

Raising your voice in Parliament? The comparative strengths and weaknesses of Parliamentary Petitions and Committee Inquiries in NSW*

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Abstract: Despite their long history as tools for public engagement, questions have been raised about the extent to which parliamentary petitions and parliamentary committees contribute to effective public participation in parliamentary processes. Particular criticism has been directed at parliamentary petitions with a growing number of voices questioning their relevance and suggesting that citizens' interests could be more effectively addressed by other means. This article will look at the key features of the petition and the committee process and attempt to establish their respective strengths and weaknesses having regard to a case study of government responses to petitions and committee reports in the 55th NSW Parliament.

INTRODUCTION

As documented in the 2022 Special Edition of the *Australasian Parliamentary Review*, connecting parliaments with the citizens they serve is a fundamental and urgent task of all modern parliaments. It is also part of Australia's international commitments to

facilitating meaningful democratic participation under international human rights law and other agreements to which Australia is a voluntary party.¹

This article will explore the extent to which public participation in parliamentary committee inquiries and/or in petition processes provides meaningful avenues for this form of public engagement with parliamentary lawmaking, having regard to a specific case study from New South Wales. The case study quantitatively compares government responses to petitions versus committee reports in the 55th NSW Parliament. This analysis is supplemented by practitioner insights into key aspects of citizen engagement with these processes, and the timeliness of government responses. It aims to provide a more detailed overview of how receptive different lawmakers are to these two processes for receiving citizen input into the lawmaking process.

Currently, there is a perception that parliamentary committees are an effective participatory tool², while parliamentary petitions are more limited in terms of richness of experience and legislative impact.³ For example, Handley suggests that rather than petitioning parliament, it may be a better option to make representation to a particular committee or directly to a relevant department.⁴

While it is beyond the scope of this article to provide a comprehensive evaluation of either parliamentary committee inquiries or petitions, it is hoped that by considering key features of both processes through the lens of someone who comes from a different legal and institutional perspective, I can offer some fresh insights into which aspects of these processes should or could be invested in or reformed in the future.

¹ See, for example, United Nations (General Assembly), 1966, 'International Covenant on Civil and Political Rights.' Treaty Series 999 (December): 171; Attorney-General's Department, 'Australia's Open Government Partnership'. Accessed at: <<https://www.ag.gov.au/rights-and-protections/australias-open-government-partnership>>.

² For example, A. Brazier, and R. Fox, 'Reviewing Select Committee Tasks and Modes of Operation'. *Parliamentary Affairs*, 64(2) 2011, pp. 354–369; R. Webber, 'Increasing Public Participation in the Work of Parliamentary Committees', *Australasian Parliamentary Review* 16(2), pp. 110–20.

³ For example, R. Handley, 'Petitioning Parliament', *Federal Law Review* (21) 1993, pp. 290-307; R. Hough, 'Do Legislative Petitions Systems Enhance the Relationship between Parliament and Citizen?', *The Journal of Legislative Studies* 18(3-4) 2012, pp. 479-495.

⁴ Handley, 'Petitioning Parliament', p. 302.

THE RIGHT TO PARTICIPATE IN PARLIAMENTARY PROCESSES

Political self-efficacy, ‘the feeling that political and social change is possible, and that the individual citizen can play a part in bringing about this change’⁵ is a necessary element of effective democracy.⁶ The Organization for Economic Co-operation and Development (OECD) emphasises that:

Strengthening relations with citizens is a sound investment in better policy-making and a core element of good governance. It allows government to tap new sources of policy-relevant ideas, information and resources when making decisions. Equally important, it contributes to building public trust in government, raising the quality of democracy and strengthening civic capacity. Such efforts help strengthen representative democracy, in which parliaments play a central role.⁷

In line with Australia’s Westminster heritage, two processes have emerged as providing avenues and forums for citizens to raise their concerns, views and legislative priorities directly with parliament (as a complement or alternative to exercising their right to vote at periodic elections). These are: participation in parliamentary inquiries conducted by parliamentary committees and initiating or signing petitions. Both processes have a long and rich history. For example, the right to petition the monarch and parliament to address a grievance or resolve an issue date back to the 13th century in Britain. Early bills originated with petitions to which the monarch had agreed.⁸ Petitions in their current form date from the 17th century.⁹ In the Australian Parliament, one of the most famous petitions was presented to the House of Representatives in 1963 by a member on behalf of the Yolgnu people of Yirrkala in the Northern Territory. It requested that the Parliament recognise their traditional land on

⁵ A. Campbell, G. Gurin, and W.E. Miller, *The voter decides*, Evanston: Row, Peterson and Company, 1954.

⁶ A. Bandura, ‘Exercise of human agency through collective agency’, *Current Directions in Psychological Science*, 9 (3) 2000, pp. 75-78.

⁷ OECD Public Management Policy Brief, ‘Engaging Citizens in policy-making: Information, Consultation, and Public Participation’, July 2001. Accessed at: <<https://www.sigmaweb.org/publicationsdocuments/35063274.pdf>>.

⁸ G. A. Mark, ‘The Vestigial Constitution: The History and Significance of the Right to Petition’, *Fordham Law Review*, 66(6) 1998, pp. 2165-2167.

