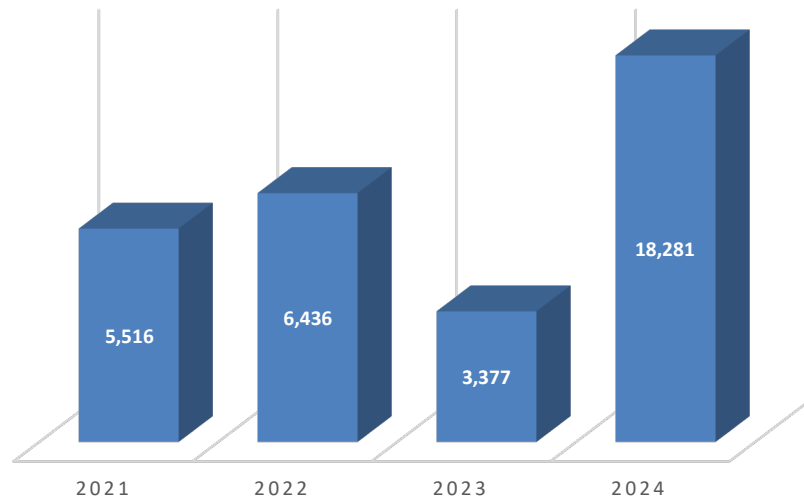
**GRAPH 1: NO. OF PETITIONS
41ST PARLIAMENT**



⁴ Presented in September 2024

The half year trial has shown a promising uptick in engagement with petitions. In the trial period, 8 e-petitions have been presented for a total of 13,769 signatures. This year has also seen 4512 signatures on paper petitions thus far. This is opposed to 13 paper petitions in 2023 for a total of 3,377 signatures.

**GRAPH 2: NO. OF SIGNATURES
41ST PARLIAMENT**



Given the greater public participation promoted by the use of e-petitions, Your Committee sees no reason why e-petitions should not continue as a valid form of petitioning the Assembly into the future.

Recommendation 1:

That the Temporary Order for e-Petitions be incorporated into the Standing Orders for the Legislative Assembly of Western Australia.

Inducements

In May 2023, the Speaker became aware of a promotion running for an e-petition of the Assembly. The promotion offered a \$10 dollar discount on shoes at a local sporting shop if persons signed the petition. This was later amended to a discount for sharing the petition via social networks.

Offering incentives for signing petitions is not expressly forbidden under the Standing Orders. Nor do incentives for signing petitions fall in any recognised category of contempt of parliament. However, this is not to say that this behaviour is not contemptuous.

Any abuse of the right of petition may be treated as a contempt.⁵ Further, offering inducements or incentives may run afoul of provisions in the Criminal Code regarding

⁵ May's Parliamentary Practice 24th edn, p. 253.

interference with the legislature,⁶ and if directed towards an MLA could be characterised as a bribe.⁷ There is a line between genuine civic engagement on the one hand and improper interference with parliamentary forms on another. Your Committee does not hold a firm view on where this conduct falls; however, notes this as an emerging issue.

Although the Committee forms no view on whether the promotion of petitions by offering incentives constitutes a crime or a contempt, or neither, the best course would be to avoid the situation altogether through clear guidance regarding the e-petition process. This is in place on the Parliament's website, strongly discouraging incentives for signing petitions.

Administrative Matters

Early in the trial period, the Committee notes that a short administrative step was added so that petitioners would automatically receive a confirmation email that they have successfully signed an e-petition. This was in response to enquiries from citizens who could not recall whether they had signed an e-petition or not.

Further, in June 2024, the Parliament's IT unit undertook a significant review of the e-petitions system for the Legislative Council and implemented an email verification process to ensure that email addresses were valid and petitioners are residents of Western Australia. If a petitioner does not complete the new verification steps their signature will not be counted or included in the finalised e-petition presented to the Council. Your Committee notes the comments of the PPC of the Legislative Council that 'this fix substantially improvedintegrity and authentication issues'.⁸

Your Committee is of the view that requiring two factor authentication is a welcome protection for e-petitions, in that it introduces additional barriers to fraudulently increasing the number of signatories to a petition through bogus email addresses. Two factor authentication should also apply to the Assembly's e-petitions.

