

COMMUNITY DEVELOPMENT AND JUSTICE STANDING COMMITTEE
REPORT NO.2 - 2017 WA STATE ELECTION: MAINTAINING CONFIDENCE IN
OUR ELECTORAL PROCESS
GOVERNMENT RESPONSE

The Government of Western Australia notes Report No.2 “2017 State Election: Maintaining confidence in our electoral process” (the Report) by the Community Development and Justice Standing Committee (the Committee) tabled in the Legislative Assembly on 15 February 2018.

The Report makes 27 recommendations 23 of which (the WAEC Recommendations) are directed to the Western Australian Electoral Commission (the WAEC).

Standing Order 277 (1) of the Legislative Assembly reads:

“A report may include a direction that a Minister in the Assembly is required within not more than three months, or at the earliest opportunity after that time in the Assembly is adjourned or in recess, to report to the Assembly as to the action, if any, proposed to be taken by the Government with respect to the recommendations of the committee”.(emphasis added)

Section 5F of the *Electoral Act 1907* sets out the Electoral Commissioner’s various functions, and in particular, Section 5F(2) makes clear that these functions are to be exercised independently.

Accordingly, regardless of the Government’s views of the relative merits of Committee’s recommendations directed to the WAEC, it is not possible for either the Premier or Minister for Electoral Affairs to respond to them, nor do the Standing Orders of the Legislative Assembly permit them to respond.

Further, there is no provision in the Standing Orders that allow the Western Australian Electoral Commissioner to respond to the Committee’s Report or recommendations.

Clearly, a reading of the powers of the Committee set out in the Standing Orders will demonstrate that the Committee can provide an opportunity to hear from the Western Australian Electoral Commissioner regarding his views on the recommendations, but the Government resists the temptation to tell the Committee how to perform its duties.

Further, the Government notes that Recommendation 1 of the Committee’s report is not directed to the Government, and indeed concerns itself with the Standing Orders of the Legislative Assembly.

If this Recommendation is not itself ultra vires the Standing Orders (usually matters of the Standing Orders are dealt with by the Procedure and Privileges Committee under Standing Order 284), then the Government in any event is unable to respond to the recommendation, as the Standing Orders of the Parliament are not matters in the authority of the Government.

Noting those limitations, the Government therefore responds to the recommendations of the Committee that have been made to the Government as follows:

Recommendation 21

That the Premier seeks to put the issue of nationally consistent system of election funding and disclosure laws on the Council of Australian Governments' agenda.

Response:

Supported.

The Government of Western Australia is fully committed to introducing its election commitments to reform funding and disclosure arrangements in Western Australia to improve transparency and overcome current disclosure arrangements that allow most donations to be hidden from public scrutiny.

The Government looks forward to the support of all Members of the Parliament in implementing these necessary reforms.

Once complete, the Government will look to have the Commonwealth Government support the equivalent transparency arrangements in the Electoral Act to overcome the serious deficiency in that Act, particularly the 2006 amendments by the Liberal-National Government that increased disclosure thresholds to very high levels.

Recommendation 26

That the Western Australian Electoral Commission budget allocation for the next State general election is adjusted for inflation and is sufficient to support the good conduct of the election, the effective implementation of the recommendations made in this report, and any subsequent legislative changes.

Response:

Noted.

As 24 of the 27 recommendations are not directed to the Government it is not possible to evaluate this recommendation.

However, it is noted by the Government, that the previous Government has left the State's finances in a parlous situation, and it is not clear that there is sufficient budget capacity to meet this recommendation.

Recommendation 27

That the Electoral Act 1907 is reviewed and amended as a matter of urgency. Particular consideration should be given to:

- *The political regime, including the introduction of administrative penalties for breaches of the disclosure scheme; limits to expenditure by third-party campaigners; more timely disclosure; and a longer disclosure period.*
- *Political advertising laws, including the registration of electoral material with the Western Australian Electoral Commission; and disallowance of the distribution or display of non-registered materials on election day.*

- *The ability of political parties to distribute postal vote applications.*
- *Extending the deadline for receipt of postal votes to account for increasing delays in postal services.*

The review should include input from all stakeholders in the electoral system. To maintain public confidence, it is critical that this review is conducted prior to next state general election.

Response:

Supported.

The Government is committed to reviewing the Electoral Act, and is keen to have it completed as soon as possible.