⁹ G. A. Mark, ‘The Vestigial Constitution: The History and Significance of the Right to Petition’, pp. 2170-2171.

the Gove Peninsula in Arnhem Land which was under threat from mining. The petition resulted in an establishment of a parliamentary committee to investigate the issue.¹⁰

Parliamentary committees date back to the 14th century in Britain. The first parliamentary committees were made up of individuals chosen to serve as triers (or auditors) of petitions and the duty of the early committees was to draft legislation in order to fulfil petition requests agreed to by the Crown.¹¹ The role and functions of parliamentary committees slowly began to expand and by the middle of the 16th century, committees were an integral part of the work of lawmaking process within the British Parliament. The role and function of parliamentary committees began to include scrutinising legislation agreed to in principle by the House of Commons.¹² These scrutiny roles were accompanied by more relaxed rules for debate, the right to appoint sub-committees and the right to summon witnesses.¹³

The scrutiny-based parliamentary committees also featured in the early Australian Parliament, through the establishment of the Senate Standing Committee on Regulations and Ordinances in 1932. This Committee was tasked with reviewing federal legislation against a range of criteria, including rights-based criteria, and has since influenced the establishment of similar committees in State and Territories around Australia.¹⁴ These scrutiny-based committees have been particularly important

¹⁰ R. de Costa, 'Identity, Authority, and the Moral Worlds of Indigenous Petitions', *Comparative Studies in Society and History*, 48 (3), 2006, pp. 685-689.

¹¹ Gwilym Dodd, *Justice and Grace: Private Petitioning and the English Parliament in the Late Middle Ages*. Oxford: Oxford University Press, 2007, pp. 91-108.

¹² M. Bond, 'The History of Parliament and The Evolution of Parliamentary Procedure' [Verbatim transcript of two lectures delivered on 21st and 28th June 1966], House of Lords Record Office 1966 (re-typed 1999). Accessed at: <<https://www.parliament.uk/globalassets/documents/parliamentary-archives/evolution.pdf>>; New Zealand Parliament, Legislative Council and House of Representatives, 'Parliamentary Debates', vol. 47, 8th Parliament: 3rd session (1884), p.14. Accessed at: <<https://www.parliament.nz/en/pb/hansard-debates/historical-hansard/#1880>>.

¹³ M. Bosc and A. Gagnon, (eds.), 'Chapter 20 Committees: Historical Perspective: British Precedents', *House of Commons Procedure and Practice*, Parliament of Canada, 2017.

¹⁴ L. Grenfell, "An Australian Spectrum of Political Rights Scrutiny; 'Continuing to Lead by Example?'" , *Public Law Review*, 26/1 (2015), pp. 19-38.

safeguards for the protection of individual rights in the Australian context of rights protection because Australia does not have constitutional or statutory bill of rights.¹⁵

THE PURPOSE AND THE PROCESS

The Purpose of Petitions

Parliamentary petitions' primary purpose over the past years has been to allow an individual or the public to take a pro-active part in the democratic process by enabling them to bring to the direct attention of the parliament any matter that is within parliament's authority to act, and request that it take action. The most intense involvement of citizens takes place during the petition preparation and signature-collection stages. Petitioners are able to illustrate the level of support for the matter with the number of collected signatures.¹⁶ After the petition is handed over to an MP for presentation to the House, petitioners' engagement in the subsequent stages becomes limited. Consequently, parliamentary petitions take a form of advocacy democracy, as they are able to raise an issue and initiate a demand (in the form of a decorous request) to the legislator but are not part of the negotiation and decision-making processes.¹⁷

In addition to linking and engaging the public with the parliament, petitions in modern systems (paper, electronic or hybrid) play many other important and inter-connected roles: they provide an outlet to express dissatisfaction; resolve a grievance or address a situation of injustice (safety-valve); enable the raising of complex (often unapparent) issues to policy-makers from the bottom-up (fire-alarm); communicate information; inform policy development; effect policy change; support integration and legitimacy; aid the scrutiny of the Executive; mobilise citizens and through that contribute to the

¹⁵ Sarah Moulds, *Committees of Influence: Parliamentary Rights Scrutiny and Counter-Terrorism Lawmaking in Australia*. Singapore: Springer, 2020, p. 13.

¹⁶ R. Burton, 'The People's Parliament: Have Petitions Had Their Day?', *Australian Parliamentary Review*, 33(1) 2018, p.67.

¹⁷ C. Carman, 'The Process is the Reality: Perceptions of Procedural Fairness and Participatory Democracy', *Political Studies* 58 2010, pp. 731-751.

development of collective identity.¹⁸ They also play a vital role in revitalising trust and improving the relationship between citizens and the parliament – provided that the petition process is regarded as procedurally fair.¹⁹

Clark and Lomas have found by analysing recent historic e-petitions data, petitions can provide political engagement platform for a diaspora – often, like in the case of the United Kingdom – a very significant section of a country’s electorate. This is particularly important for countries that enable their expatriates to vote in elections, or plan to open up such opportunities for them, as the chances of participation in this ‘between elections’ form are likely to increase.²⁰ The extent to which the political elites are receptive to public input is another question. As Matthews has demonstrated, although this participatory mechanism is considered as valuable for the contributory and informative reasons, those in power are not very much willing to share it with those who put them in this very position.²¹

Petitions also serve as a source of social history – a very important but often overlooked purpose. This is because they can provide a first-hand account of the key concerns and demands of people living at a particular period of time, thus providing opportunities for other viewpoints to come to light and potentially confirm or challenge the existing state of knowledge.²² Nevertheless, as Leston-Bandeira has found, among the multiplicity of roles that petitions perform, it is their potential to connect citizen to parliamentarian that is generally seen as their most central value.²³ This is reflected in the NSW Parliament, where lower House procedural publications

¹⁸ C. Leston-Bandeira, ‘Parliamentary petitions and public engagement: an empirical analysis of the role of e-petitions’. *Policy & Politics* 47 (3) 2019, pp. 415-436.