Procedural Considerations

By incorporating e-petitions into the Standing Orders for the Legislative Assembly, the Committee contemplates that rules particular to e-petitions could be built into the existing rules concerning petitions in Chapter 10. An example of how this might look, with new text in red, may be found at **Appendix 1**.

The Committee notes that the rules for paper petitions should apply to e-petitions, and only additional orders essential for the accommodation of e-petitions need to be added to the

⁶ Criminal Code Act Compilation Act 1913 (WA), s.55

⁷ Ibid, s.61, see also Parliamentary Privileges Act 1891 (WA), s.8.

⁸ Standing Committee on Procedure and Privileges, Report 73, E-petitions, Western Australia, Legislative Council, September 2024, p.9.

Standing Orders. Administrative matters need not be expressly stated.⁹ Matters concerning the publication of the Principal Petitioner's name and address, and the Assembly's handling of data, can be addressed through the terms and conditions for signing an e-petition.

With this in mind, the necessary matters the Standing Orders should address include the role and responsibilities of the 'Facilitating Member' and the 'Principal Petitioner', the time limits for posting an e-petition, what constitutes a valid electronic signature, the requirement for an e-petitioner to be a resident of Western Australia, and what happens after the Parliamentary term comes to an end.

E-Petitions in between Parliaments

The prorogation and dissolution of the Assembly poses an interesting question concerning the 'Facilitating Member'. How can an MLA facilitate an e-petition if no MLAs technically exist?

One solution is for the Clerk to ensure that no posted period extends beyond the prorogation of the Assembly, and indeed expires sooner than the last Sitting day of the Parliament, so all petitions posted in a session of the Assembly can be presented in that session.

However, this would result in a situation where no e-petitions can be signed for a period of months between Parliaments. This is not the case for traditional petitions, which can be circulating in the community at any time.

A sensible answer to this conundrum might be to expressly allow e-petitions posted in one parliament to be presented in the next, so that an e-petition can continue to be signed by members of the public.¹⁰ In terms of the facilitation of e-petitions, the crucial actions of the MLA are only at the front and back ends of the process – agreement to facilitate the e-petition in the first place, and then presenting it in the House once the posted period has elapsed. Procedurally, no real 'facilitation' occurs whilst the posted period runs its course.

Assuming that an e-petition is still open during the break between parliaments, if the Facilitating Member is returned, no changes are required. That MLA can present the petition once the posted period elapses. If the Facilitating Member is not continuing into the next Parliament, the Clerk can advise the Principal Petitioner, who can simply approach another MLA to facilitate their e-petition. This is the preferred course of action of the Committee, and is reflected in the draft orders at Appendix 1.

There remains the difficulty of commencing a new e-petition after the dissolution of the Assembly. As the new membership of the Assembly is not confirmed, this hurdle is

⁹ The LC PPC noted that, reflecting on their Temporary Orders, that 'a number of these Orders are superfluous to the continued operation of e-petitions'..... Standing Committee on Procedure and Privileges, Report 73, *E-petitions*, Western Australia, Legislative Council, September 2024, p.2.

¹⁰ See, for example, Standing Order 119 of the Legislative Assembly of Queensland, Standing Order 100A of the Legislative Assembly of the Australian Capital Territory

insurmountable. No new e-petitions can be commenced until the Assembly has its new Members.

Conclusion

Your committee has reviewed the trial of e-petitions, and the success of the trial is undeniable. E-petitions should be a permanent option for the people of Western Australia to petition the Legislative Assembly.

Recommendation

Recommendation 1:

That the Temporary Order for e-Petitions be incorporated into the Standing Orders for the Legislative Assembly of Western Australia.

