

**Results of the Assessment
of the Parliament of
Queensland using the
Commonwealth
Parliamentary
Association’s “Benchmarks
for Democratic
Legislatures”**

**Commonwealth Parliamentary Association –
Queensland Branch
October 2017**

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Abbreviations and definitions

CCC	<i>Crime and Corruption Act 2001</i>
CLA	Committee of the Legislative Assembly
Constitution	<i>Constitution of Queensland 2001</i>
CPA	Commonwealth Parliamentary Association
Electoral Act	<i>Electoral Act 1992</i>
PCCC	Parliamentary Crime and Corruption Committee
PoQA	<i>Parliament of Queensland Act 2001</i>
PSA	<i>Parliamentary Services Act 1988</i>
QIRT	Queensland Independent Remuneration Tribunal
QIRT Act	<i>Queensland Independent Remuneration Tribunal Act 2013</i>

Speaker of the Parliament's foreword

On behalf of the Queensland Branch of the Commonwealth Parliamentary Association (CPA), I am pleased to present the results of the self-assessment of the Parliament of Queensland using the CPA's "Benchmarks for Democratic Legislatures".

The CPA's efforts to develop, promote and support Parliamentarians and their staff to identify benchmarks of good governance and to implement the enduring values of the Commonwealth are important for the advancement of parliamentary democracy.

I therefore welcome the opportunity to apply the CPA's benchmarks to the Parliament of Queensland as a means of measuring the Parliament's performance as a legislature.

In turn, I hope that this report assists the CPA in its endeavours.

Peter Wellington MP

President, Commonwealth Parliamentary Association - Queensland Branch

Speaker of the Parliament of Queensland

October 2017

1 Introduction

On 24 September 2015, the Commonwealth Parliamentary Association (CPA) wrote to all Branch Secretaries of the CPA, including that of the Parliament of Queensland (the Parliament), asking if the Parliament had applied the CPA's Benchmarks for Democratic Legislatures.

The benchmarks were developed in 2006 with the intent of serving as a guide for parliaments seeking either to find new ways to strengthen their performance as part of a democratic reform programme, or to determine whether they have kept up with advances in parliamentary practices and procedures.

In 2012 an initial assessment was undertaken of the Parliament. However, to gain a more up-to-date picture of the Parliament's progress on the benchmarks a new assessment was undertaken over 2016-2017. This report contains the results of the most recent self-assessment.

The report is broken into two sections. The first section contains information on the Parliament and a list of the instruments used to guide and manage governance of the legislature.

The second section provides detail on how the Parliament meets the benchmarks, scores the Parliament's performance against the benchmarks and identifies areas where the Parliament may improve performance against the benchmarks in the future.

2 Queensland Parliament and the CPA Benchmarks

2.1 Parliament of Queensland

Under sections 1 and 2 of *Queensland's Constitution Act 1867*, the State's legislative power is vested in the Queen (via Her Majesty's representative the Governor) and the Legislative Assembly.

The Queensland Parliament is unique among Australian states in that it was the only colonial Parliament (pre-1901) to commence with two chambers and is now the only state parliament to have just one chamber, following the abolition of the Legislative Council in 1922.

The present Legislative Assembly is composed of 89 members each representing a single-member electorate. However, on 5 May 2016 a bill was passed to increase the number of seats from 89 to 93. The Queensland Redistribution Commission has, pursuant to the provisions of the *Electoral Act 1992*, redistributed Queensland into 93 electoral districts following a review of the boundaries of electoral districts. The final boundaries were approved on Friday, 28 April 2017 and will apply for each State election until the next redistribution.

At the next state election, the parliamentary term will also change to a fixed four-year parliamentary term from the current flexible three-year term.

As a representative assembly, the Legislative Assembly is responsible for a number of functions which overlap and interact. The Legislative Assembly:

- 1) after each general election, or on occasions during a term¹, the Legislative Assembly provides the State Government from the political party or coalition of parties which has obtained a majority of the seats in the Legislative Assembly or at least has the confidence of and can obtain the supply (financial support) from the majority of the members of the Assembly
- 2) passes Bills, which, after Assent by the Governor become statutes, which constitute the State's laws as well as often providing the basis for Government activity (the legislative function)
- 3) has a financial responsibility of overseeing and granting the Government's requested appropriations of revenue and expenditure (the financial function)
- 4) provides a forum for the scrutiny of the Executive Government's activities and actions through a variety of parliamentary procedures including Question Time, Adjournment Debates, Matters of Public Interest, Notices of Motion, Private Members' Bills, Private Members' Statements, Bill debates and through the activities of parliamentary committees (the scrutiny function)
- 5) is a representative institution for all of the State's citizens via their elected members (the representative function)
- 6) provides a forum for matters of public interest and concern to be debated and addressed through parliamentary procedures such as Petitions, Matters of Public Interest, Adjournment Debates, Grievance Debates, Address-in-Reply debates or even within the debates on Bills (debate and grievance).²

A range of instruments guide and support the Legislative Assembly and its members in relation to the areas covered by the benchmarks. These are referred to in the relevant sections of the report that follow, but a list of these instruments is also included below:

- Auditor-General Act 2009 <https://www.legislation.qld.gov.au/legisln/current/a/auditgena09.pdf>

¹ As occurred in 1996.








² www.parliament.qld.gov.au/explore/about-us/parliament-overview/role-of-parliament.

