



**THIRTY-NINTH PARLIAMENT**

**REPORT 27**

**STANDING COMMITTEE ON PROCEDURE AND  
PRIVILEGES**

**SECTION 23 OF THE *PARLIAMENTARY  
COMMISSIONER ACT 1971 (WA)***

Presented by Hon Barry House MLC (Chair)

August 2013

## STANDING COMMITTEE ON PROCEDURE AND PRIVILEGES

**Date first appointed: 24 May 2001**

### **Terms of Reference:**

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

#### **“7. Procedure and Privileges Committee**

- 7.1 *A Procedure and Privileges Committee* is established.
- 7.2 The Committee consists of 5 Members, including the President and the Chair of Committees, and any Members co-opted by the Committee whether generally or in relation to a particular matter. The President is the Chair, and the Chair of Committees is the Deputy Chair, of the Committee.
- 7.3 With any necessary modifications, Standing Order 163 applies to a co-opted member.
- 7.4 The Committee is to keep under review the law and custom of Parliament, the rules of procedure of the Council and its Committees, and recommend to the Council such alterations in that law, custom, or rules that, in its opinion, will assist or improve the proper and orderly transaction of the business of the Council or its Committees.”

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

Hon Barry House MLC (Chair)

Hon Adele Farina MLC (Deputy Chair)

Hon Nick Goiran MLC

Hon Colin Holt MLC

Hon Kate Doust MLC

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

Malcolm Peacock (Clerk of the Legislative Council)

Nigel Lake (Deputy Clerk)

Grant Hitchcock (Advisory Officer (Procedure))

### **Address:**

Parliament House, Perth WA 6000, Telephone (08) 9222 7222

lcco@parliament.wa.gov.au

Website: <http://www.parliament.wa.gov.au>

**ISBN 978 1 922047 51 9**

## CONTENTS

1	REFERENCE AND PROCEDURE .....	1
2	BACKGROUND TO THE REFERENCE .....	1
3	APPROACH BY THE COMMITTEE .....	2
4	SECTION 23 OF THE <i>PARLIAMENTARY COMMISSIONER ACT 1971 (WA)</i> .....	2



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

**IN RELATION TO**

**SECTION 23 OF THE *PARLIAMENTARY COMMISSIONER ACT 1971 (WA)***

---

**1 REFERENCE AND PROCEDURE**

- 1.1 On 14 November 2012, the Legislative Council resolved the following reference to the *Procedure and Privileges Committee*:

*That recommendations 1 and 2 of the fifteenth report of the Standing Committee on Public Administration “Omnibus Report — Activity During 38<sup>th</sup> Parliament” be referred for consideration and report to the Standing Committee on Procedure and Privileges.*

**2 BACKGROUND TO THE REFERENCE**

- 2.1 The *Standing Committee on Public Administration* tabled Report No. 15 in the Legislative Council on 6 November 2012. The report contained the following two recommendations —

**Recommendation 1: The Committee recommends that the Legislative Council refer to the Procedure and Privileges Committee, for consideration and report back to the Legislative Council, the question of the adequacy of the 10 minute per member and 60 minute overall maximum time for debating Committee reports.**

**Recommendation 2: The Committee recommends that section 23 of the Parliamentary Commissioner Act 1971 (WA) be amended to restore the ancient privileges of the Parliament and all of its Committees with respect to the Ombudsman.**

- 2.2 The report was debated during the course of Consideration of Committee Reports on Wednesday, 14 November 2012.

- 2.3 During the course of the debate, Members emphasised their concerns regarding the two recommendations, with particular reference to the perceived difficulties faced by committees when requesting information from an officer of the Parliament, such as the Ombudsman. Following the debate on the report, the above reference was referred to the *Procedure and Privileges Committee* (“the PPC”).
- 2.4 The PPC notes that the substantive issues in relation to recommendation one, time limits placed on debates for committee reports, have been considered by the PPC and are addressed by recommendation 4 in Report No. 24 — *Further Review of the Standing Orders*<sup>1</sup>. Having already addressed recommendation one in a previous report, the PPC did not further consider this recommendation and refers Members to PPC Report No. 24.

### **3 APPROACH BY THE COMMITTEE**

- 3.1 The PPC considered the referral of recommendation 2 contained in Report No. 15 of the *Public Administration Committee*. Advice was sought from the Clerk in relation to the operation of s 23 of the *Parliamentary Commissioner Act 1971 (WA)* and any perceived impact upon a committee’s ability to obtain information from the Ombudsman without resorting to the exercise of a committee’s power under s 4 of the *Parliamentary Privileges Act 1891 (WA)*.

### **4 SECTION 23 OF THE PARLIAMENTARY COMMISSIONER ACT 1971 (WA)**

- 4.1 In the course of the PPC’s consideration of recommendation 2, the Committee was mindful of the concerns raised by Members during the debate on the report.
- 4.2 The PPC reviewed the reference from the House and considered the operation of s 23 of the *Parliamentary Commissioner Act 1971 (WA)*. The PCC observes that s 23 of the Act is not to be read in isolation of the other sections of that Act. Further, the Act does not prevent or restrict either House of Parliament or a committee of either House from obtaining information from the Ombudsman during the course of an inquiry.
- 4.3 The PPC considers that whilst the use of summons by committees to request information may delay the timeliness of an inquiry, it is not the view of the PPC that parliamentary committees are unduly obstructed in their functions by reason of an officer of the Parliament seeking to comply with a statutory obligation.

---

<sup>1</sup> Standing Committee on Procedure and Privileges, Parliament of Western Australia, *Report No. 24 — Further Review of the Standing Orders* (2012) 4.

- 4.4 In noting the recommendation of the *Public Administration Committee*, the PPC has formed the view that parliamentary committees are not unduly obstructed in carrying out their functions and an amendment to the *Parliamentary Commissioner Act 1971* is therefore unnecessary.
- 4.5 The Committee is of the view that no further action is required.

A handwritten signature in blue ink, appearing to be 'BH', is centered on the page.

---

**HON BARRY HOUSE MLC**  
**CHAIRMAN**  
**15 AUGUST 2013**