

About Parliament 05

Three Branches of Government

The system of government in Western Australia is that of a parliamentary democracy based on the rule of law.

More than 250 years ago, a famous French philosopher, the Baron de Montesquieu, published a book *The Spirit of the Laws* (1748).

In the book he claimed that liberty existed in England because of the way in which the system of government was organised.

He recognised three branches of government: namely the Legislature; Executive; and Judiciary.

Each branch checked each other to prevent any person or arm becoming too powerful. Western Australia's Constitution does not exactly follow the ideas set down by Montesquieu as there are, in reality, overlaps, but viewing the three branches of government assists an understanding of how the government is structured.

1. Legislature

The power to make laws.

In Western Australia, the legislative arm of government is the Parliament (the 'Legislature').

The Western Australian Parliament is bicameral (made up of two Houses), consisting of the Legislative Council (Upper House) and the Legislative Assembly (Lower House).



Parliament House

2. Executive

The power to enforce laws.

The Executive has the power to put into effect, in individual cases, the general rules made under the legislative power.

In Western Australia, the peak executive body is the Executive Council.

The Executive Council is appointed by the Governor under Letters Patent issued by Her Majesty the Queen. In practice it consists of all the members of the Ministry and is presided over by the Governor.

All ministers also meet as a body called the Cabinet, which is led by the Premier. The Premier and the Cabinet are not recognised in the Constitution, but in practice make the major decisions relating to government policy and guide ministerial decision-making.

The carrying out or execution of the laws is undertaken by the public service (government departments) and statutory authorities.



Government House

3. Judiciary

The power to interpret and apply laws.

In Western Australia, the judicial arm of government is the hierarchy of courts headed by the Supreme Court (the 'Judiciary'). The Chief Justice of Western Australia is the State's chief judicial officer. The High Court of Australia is the nation's highest court.



The Supreme Court

Although the functions of government in Western Australia can conveniently be classified into legislative, executive, and judicial, there is no formal constitutional separation of these powers as there is, for instance, in the Constitution of the United States.

LEGISLATURE	EXECUTIVE	JUDICIARY
Law-making	Carrying out or Executing the Law	Judging or Adjudicating on the Law
The Government of Western Australia		
Parliament	Government	Courts
<p>Legislative Council Upper House of Parliament House of Review</p> <p>Legislative Assembly Lower House of Parliament House of Government</p> <p><i>Parliamentary Committees</i> Examine and Report on issues concerning Western Australia</p> <p><i>Select Committees</i> Appointed to Undertake a Particular or Select Task e.g. Select Committee on Youth Affairs (Assembly), Select Committee on Aboriginal Education (Council)</p> <p><i>Standing Committees</i> Appointed for the Life of the Parliament for a Continuing Task, e.g. Public Accounts Committee (Assembly) Legislation Committee (Council)</p> <p><i>Joint Committees</i> Made up of Members from Both Houses of Parliament e.g. Joint Standing Committee on Delegated Legislation</p>	<p>Governor Represents the Head of State of Western Australia (the Monarch of the United Kingdom)</p> <p>Executive Council Supreme Executive Authority in Western Australia</p> <p>Premier Head of Government in Western Australia</p> <p>Cabinet (Ministry) Administer Government Departments and Report to Parliament</p> <p>Departments e.g. Education, Environment, Health, State Development, Treasury, Police</p> <p>Statutory Authorities e.g. Lotteries Commission, Water Corporation, Rottneest Island Authority</p>	<p>High Court Highest Court in Australia</p> <p>Supreme Court Highest Court in Western Australia <i>General Division</i> <i>Court of Appeal</i></p> <p>District Court</p> <p>Magistrate's Court</p> <p>Family Court</p> <p>Children's Court</p> <p>Drug Court</p> <p>Coroner's Court</p> <p>Liquor Commission of WA</p> <p>Tribunals e.g. State Administrative Tribunal, Prisoner's Review Board</p> <p>Other Legal Officers e.g. Office of the Director of Public Prosecutions, Office of Solicitor General, Sheriff's Office</p>
<p>Independent Agency Officers include: Auditor General, Ombudsman (Parliamentary Commissioner for Administrative Investigations), Commissioner for Public Sector Standards, Information Commissioner, Corruption and Crime Commissioner and Parliamentary Inspector of the Corruption and Crime Commission</p>		