A handwritten signature in blue ink that reads "Michelle Roberts". The signature is written in a cursive, flowing style.

Hon Michelle Roberts, MLA

Chair of the Committee

17 October 2024

Appendix 1

CHAPTER 10

PETITIONS

Contents of petitions

64. (1) A petition will—
- a) Be legible.
 - b) Be addressed to the Speaker and the Assembly.
 - c) State the action or remedy sought from the Assembly.
 - d) Be in English or be accompanied by a translation certified to be correct by the lodging member.
 - e) Contain at least one signature.
 - f) Contain the action or remedy sought on the top of every sheet.
 - g) Contain the names and addresses of the petitioners and their own signatures or marks, except in case of incapacity or sickness where someone else may sign on their behalf.
 - h) Not contain signatures pasted or otherwise transferred to the petition.
 - i) Be respectful and temperate in its language.
 - j) If from a corporation, be made under its common seal.
- (2) An e-petition will—
- a) Be signed by the person promoting the petition (“the Principal Petitioner”).
 - b) Be signed by persons electronically by filling out their correct details and personally agreeing to join the e-petition.
 - c) Otherwise comply with this Chapter.

Restrictions on petitions

65. (1) A petition will not—
- a) Have letters, affidavits, or other documents attached to it.

- b) Be lodged by a member who has signed the petition as a petitioner.
- c) Make an application for direct grant of public money to be paid to an individual.

(2) In addition to the above, an e-petition will not—

- a) be signed by a person who is not a resident of Western Australia, or a corporation without its registered office in Western Australia.

Procedure for lodgement and presentation

66. (1) The procedure for the lodging and presentation of a petition will be—

- a) The member must write the number of signatures contained in the petition on the front sheet and sign the front sheet.
- b) The Clerk will certify on the petition that it is in conformity with the Standing Orders.
- c) The member presenting the petition will read the prayer, announce the subject matter of the petition and the number of signatures attached to it unless the Speaker determines otherwise.
- d) The petition will be received unless the Assembly or the Speaker determine otherwise.
- e) No discussion of the subject matter is allowed.

(2) The procedure for the posting and facilitation of an e-petition will be—

- a) The petition must be facilitated by a member (“Facilitating Member”) and lodged with the Clerk for posting on the Parliament’s website for a nominated period (“posted period”).
- b) The posted period for an e-petition is to be a minimum of one week and a maximum of six months from the date of posting.
- c) The Facilitating Member must provide the Clerk with the details of the petition, the posted period and a signed acknowledgment that they are prepared to facilitate the e-petition.
- d) Once posted an e-petition cannot be altered other than by order of the Speaker.
- e) Once the posted period for an e-petition has elapsed, a paper copy of the petition shall be printed by the Clerk (including the details of the persons who signed the petition) and presented to the Assembly by the

- Facilitating Member.
- f) An e-petition which has been posted but not presented to the Assembly prior to the dissolution of the Legislative Assembly, may be presented in the subsequent Parliament and become a petition of the subsequent Parliament, if a new Facilitating Member is found.
 - g) The procedure for lodgement and presentation of an e-petition is otherwise as set out in this Chapter.

Petition referred to committee

67. A petition may be referred by motion to a committee.

Appendix 2

Committee's Functions and Powers

Legislative Assembly Standing Order No. 284 provides the following functions, powers and terms of reference to the Procedure and Privileges Committee -

Procedure and Privileges Committee

284.

(1) A Procedure and Privileges Committee will be appointed at the beginning of each Parliament to —

- (a) examine and report on the procedures of the Assembly; and
- (b) examine and report on issues of privilege; and
- (c) wherever necessary, confer with a similar committee of the Council.

(2) Membership of the committee will consist of the Speaker and four other members as the Assembly appoints.

(3) Standing Order 278 will apply except that where possible any report of the committee will be presented by the Deputy Speaker.

(4) When consideration of a report from the committee is set down as an order of the day it will be considered using the consideration in detail procedure.



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