

Queensland Parliament's Portfolio Committee System: Ten Year Anniversary Event

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INTRODUCTION: THE TEN-YEAR ANNIVERSARY EVENT

July 2021 marked ten years since the commencement of a new portfolio committee system in 2011. The anniversary was celebrated in October 2021, when the Queensland Parliament held its first 'livestreamed' public event: a panel discussion about the impact of portfolio committees in Queensland.¹ The live-stream was via the Queensland Parliament's Facebook page 'facebook live' function. It took advantage of social distancing restrictions to highlight that parliamentary committees are moving into the digital space, with improved accessibility as a result.

Hosted by Curtis Pitt, Speaker of the Legislative Assembly and moderated by Neil Laurie, Clerk of the Parliament, the panel members included former Members of the Parliamentary committee responsible for developing the recommendations which led to the establishment of the unique portfolio committee system, Judy Spence, and Lawrence Springborg. As the former Chair and Deputy Chair of the 'Review of the Parliamentary Committee System Committee' respectively, they shared some of the considerations and the expectations held by that Review Committee when it made its report to the Legislative Assembly in 2011. The independent Member for Noosa,

¹ See Parliament of Queensland, *Parliament's Portfolio Committee System: 10 year anniversary event*, 15 October 2022, Transcript of Proceedings. Accessed at <<https://www.parliament.qld.gov.au/Work-of-Committees/Ten-Year-Anniversary>>.

Sandy Bolton, was able to offer a cross-bench perspective on how the system is working now.

An audience of 20 attended the event in the Legislative Council Chamber in person, and 51 participated via the Parliament's Facebook live stream.²

An important part of the event was the 'Q & A' aspect. The event program was limited to one and a half hours, with the capacity of a primarily online audience in mind.

THE PORTFOLIO COMMITTEE SYSTEM IN QUEENSLAND

In 2011, with the Queensland Parliament failing many international benchmarks relating to scrutiny and accountability,³ the Assembly established its new committee system with two primary, inter-related functions: scrutiny of the Executive, supported by greater public participation in the processes of Parliament.⁴

The new portfolio committees assumed a number of oversight and scrutiny roles over sectors of the government that in other parliaments would be performed by several separate functional committees, notably: the scrutiny of Bills and subordinate legislation, the examination of public accounts and public works, the examination of budget estimates, oversight of statutory office holders, and undertaking major policy inquiries referred by the Assembly.⁵

At the same time, the Assembly modified its Standing Orders and Sessional Orders to ensure that the work of portfolio committees is central to the Assembly's consideration of Bills.⁶ One of these changes was to provide, for the first time, dedicated time on the

² Parliament of Queensland, 'Parliament's Portfolio Committee System: 10 year anniversary event'. Accessed at: <<https://www.parliament.qld.gov.au/work-of-committees/introduction/history>>.

³ Neil Laurie, *Submission to the Committee System Review Committee*, Parliament of Queensland, 25 May 2010. Accessed at: <<https://documents.parliament.qld.gov.au/com/CSRC-E8C4/QPCSR2010-1F97/submissions/00000023.pdf>>.

⁴ Parliament of Queensland, 'Work of Committees'. Accessed at <<https://www.parliament.qld.gov.au/Work-of-Committees/Introduction/History>>.

⁵ *Parliamentary Committees Act 2001* (Qld) ss92-94.

⁶ Parliament of Queensland, Legislative Assembly, *Standing Orders*. Accessed at: <<https://documents.parliament.qld.gov.au/assembly/procedures/StandingRules&Orders.pdf>>. See in particular *Standing Orders* 194-200.

Parliamentary agenda each sitting week for committees to meet, and for the debate of committee reports which were automatically listed for debate - other than Bill reports, which expressly inform second reading debates.