¹⁹ Carman, ‘The Process is the Reality’, p.743.

²⁰ S. D. Clark, and N. Lomax, ‘A Worlds-Eye View of the United Kingdom through Parliamentary e-Petitions’, *British journal of politics & international relations*, 2022 0(0).

²¹ F. Matthews, ‘The Value of ‘between-Election’ Political Participation: Do Parliamentary e-Petitions Matter to Political Elites?’ *British journal of politics & international relations*, 23(3) 2021.

²² J. Gallagher, ‘Petitions: A Voice for Sharing our Social History’, *Australasian Parliamentary Review* 37 (2) 2022, pp. 126-142.

²³ C. Leston-Bandeira, ‘Parliamentary Petitions and Public Engagement: An Empirical Analysis of the Role of e-Petitions’.

make reference to petitions as enabling people to have their ‘grievances’ brought to the attention of the Parliament.²⁴

The Purpose of Parliamentary Inquiries

Contrary to a parliamentary petition originating from ‘outside’, it is the Parliament itself that refers a matter for inquiry to a committee. When parliamentary committees respond to references by conducting public inquiries into proposed legislation or policy issues, they create a forum for MPs to contribute to the legislative process, and provide a link between members of the public and the lawmaking process.²⁵ It is through this important inquiry function that parliamentary committees can investigate policy or legislative issues in detail, and hear from a wide range of stakeholders: experts; community members and their leaders; non-governmental organisations (NGOs); institutions; the public and others. In this way, parliamentary committees, similarly to petitions, play a crucial role in re-building citizens’ trust in democracy and its institutions – provided that engagement with the public is done effectively and ethically.²⁶

Parliamentary committees also serve an invaluable role in promoting and protecting human rights. At the federal level, for example, parliamentary committees not only investigate and report on the non-compliance of national legislation with international human rights law, but also facilitate community discussion on the issue at hand and offer recommendations on how the legislation can be improved.²⁷ Parliamentary committees also can have a ‘hidden impact’: an increase in the awareness of the lawmakers of the need to take into account rights-protective aspects; anticipation of higher standards being applied in the policy-making process in the future; or advanced criteria being incorporated into guidelines and manuals for public servants aided by,

²⁴ Parliament of New South Wales, ‘NSW Legislative Assembly Practice, Procedure and Privilege’, Chapter 13. Accessed at: <<https://www.parliament.nsw.gov.au/la/proceduralpublications/Pages/wppbook.aspx>>.

²⁵ S. Moulds, ‘Committees of Influence: Evaluating the Role and Impact of Parliamentary Committees’, Senate Occasional Lecture-Paper, Canberra, 5 May 2021, pp. 1-30.

²⁶ E. Banyer, ‘The Franking Credits Controversy: House of Representatives Committees, Public Engagement and the Role of the Parliamentary Service’, *Australasian Parliamentary Review*, 35(1) 2020, p. 78.

²⁷ S. Moulds, ‘Committees of Influence’, p.5.

for example, practical checklists for particular stages of the process to develop new laws.²⁸

It is important to note that different types of parliamentary committees have different functions, powers and membership: the main categories or ‘species’ of committees being orientated around scrutiny, investigation, legislation and public communication.²⁹ The scrutiny of the executive role is particularly significant in unicameral parliaments where committees fill the vacuum of an upper house of review.³⁰ Also, in some Westminster-style parliaments, committees are tasked with the considerations of petitions e.g. the UK House of Commons’ Petitions Committee, the Scottish Parliament’s Citizen Participation and Public Petitions Committee, the New Zealand Parliament’s Petitions Committee and the Australian House of Representatives’ Standing Committee on Petitions.

In NSW, committees play many important roles. For example, they engage the public in the formulation of public policy; raise the level of accountability by scrutinising the actions and decisions of the Executive; examine legislation and prepare report to better inform the Parliament; and provide additional forum for communication for independent statutory officers such as the Auditor-General, the Ombudsman’s Office, the Independent Commission Against Corruption.³¹ The NSW committees also aim at increasing ‘regular’ MPs level of engagement in the policymaking process hence Ministers and Parliamentary Secretaries do not usually serve on parliamentary committees and are not allowed to serve on particular statutory committees.³²

²⁸ S. Moulds, ‘Committees of Influence’, Chapter 7, pp. 211-226.

²⁹ J. Haligan, ‘Parliamentary Committee Roles in Facilitating Public Policy at the Commonwealth Level’, *Australasian Parliamentary Review*, 23(2) 2008, pp. 135–56.

³⁰ J. Alvey, ‘Parliament’s Accountability to the People, the Role of Committees: A Queensland View’, *Australasian Parliamentary Review*, 23(1) 2008, pp. 62–72.

³¹ The newDemocracy Foundation, ‘New options for Parliamentary Committees’, *Australasian Parliamentary Review*, 37(2) 2022, pp. 169–170; Parliament of New South Wales, ‘NSW Legislative Assembly Practice, Procedure and Privilege’, Chapter 26.

³² Parliament of New South Wales, ‘NSW Legislative Assembly Practice, Procedure and Privilege’, Chapter 26.

The Process

Because of their very different functions and purposes, the process for citizen engagement with petitions and parliamentary inquiries is also different and distinct. To compare the main aspects of both processes the following procedural stages have been selected for analysis: the start of the process (initiation); involvement of MPs in the process; involvement of Parliamentary Officers in the process; Government response requirements and their timeliness; and debating provisions.

