



Hon Kate Doust MLC

Our Ref: A805261

6 March 2020

Hon Adele Farina, MLC  
Chair  
Standing Committee on Public Administration  
Legislative Council of Western Australia  
Parliament House  
West Perth WA 6005

Dear Chair

### **Request for clarification on Public Administration Committee Terms of Reference**

I refer to your letter dated 19 February 2020 regarding the Public Administration Committee's (PAC) terms of reference. I have treated your letter as a request for a procedural ruling to a Committee under Standing Order 184(1).

You have sought my ruling on three questions. To provide context to my ruling I have outlined below a brief history of petitioning the Parliament.

### **The history of the presentation of petitions to Parliament**

The right to petition and the power of the House of Commons to deal with petitions have existed in the United Kingdom since 1669.<sup>1</sup> Following an overwhelming number of petitions being presented, the House of Commons implemented stricter requirements on the presentation of petitions. Since the 1840s, it required a petition to be presented by a Member of the House to which it is addressed and for the Member to record their name on it.<sup>2</sup> Likewise, since at least 1836, the Standing Orders of the Legislative Council of Western Australia have provided for the presentation of petitions by a Member.<sup>3</sup>

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<sup>1</sup> Erskine May – para 24.2

<sup>2</sup> 99 CJ 284

<sup>3</sup> Rules and Orders for the Proceedings of the Legislative Council of Western Australia, SO 32 – 1836

The current practice concerning the presentation of petitions has changed very little since 1891, including that petitions are to be certified by the Clerk as complying with the Standing Orders.<sup>4</sup> While the number of restrictions on the content of petitions has grown since that time, the requirement that petitions must be certified by the Clerk prior to presentation remains unchanged.

Since at least the early 1990s, petitions have stood referred to a parliamentary committee for consideration.<sup>5</sup>

**Question 1: Can a letter to the PAC be received as a petition?**

The Legislative Council has ascribed 'petition' with a specific meaning and an associated procedure under Standing Orders 101 and 102. There are three main requirements for the presentation of petitions. A petition must:

1. be addressed to the President and Members of the Council (SO101(1)(a))
2. not contain objectionable material (SO 101(2))
3. be certified by the Clerk as being compliant with the Standing Orders prior to a Member presenting the petition to the Council (SO 101(5) and SO 102).

The number of requirements and strict language adopted by the House in the Standing Orders demonstrates that the House wanted to exercise significant control over the matters presented to it by way of petition and the procedure by which this occurred

The presentation of a petition in a manner other than that provided in the Standing Orders, would not satisfy the Council's express requirements that petitions be certified by the Clerk. Further, the presentation of a petition to anywhere but the Legislative Council would not allow for a Member to present that petition in accordance with the custom and practice of the House.

For these reasons, in the absence of any standing order or convention permitting the presentation of petitions directly to a Committee, standing orders 101-102 cover the field in relation to the presentation of petitions. Consequently, a committee cannot accept a petition directly from a petitioner or Member and a letter sent directly to a Committee cannot be a petition because it will not comply with the requirements for the presentation of petitions to the Legislative Council.

**Question 2: Can the PAC receive a petition directly?**

Following on from the above, it is not possible for the PAC to receive a petition directly from a petitioner or a Member.

Pursuant to Standing Order 102(6), every petition presented to the Legislative Council must stand referred to the Environment and Public Affairs Committee. That Committee may, pursuant to Committee Term of Reference 2.5, refer a petition to another Committee where the subject matter of the petition is within the competence of that Committee.

The Legislative Council could refer a petition directly to the PAC only after suspending the operation of Standing Order 102(6).

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<sup>4</sup> Standing Orders Committee – Recommendations to Chapters XII (Petitions), XIV (Questions) and S.O. 117 (Business After 11pm). Tabled 22 March 1984

<sup>5</sup> Terms of Reference – Standing Committee on Constitutional Affairs and Statutes Revision December 1993

**Question 3: Is PAC obliged to accept or inquire into petitions?**

There is no requirement in the Standing Orders for the PAC to accept or inquire into a petition referred to it by the Environment and Public Affairs Committee.

It was the case from 1998 until 2001 that a Committee to which a petition was referred was required to inquire and report to the Legislative Council. During that period, the terms of reference of the Standing Committee on Constitutional Affairs, then responsible for petitions, empowered it to refer a petition to another Committee, which was then required to report to the House. The terms of reference provided:

*4. A petition stands referred after presentation. The committee may refer a petition to another standing committee when the subject matters of the petition is within the terms of reference of that standing committee. A standing committee to which a petition is referred shall report to the House as it thinks fit.*

However, in 2001 when the petition function was allocated to the Environment and Public Affairs Committee, the above underlined sentence was omitted.

In the absence of a requirement in the Standing Orders for a Committee to inquire and report into a matter to which it is referred, a Committee is not obliged to accept or inquire into a petition referred from the Environment and Public Affairs Committee. However, should a petition be directly referred to the PAC by the Legislative Council, after the suspension of standing order 102(6), the PAC would be obliged to accept and report on the petition.

Yours sincerely



**Hon Kate Doust, MLC**  
President of the Legislative Council