During the Ten Year Anniversary event, a number of significant committee inquiries conducted by portfolio committees in the preceding ten years were noted, including the Civil Partnerships Bill in 2011, which attracted 6,000 written submissions and, noting these were the early days of the new system, heard from 20 witnesses in person;⁷ the North Stradbroke Island Protection and Sustainability Bills in 2015-16, which attracted over 300 submissions, with the committee holding hearings on North Stradbroke Island and in Cleveland, hearing from 114 witnesses in person;⁸ the Human Rights Inquiry in 2015, which inquired into whether to introduce human rights legislation in Queensland,⁹ and the subsequent Human Rights Bill inquiry;¹⁰ along with an inquiry into the introduction of four-year parliamentary terms in Queensland which as well as including hearings around the state, began what is still a fairly occasional use of online tools to enable public participation, with an online survey.¹¹ More recently the inquiries into Coal Workers' Pneumoconiosis,¹² End of Life Care and Voluntary

⁷ Parliament of Queensland, Legal Affairs, Police, Corrective Services and Emergency Services Committee, *Civil Partnerships Bill 2011*, Report No. 7, November 2011, p 1. Accessed at: <<https://documents.parliament.qld.gov.au/tableoffice/taledpapers/2011/5311T5935.pdf>>.

⁸ Parliament of Queensland, Finance and Administration Committee, *North Stradbroke Island Protection and Sustainability (Renewal of Mining Leases) Amendment Bill 2015 and North Stradbroke Island Protection and Sustainability and Other Acts Amendment Bill 2015*. Report No. 21, 55th Parliament.

⁹ Parliament of Queensland, Legal Affairs and Community Safety Committee, *Human Rights Inquiry*. Accessed at: <<https://parliament.qld.gov.au/Work-of-Committees/Committees/Committee-Details?cid=197&id=3558>>.

¹⁰ Parliament of Queensland, Legal Affairs and Community Safety Committee, *Human Rights Bill 2018*, Report No. 26, 56th Parliament, February 2019. Accessed at: <<https://documents.parliament.qld.gov.au/TableOffice/TabledPapers/2019/5619T7.pdf>>.

¹¹ Parliament of Queensland, Finance and Administration Committee, *Inquiries Into Possible Changes to Queensland Parliamentary Terms*. Accessed at <<https://www.parliament.qld.gov.au/Work-of-Committees/Committees/Committee-Details?cid=187&id=3348>>.

¹² Parliament of Queensland, *Coal Workers' Pneumoconiosis Select Committee*. Accessed at: <<https://www.parliament.qld.gov.au/Work-of-Committees/Former-Committees/Former-Committee-Details?cid=180>>.

Assisted Dying,¹³ and Termination of Pregnancy¹⁴ attracted significant levels of public participation from across Queensland.

The Review Committee envisaged, and Parliament adopted legislation and processes designed to ensure, that portfolio committees are open and transparent in the way they take evidence from stakeholders, and air a range of perspectives through their inquiry process. The viewpoints, facts presented and experiences shared by those who make submissions, speak for themselves and are in the public arena, to inform public debate. In his opening remarks, the Speaker observed that as well as informing members' contributions to parliamentary debates, the public nature of the evidence given to committees ultimately helps the people more broadly to make assessments that hold the Government to account in the most fundamental way – at the election.

HOW WELL ARE COMMITTEES LIVING UP TO EXPECTATIONS?

The panel members considered that committees have made a big difference in the level of public engagement with the legislative process, which is borne out by statistics. Ultimately, it was suggested a panel member that the test is whether the parliament would be 'worse off' if it did not have this committee system, to which the broadly agreed answer was clearly that it would. That is not to say that there are not features which could be improved, in the interests of greater accountability and transparency.

Spence observed that the Review Committee had always known that governments would continue to make the decisions that they wanted to make, because that is what they were elected to do; but that governments had benefited from the engagement undertaken by committees.¹⁵ The Review Committee had also seen that committees would be a 'rolled gold' opportunity for the opposition, for both public engagement, and for learning about each portfolio area. It was agreed by the panel that members

¹³ Parliament of Queensland, Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee, 'Inquiry into Aged Care, End of Life and Palliative Care and Voluntary Assisted Dying'. Accessed at: <<https://www.parliament.qld.gov.au/Work-of-Committees/Committees/Committee-Details?cid=188&id=3383>>.

¹⁴ Parliament of Queensland, Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee, 'Termination of Pregnancy Bill 2018'. Accessed at: <<https://www.parliament.qld.gov.au/Work-of-Committees/Committees/Committee-Details?cid=188&id=3437>>.