INITIATION

The process of starting a petition and the campaign to collect signatures in the majority of Australian jurisdictions occurs well-before anything happens in Parliament. The exception is electronic petitions for which the sponsorship of an MP or the Clerk is sometimes required as the first step.³³ Nevertheless, regardless of the form of a petition, petitioners may request procedural assistance (compliance with standing orders check) before the collection of signatures, to ensure the wording and structure of the petition is in order, and thereby reduce the risk of a petition being ruled inadmissible at a later stage.³⁴ In the NSW Parliament under Legislative Assembly standing order 123 and Legislative Council standing orders 70-74 the Member must be familiar with the contents of a petition before presenting it to Parliament; must sign the first page and if a petition contains more than 500 signatures provide a written certification. In terms of electronic petitions, the Member, under Legislative Assembly standing order 123A and Legislative Council standing order 72, needs to agree to present the petition before it is after it is no longer open for signatures. The Member presenting the petition does not need to be involved in the collection of neither paper nor electronic signatures.³⁵

³³ See, for example, The Legislative Assembly for the Australian Capital Territory, *Standing Orders and continuing resolutions of the Assembly*, Order No 100A. Queensland Parliament, Legislative Assembly, Standing Rules and Orders of the Legislative Assembly, Order No 119.

³⁴ See, for example, Parliament of Australia, 'Contact us'. Accessed at: <https://www.aph.gov.au/Parliamentary_Business/Petitions/House_of_Representatives_Petitions/Contact>.

³⁵ Parliament of New South Wales, Legislative Assembly, *Standing Orders*; Parliament of New South Wales, Legislative Council, *Standing Rules and Orders*.

In comparison, the parliamentary committee process starts in Parliament with most committees being established under the standing orders by either House of Parliament or jointly by both. However, the way in which different types of committees are set up may differ, for instance statutory committees are established by statute (Act of Parliament)³⁶. In NSW, unless otherwise determined by statute, the rules governing the establishment and works of committees are specified by Parliament under Legislative Assembly standing orders 272-323 and Legislative Council standing orders 210-241. Appointment of committees may be on notice of motion (e.g., Legislative Assembly standing committees under SO 315), without notice (e.g., Legislative Assembly legislation committees under SO 323), or in the case of joint committees – proposed by a message (in Legislative Assembly under SO 319).³⁷

MPS INVOLVEMENT

The different purposes of petitions and committees also define the level of involvement of MPS. In the petition process it is the citizen who starts and controls the initial stage. No action is required on behalf of Parliament until the petitioner decides to start the engagement by submitting a petition – it is a one-way communication. In contrast, committee inquiries are initiated by the Parliament. Committee engagement with the public is more multilayered, still within the control of the Parliament, but with more potential to provide a deliberative forum for MPs and the community to debate an issue together (recognising that in practice, the findings and recommendations of committees are often influenced by executive dominance).³⁸

In NSW Parliament, the MPs form part of the petition process, but in practice their engagement with petitioners is often marginal. Under the NSW petition process, the MPs primary role is to familiarise themselves with the content of petitions (they do not

³⁶ Parliament of Australia, 'Infosheet 4 – Committees'. Accessed at: <http://www.aph.gov.au/about_parliament/house_of_representatives/powers_practice_and_procedure/00_-_infosheets/infosheet_4_-_committees>.

³⁷ Parliament of New South Wales, Legislative Assembly, Standing Orders; Parliament of New South Wales, Legislative Council, Standing Rules and Orders.

³⁸ For example, A. Walker, N. Jurczak, C. Bochel, C. Leston-Bandeira, 'How Public Engagement Became a Core Part of the House of Commons Select Committees', *Parliamentary Affairs*, 72 (4) 2019, pp. 965-986; C. Leston-Bandeira, L. Thompson, 'How can the public effect real change in Parliament?', blog post for *The British Academy*, 2019. C. Leston-Bandeira, 'Parliamentary petitions and public engagement: an empirical analysis of the role of e-petitions'. *Policy & Politics* 47 (3) 2019, pp. 415-436.

have to support them), make sure they comply with the standing orders, and present them to parliament. After submission of a petition there is not much involvement required unless the petition contains more than 10,000 signatures (20,000 for electronic petitions).³⁹ In this case, usually the Member presenting the petition also participates in the debate on the petition. If a Member does not seek the call when the Order of the Day is called on, it lapses.⁴⁰

The involvement of MPS in parliamentary inquiries conducted by parliamentary committees in NSW is more substantial. Once the terms of reference have been established the committee may invite written submissions from the community, experts and/or interest groups regarding the issue. After the deadline for submissions has closed, committee members consider the submissions. Selected persons or groups may be invited to appear before the committee to provide further evidence or answer questions from committee members.⁴¹ Committee hearings usually take place at Parliament House but committee members may also travel⁴² all over Australia to reach out and discuss issues with wide audiences and get well-informed.⁴³

PARLIAMENTARY OFFICERS' INVOLVEMENT

The involvement of parliamentary officers in the petition process, overall, is quite limited. For example, in NSW Legislative Assembly, the petitions officer (Parliamentary Officer Documents) advises petitioners on the requirements of petitions and reviews petitions prior to their submission, if so requested. After submission, the petitions officer checks whether the petition complies with the standing orders and refers it to the relevant Minister – under SO 125 for petitions with more than 500 signatures, the referral includes a request and timeframe for the receipt of a ministerial response.⁴⁴ After the ministerial response is received the officer publishes the response on the

³⁹ Parliament of New South Wales, Legislative Assembly, *Standing Orders*, Orders no 123-125.

⁴⁰ Parliament of New South Wales, Legislative Assembly, *Standing Orders*, Orders no 119-125A.

⁴¹ Parliament of New South Wales, Legislative Assembly, *Standing Orders*, Orders no 288-289; Parliament of New South Wales, 'NSW Legislative Assembly Practice, Procedure and Privilege', Chapter 26.

⁴² Except for Legislation committees which under Standing Order no 323 shall not travel.

⁴³ Parliament of New South Wales, Legislative Assembly, *Standing Orders*, Orders no 272-334.

⁴⁴ Parliament of New South Wales, Legislative Assembly, *Standing Orders*.

parliament's website. The petitions officer follows the rules set out in the standing orders and does not have any additional decision-making power in relation to the acceptance or rejection of petitions. The admissibility of borderline petitions is subject to the Clerk's decision.

The involvement of parliamentary officers in the committee inquiry process is much more significant. Committee Secretariat staff and other officers are extensively involved in all aspects of an inquiry: calling for submissions, selection of witnesses, organisation and attendance of hearings, report writing and report tabling. However, one of their most crucial and at the same time difficult roles according to Hughes⁴⁵ is advising committee members on institutional and procedural obligations they are bound by to ensure that the integrity of the committee system is maintained.

It is important to note that the role of parliamentary officers in the petition process is enhanced in parliaments that refer petitions to committees whereby they: provide procedural advice on the petition process to members of the public, receive and process petitions, organise and assist committee members during public hearings, refer the terms of the petition to the Minister responsible for the administration of the matter raised and assist committee members in drafting reports.

GOVERNMENT RESPONSE REQUIREMENTS AND THEIR TIMELINESS

The majority of Australian Houses of Parliament require government responses to petitions and committee recommendations and specify timeframes for the receipt of such responses (Table 1). Deadlines for the provision of responses, however, vary considerably between the various jurisdictions: from 12 meeting days to three months for petitions and from two to six months for committee reports. Four Australian jurisdictions do not require their governments to respond to committee reports compared to six jurisdictions not requiring government responses to petitions. However, parliaments which do not require responses to petitions (except for the Australian Senate and the SA Legislative Council) still forward petitions to Ministers for their information and action if deemed appropriate (Table 1). As a general practice,

⁴⁵ T. Hughes, 'Partisanship, leaks, and more important things to do: Political realities of parliamentary committees', ANZACATT 2012, Workshop 2B.

responses to petitions and responses to committee reports are published on parliamentary websites and printed in Hansard.

Table 1. Government response requirements under the Houses standing orders

LEGISLATURE	RESPONSES TO PETITIONS Timeframe/not required /comment	DELAY PROVI- SIONS Y/N	RESPONSES TO COMMITTEE REPORTS Timeframe/not required/ comment	DELAY PROVI- SIONS Y/N
AUSTRALIA				
ACT Legislative Assembly ⁴⁶	3 months (500+ signature petitions are also referred to committees)	N	4 months	Y
AU House of Representatives ⁴⁷	90 days (if referred to the responsible Minister by the Standing Committee on Petitions)	N	6 months	Y
AU Senate ⁴⁸	Not required (referral to the Minister is not required)	N	3 months	N
NSW Legislative Assembly ⁴⁹	35 calendar days (petitions with 500+ signatures)	N	6 months	N
NSW Legislative Council ⁵⁰	35 calendar days (petitions with 500+ signatures)	Y	3 months	Y
NT Legislative Assembly ⁵¹	12 meeting days	N	6 months	Y

⁴⁶ Legislative Assembly for the Australian Capital Territory, *Standing Orders and continuing resolutions of the Assembly*, Orders No 83-100C and 254A-254B.

⁴⁷ Parliament of Australia, House of Representatives, *Standing Orders*, Orders No 204-209 and Resolution adopted 29 September 2010, p.130.

⁴⁸ Parliament of Australia, The Senate, *Standing Orders*, Orders No 69-71 and 44.

⁴⁹ Parliament of New South Wales, Legislative Assembly, *Standing Orders*, Orders No 119-125A and 303A.

⁵⁰ Parliament of New South Wales, Legislative Council, *Standing Rules and Orders*, Orders No 70-74 and 240.

⁵¹ Legislative Assembly of the Northern Territory, *Standing Orders*, Orders No 119-123 and 201.

QLD Legislative Assembly ⁵²	30 days	Y	3 months	Y
SA House of Assembly ⁵³	Not required (referred by the Clerk to the responsible Minister)	N	Not required	N
SA Legislative Council ⁵⁴	Not required (referral to the Minister not required)	N	Not required	N
TAS Legislative Assembly ⁵⁵	15 sitting days	N	Not required	N
TAS Legislative Council ⁵⁶	15 sitting days	N	Not required	N
VIC Legislative Assembly ⁵⁷	Not required (referred to the responsible Minister)	N	6 months	N
VIC Legislative Council ⁵⁸	30 days	N	6 months	Y
WA Legislative Assembly ⁵⁹	Not required (may be referred to a committee)	N	3 months	Y
WA Legislative Council ⁶⁰	Not required (referred to the Environment and Public Affairs Committee)	N	2 months	N
OVERSEAS				
New Zealand Parliament ⁶¹	60 working days (if referred to Minister by Petitions Committee; every petition is referred to the Petitions Committee)	N	60 working days	N

⁵² Queensland Parliament, Legislative Assembly, Standing Rules and Orders of the Legislative Assembly, Orders No 119-125 and 220.

⁵³ Parliament of South Australia, House of Assembly, *Standing Orders for Regulating the Public Business of the House Of Assembly together with the Joint Standing Orders of the Houses*, Orders No 82-86 and 317-397.