¹⁵ Parliament of Queensland, *10 year anniversary event*.

of the Assembly have become much more informed about the legislation it considers, as a result of the work done by committees.¹⁶

Panel members identified a number of recommendations made by the Review Committee which were not adopted by the Legislative Assembly or for other reasons have not been fully implemented and do not form part of committee practice now. These included referral of petitions to committees for review; a requirement for bipartisan support of (more) key statutory appointments, and an estimates process free from strict time allocations.¹⁷

As an example, Bolton expressed her view that cross-bench members are not given a sufficient amount of time to ask questions at estimates hearings: while comprising 17% of the non-government seats in the House, they did not get 17% of the time (informally allocated by chairs) to non-government questions.¹⁸

The Review Committee panel members explained that the intent behind the removal of strict time limits for questions was that in the portfolio committee model, committee members would have developed sufficient knowledge of their portfolio areas to engage with the executive, asking relevant questions which support the parliament's accountability function. They expressed a view that the extent to which a free-flowing process happens is hampered by 'immaturity' and that it is great to see chairs and ministers who are in control of their portfolio areas, and therefore confident enough to let questions be asked as they will, including referring them to department officials without necessarily knowing what the answers would be.¹⁹

Perhaps, as Springborg suggested in response to an audience question, ensuring that opportunities for direct questioning of Ministers (and, as the Speaker suggested, CEOs of more government entities) by committees was not limited to an annual event could

¹⁶ Parliament of Queensland, *10 year anniversary event*.

¹⁷ Despite the removal of time limits for estimates questions from standing orders as part of the 2011 reforms, an informal allocation of 'government' and 'non-government' blocks of time for questions is a standard practice. Significant attention is paid by members to that time allocation. See Parliament of Queensland, *10 year anniversary event*.

¹⁸ Parliament of Queensland, *10 year anniversary event*.

¹⁹ Note that since 2011 reforms, committees now can and do ask questions directly of Directors-General and CEOs of government entities. See Parliament of Queensland, *10 year anniversary event*.

overcome the focus on attempts at ‘gotcha’ moments, that continue to characterise the estimates process.

The transparency of committee deliberations was another area of focus. Spence and Springborg highlighted the importance of committee deliberations – not just proceedings – being public. Springborg noted the risk that behaviour can become less accountable when actors think that their actions will not be made public; and that this can impact on public confidence. He considered it important that the deliberations of what is in effect the highest court in the state, should be public. Other panel members thought that total transparency could have the unwanted effect of members behaving in an even more partisan manner knowing they are in the public eye, as occurs in the Chamber. A culture of working collegiately in committees was required to achieve the best outcomes, Bolton noted, and she observed that chairs using a casting vote was not in the interests of that objective.²⁰

Whether or not the portfolio committee system, which replaced the previous function-based public accounts, public works, scrutiny of legislation and subordinate legislation committees, were adequately progressing these functions on behalf of the parliament in the context of their legislative work, was also discussed by both panel members and an audience member. There were suggestions that these areas may have suffered and needed greater focus.

Audience questions also explored the possible impact on parliamentary committees of fixed parliamentary terms; the impact of the *Human Rights Act 2019* (Qld) on committees; the (in)ability of committees to amend legislation (they make recommendations to the House, but do not have direct power to amend); assumptions in data used to measure committee performance; and whether overall, the committee system offered a counter-balance to the government of the day.²¹

The Speaker made the point that there is an evolving recognition in parliaments of the distinction between being a politician, and being a parliamentarian, with the latter required of committee members if committees are to add maximum value to the parliament’s scrutiny function as intended.²²

²⁰ Parliament of Queensland, *10 year anniversary event*.

²¹ Parliament of Queensland, *10 year anniversary event*.

²² Parliament of Queensland, *10 year anniversary event*.

Summing up, the Clerk noted that there was general agreement that there have been significant gains, particularly in respect of supporting the Parliament's legislative function. Reflecting that, amendments to Queensland's Constitution in 2016 incorporated requirements for Parliament to establish portfolio committees and for all legislation be referred to a portfolio committee. However, it was clear there was agreement that there is room for further reform.