⁵⁴ Parliament of South Australia, Legislative Council, *The Standing Orders of the Legislative Council Relating to Public Business together with the Joint Standing Orders Agreed to by Both Houses*, Orders No 79-97 and 351-428.

⁵⁵ Parliament of Tasmania, Legislative Assembly, *Standing & Sessional Orders and Rules*, Orders No 51-67 and 279-326.

⁵⁶ Parliament of Tasmania, Legislative Council, *Standing Orders*, Orders No 42-44 and 147-240.

⁵⁷ Parliament of Victoria, Legislative Assembly, *Standing Orders*, Orders No 44-52 and 201-226B.

⁵⁸ Parliament of Victoria, Legislative Council, *Standing Orders*, Orders No 11.01-11.05 and 23.01-23.24.

⁵⁹ Parliament of Western Australia, Legislative Assembly, *Standing Orders*, Orders No 64-67 and 248-281.

⁶⁰ Parliament of Western Australia, Legislative Council, *Standing Orders*, Orders No 101-103 and 156-191.

⁶¹ New Zealand Parliament, *Standing Orders of the House of Representatives*, Orders No 185-256 and 369-380.

Scottish Parliament ⁶²	Response requirement depend on the committee determination	N	Not required	N
UK House of Commons ⁶³	Not required (referred to the responsible Minister)	N	Not required	N

It is important to point out that some of the legislatures which do not require government responses under the standing orders do require them under the sessional orders or other regulations. For example, the Tasmanian Legislative Council under its sessional orders requires the government to respond to a sessional committee report within 3 months.⁶⁴ The Scottish Parliament sets out government response recommendations under its ‘Protocol on the handling of committee business’: 2 months for committee reports and 6 weeks for petitions.⁶⁵

Interestingly, not all jurisdictions determine actions to be taken when government responses are not received within deadlines. The jurisdictions that address lateness of government responses to petitions are QLD Legislative Assembly and NSW Legislative Council. Jurisdictions that determine actions to be taken with regard to late government responses to committee reports include: the Australian House of Representatives, the NT Legislative Assembly, the ACT Legislative Assembly, the NSW Legislative Council, the QLD Legislative Assembly, VIC Legislative Council and WA Legislative Assembly (Table 1).

Debates

On the whole, legislatures do not allow for chamber debates on petitions unless a member moves a motion;⁶⁶ or a petition concerns some present personal grievance for which there may be an urgent necessity for providing an immediate remedy.⁶⁷

⁶² The Scottish Parliament, *Standing Orders*, Rules No 12.1-12.10 and 15.4-15.8.

⁶³ UK Parliament, House of Commons, *Standing Orders (Public Business)*, Orders no 84-157.

⁶⁴ Parliament of Tasmania, Legislative Council, *Sessional Orders Third Session of the Fiftieth Parliament*.

⁶⁵ The Scottish Parliament, *Protocol on the handling of committee business*.

⁶⁶ See, for example, Parliament of Western Australia, Legislative Assembly, *Standing Orders*, Order No 66.

⁶⁷ See, for example, Parliament of South Australia, Legislative Council, *Standing Orders*. Order No 93.

However, some jurisdiction parliaments do have provisions for petitions to be debated. Under House of Representatives standing order 208⁶⁸, discussion on the subject matter of a petition can be allowed but only at the time of presentation. In the NSW Legislative Assembly, under standing order 125A⁶⁹, every in-order petition signed by 10,000 or more persons (20,000 or more persons for electronic petitions), is automatically set down as an Order of the Day for a 30-minute discussion in the House. The Order of the Day takes place at 4.00 p.m. on the Thursday of the next sitting week. Under the ACT Legislative Assembly standing order 98A⁷⁰, following the Clerk's announcement of petitions and petition responses, 30 minutes is allocated for a debate with each member speaking for not more than 5 minutes. In the Victorian Legislative Council, under standing order 11.03⁷¹, a Member presenting a paper petition that has received 2,000 or more signatures, or e-petition/hybrid petition that has received 10,000 or more, may give notice of their intention to move 'That the petition be taken into consideration' – the order of the day takes place on the Wednesday of the next sitting week.

This is in stark contrast to the situation of parliamentary committees, where reports of committees are regularly debated in parliamentary chambers, as are the terms of reference and formation of some parliamentary committee themselves. For example, the majority of Houses of Parliament provide for the consideration of committee reports by the House in their standing orders. In some parliaments however, this does not occur 'automatically'. In the Australian Senate 'any proceeding on a report of a committee shall be by motion after notice'⁷² and in the SA House of Assembly to permit debate on the report a motion is moved 'That the report be noted'.⁷³

⁶⁸ House of Representatives, *Standing Orders*, Order No 208.

⁶⁹ Parliament of New South Wales, Legislative Assembly, *Standing Orders*, Order No 125A.

⁷⁰ The Legislative Assembly for the Australian Capital Territory, *Standing Orders and continuing resolutions of the Assembly*, Order No 98A.

⁷¹ Parliament of Victoria, Legislative Council, *Standing Orders*, Order No 11.03.

⁷² Parliament of Australia, The Senate, *Standing Orders*, Order No 39.

⁷³ Parliament of South Australia, House of Assembly, *Standing Orders*, Order No 346.

COMPARATIVE ASSESSMENT OF GOVERNMENT RESPONSES TO PETITIONS VERSUS COMMITTEE REPORTS IN 55TH NSW PARLIAMENT

In the 55th NSW Parliament, under the lower house standing order 125⁷⁴ (unchanged), the government was required to provide a response to all petitions signed by more than 500 persons within 35 calendar days from a petition being tabled.⁷⁵ Under the standing order 303A⁷⁶ (unchanged) the government was required to respond to a committee report within six months from its tabling in the House.

Government responsiveness

In the 55th NSW Parliament (from 30 April 2011 to 6 March 2015) 312 petitions and 104 committee reports requiring government responses were tabled. All 312 petitions were responded to by the government. Also, all petitions directed to Ministers but later identified as falling under different Minister's portfolio responsibilities, were efficiently re-directed and subsequently responded to by the responsible Minister. In comparison, out of 104 committee reports, 93 received government responses and 11 were not responded to (Table 2).

⁷⁴ Parliament of New South Wales, Legislative Assembly, *Standing Orders*.

⁷⁵ Ministerial responses to petitions were not required under the upper house standing orders.

⁷⁶ Parliament of New South Wales, Legislative Assembly, *Standing Orders*.

Table 2. Petitions and committee reports requiring government responses⁷⁷

Petitions			%
Total tabled		312	
	Government responses received	312	100%
	Government responses not received	0	0%
Committee reports			%
Total tabled		104	
	Government responses received	93	89%
	Government responses not received	11	11%

As the above data indicates, responsiveness of government to petitions had a higher rate than government responses to committee reports. However, it is important to highlight that 19 petitions (500+ signatures each) lodged by Mr Rob Stokes MP on the same subject of ‘opposing the continuation of commercial fishing and requesting a Government buyout of commercial fishing operators within the Pittwater’ were tabled and received exactly the same response each time (a few minor details were amended reflecting the passage of time).

Timeliness of government responses

With regard to the timeliness of government responses, 62.5% of responses to petitions (65 out of 104) were received on time compared to 43% of responses to committee reports (45 out of 104). The lateness of government responses to both petitions and committee reports ranged from a few days to about a month with a few exceptions. For example, a government response to the ‘Review of the 2012-2013 Annual Report of the Health Care Complaints Commission’ report was due on 18 December 2014 and was received on 21 April 2015 – 4 months and 3 days (124 days) late. One of the longest waiting times concerned a petition lodged by Mr Andrew Gee

⁷⁷ Committee reports not responded to concerned: Review of the Parliamentary Electorates and Elections Act 1912 and the Election Funding, Expenditure and Disclosures Act 1981; Outsourcing Community Service Delivery; Racial vilification law in New South Wales; Sale of the Currawong property at Pittwater; 2014 General Meetings (Committee on the Ombudsman, the Police Integrity Commission and the Crime Commission); Social, public and affordable housing; Review of the 2012-2013 Annual Reports of the Independent Commission Against Corruption and the Inspector of the Independent Commission Against Corruption; Tenancy management in social housing; Wambelong fire; Ministerial propriety in New South Wales; The conduct and progress of the Ombudsman’s Inquiry ‘Operation Prospect’.

MP on 9 September 2011 ‘requesting 24-hour road and helicopter medical retrieval services for the Central West regions’. The government’s response was due on 14 October and was received on 2 February 2012 – 3 months and 19 days (111 days) late. Overall, however, government responses to petitions occurred within shorter time frames than government responses to committee reports.

Table 3. Timeliness of government responses

Petitions	Total analysed	104	%
	Response received on time	65	62.5%
	Response received late	39	37.5%
Committee Reports	Total analysed	104	%
	Response received on time	45	43%
	Response received late (includes no response received)	59	57%

In the 55th NSW Parliament there were no formal procedures for addressing neither late petition responses nor late committee report responses⁷⁸. An incentive for Ministers to provide responses on time was the fact that ‘unresponded’ petitions and committee reports continued to be listed on the NSW Parliament’s website and in the Business Paper until responses were received. In addition, any Member of Parliament may have raised lateness of response as a point of privilege (contempt of the House, in that the Minister is not adhering to the rules formulated by the House), however this measure was not resorted to.

Content of government responses

In terms of the content of government responses (Table 4 and Figure 1), the rate of consent to petitioners’ requests versus committee recommendations is profound. 20% of committee recommendations (21 out of 104) have been supported in their entirety compared to 16% of petitions (17 out of 104); however no government responses

⁷⁸ The NSW Legislative Council has since introduced provisions, under the Standing Order 74 (5), addressing lateness of responses to petitions, Parliament of New South Wales, Legislative Council, *Standing Rules and Orders*. Accessed at:

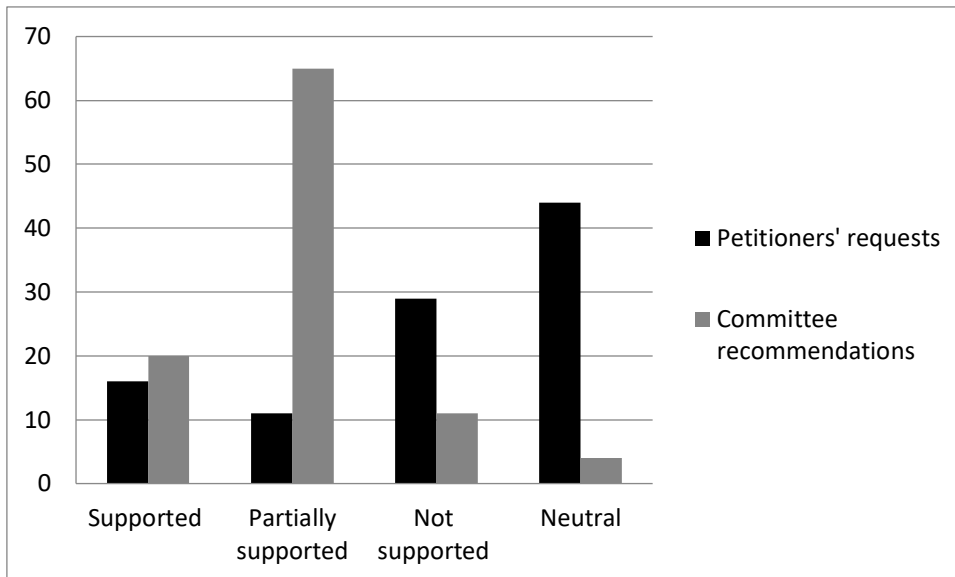
<<https://www.parliament.nsw.gov.au/lc/rules/Documents/Legislative%20Council%20Standing%20rules%20and%20Orders%20-%202023.pdf>>.

rejected committee recommendations completely, compared to 29% of petitions (30 out of 104) not being supported in their entirety. Furthermore, 65% of committee recommendations (68 out of 104) have been partially supported compared to only 11% of petitions (11 out of 104). Finally, only 4% of committee recommendations (4 out of 104) received neutral responses compared to 44% of petitions (46 out of 104). This data suggests that the government has been more inclined to support or adopt recommendations from committees than to agree to requests from petitioners.

Table 4. Content of government responses

Petitioners' requests	Total analysed	104	%
	Supported – request supported	17	16%
	Partially supported – request partially supported	11	11%
	Not supported – request not supported	30	29%
	Neutral – inconclusive, under consideration, to be considered, review requested, additional information required, not under State Minister's jurisdiction etc.	46	44%
Committee recommendations	Total analysed	104	%
	Supported – all recommendations supported	21	20%
	Partially supported – some recommendations supported	68	65%
	Not supported –		11%
	– no recommendations supported	0	
	– no response received	11	
	Neutral – inconclusive, not specific, explanatory/acknowledgement received but no formal response etc.	4	4%

Figure 1. Nature of government responses



The majority of government responses to petitions were neutral in terms of the extent to which they demonstrated a clear commitment to adopt a particular position or course of action. They were carefully worded in a way that did not clearly state the government would not support the petitioners' request but were not supporting them either, for example:

- matter is under consideration or review has been requested or will be considered.
- matter is not within the Minister's power or Minister does not have a role in the determination.
- matter falls under local Council jurisdiction or another public body's responsibility e.g. Director of Public Prosecution.
- independent assessment of the issues is being conducted by e.g., the Planning Assessment Commission, or
- matter is subject to Commonwealth review.

In comparison, committee reports dealt with more complex matters, and consequently, responses to committee recommendations were more detailed and engaged more directly with the policy or legislative issues considered by the parliamentary committees during their public inquiry processes. However, although

under the standing order 303A⁷⁹ (unchanged) relevant Minister(s) must have reported to the House what action, if any, the government had proposed to take in relation to each recommendation of the committee, the form of government responses was not consistent. Variations were evident across the following attributes, for example some responses were report style, with responses to individual recommendations or groups of recommendations clearly stating the government's stance; or indirectly explaining the government's stance by providing explanations or outlining current policies. Other response took the form of ministerial letters addressing each recommendation, or generally addressing the report; and in some instances, draft bills were prepared.

CONCLUSION

Parliamentary petitions and parliamentary committees have comparably long and respected traditions and both constitute key parliamentary tools. Although set apart by their fundamental purpose and processes, they share an objective of addressing matters of public concern and providing a pathway for lawmakers to connect with or understand the thoughts and views of the citizens they represent. Unfortunately, neither parliamentary committees nor petitions have been fully successful in achieving this goal. As the case study of government responses to petitions and committee reports in the 55th NSW Parliament showed, petitions had a higher rate of government responsiveness and timeliness than committee reports; however, in terms of the content of government responses, the proportion of government acceptance of committee recommendations was much higher than of petitioners' requests. The question arises about what could be done to increase the level of responsiveness of those in power to citizens requests forwarded in the form of petitions. Returning to Handley's⁸⁰ suggestion that instead of petitioning parliament, citizens should instead consider making a representation to a particular committee or directly to a relevant department, this position underestimates the potential impact and influence of the petition process – and its role in creating the right political conditions for further parliamentary engagement (including through parliamentary committees) to occur. Unlike parliamentary committees, which are necessarily controlled by the Houses of

⁷⁹ Parliament of New South Wales, Legislative Assembly, *Standing Orders*.

⁸⁰ Handley, 'Petitioning Parliament', p. 302.

Parliament from which they originate, petitions can be freely initiated from outside parliament and legislators have no control over what issues are raised in petitions. In this regard, petitions can more directly reflect and communicate citizens' concerns: they do not require any 'political filtering' or priority-balancing to occur before being lodged with the parliament. However, precisely because of this feature, petitions can also lack the political support needed to translate into a substantive, practical response from government.

A potential middle road could be to adopt a process whereby petitions attracting many signatories are forwarded to parliament, but a response is required from both the relevant Minister and the relevant Department. Additionally, petitions with substantial number of signatures could automatically be referred to a relevant committee, which would be tasked with inquiring into the issues raised in the petition and producing a report for government to consider. In this way, Parliament would maintain its role of representing and guarding the interests of a diverse range of constituents, whilst at the same time encouraging the generation of practical outcomes from within government itself. This type of reform could help ensure that parliamentary petitions retain their historical status as important democratic tools for future generations.