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- Code of Conduct for the Parliamentary Service
<http://www.parliament.qld.gov.au/documents/parliamentaryservice/codeofconduct.pdf>
 - Code of Ethical Standards
<https://www.parliament.qld.gov.au/documents/committees/CLA/2009/CES2009.pdf>
 - *Constitution Act Amendment Act 1890*
<https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/C/ConstA1890.pdf>
 - *Constitution Act Amendment Act 1934 (Qld)*
<https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/C/ConstA1934.pdf>
 - *Constitution of Queensland 2001*
<http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/C/ConstofQA01.pdf>
 - *Crime and Corruption Act 2001*
<https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/C/CrimeandCorruptionA01.pdf>
 - Criminal Code <https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/C/CriminCode.pdf>
 - *Electoral Act 1992* <https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/E/ElectoralA92.pdf>
 - Executive Council Handbook <http://www.premiers.qld.gov.au/publications/categories/policies-and-codes/handbooks/exec-council-handbook.aspx>
 - Human Resource Management Services Recruitment and Selection Guidelines
<http://intranet/Corporate/PoliciesForms/Shared%20Documents/Recruitment%20and%20Selection%20-%20Guidelines.pdf>
 - Media Guidelines
<http://www.parliament.qld.gov.au/documents/tableOffice/TabledPapers/2015/5515T439.pdf>
 - Members' Remuneration Handbook
<https://www.parliament.qld.gov.au/documents/Members/entitlements/Remuneration%20Handbook.pdf>
 - *Parliament of Queensland Act 2001*
<https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/P/ParliaQA01.pdf>
 - *Parliamentary Service Act 1988 (Qld)*
<https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/P/ParliServA88.pdf>
 - *Queensland Independent Remuneration Tribunal Act 2013 (Qld)*
<https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/Q/QldIndepRemTA13.pdf>
 - Queensland Parliamentary Procedures Handbook
<http://www.parliament.qld.gov.au/documents/assembly/procedures/ParliamentaryProceduresHandbook.pdf>
 - Sessional Orders
<http://www.parliament.qld.gov.au/documents/assembly/procedures/SessionalOrders.pdf>
 - Standing Rules and Orders
<https://www.parliament.qld.gov.au/documents/assembly/procedures/StandingRules&Orders.pdf>

2.2 Benchmarks and the Queensland Parliament’s Performance

The Parliament meets the majority of the CPA’s Benchmarks for Democratic Legislatures. Some benchmarks do not apply to the Parliament, while there are others where it has been identified there is room for improvement. Appendix A contains tables providing a summary of whether the Parliament meets the benchmark and the type of governance that is responsible for oversight of that benchmark.

Each benchmark has been rated using a five-star rating system:

Rating	Meaning
	Complies with the benchmark and is included in constitutional legislation, and can only be set aside with considerable difficulty – for example, via a referendum or legislative amendment requiring an absolute majority ³
	Complies with the benchmark via legislation, but can nonetheless be set aside through legislative amendment
	Complies with the benchmark, but can be set aside with relative ease – for example, benchmark in Standing Orders or statute but can be set-aside or suspended by a simple majority
	Substantially complies with the benchmark
	Partially complies with the benchmark
	Does not comply
	Not applicable to the Queensland Parliament

The results of the assessment have been separated into the four categories identified by the CPA:

1. General
2. Organisation of the Legislature
3. Functions of the Legislature
4. Values of the Legislature.

³ There are only certain provisions in the Constitution that require a referendum process before they can be changed. The remaining provisions within the Constitution may be altered in the future, or new provisions introduced, by ordinary legislative amendment. However, it is worth noting that inclusion in the Constitution emphasises the importance of the provision and places a psychological political impediment on altering them without just cause. Furthermore, a Bill which amends the Constitution Act with respect to the constitution, powers or procedures of the Parliament, must not be presented to the Governor for assent unless the Bill has been passed by an absolute majority of the Legislative Assembly.

3 GENERAL

This section of the benchmarks covers general aspects of the parliament, including:

- elections
- candidate eligibility
- incompatibility of office
- immunity
- remuneration and benefits
- resignation, and
- infrastructure

3.1 Elections

3.1.1 Members of the popularly elected or only house shall be elected by direct universal and equal suffrage in a free and secret ballot.



Section 10 of the *Constitution of Queensland 2001* (the Constitution) provides that the Legislative Assembly is to consist of directly elected members who are eligible to be elected by the inhabitants of the State who are eligible to elect members.

The eligibility to elect members is governed by the *Electoral Act 1992* (Electoral Act) with reference to the eligibility criteria stipulated in the *Commonwealth Electoral Act 1918*. Section 93 of the latter Act provides that all persons who have attained 18 years of age and are Australian citizens shall be entitled to enrolment.

Exceptions to this universal suffrage exist in the case of persons who are of unsound mind, who have been convicted of treason or treachery and have not been pardoned, or are currently serving a sentence of imprisonment of 3 years or longer.

Enrolment and voting are both compulsory. The *Commonwealth Electoral Act 1918*, under section 245(1), states: "It shall be the duty of every elector to vote at each election".

Summary: This benchmark is included in constitutional legislation and can only be set aside through legislative amendment requiring an absolute majority.

3.1.2 Legislative elections shall meet international standards for genuine and transparent elections.



The Electoral Commission of Queensland (ECQ) is established under section 6 of the Electoral Act as an independent, statutory authority, responsible for the impartial conduct of Queensland elections. The purpose of the ECQ is to support democratic electoral process by preparing for, conducting and reporting on elections in Queensland.

Sections 97 to 196 of the Electoral Act provide for the procedures for elections, such as:

- arrangements for elections, including setting up and operating polling booths, register of candidates, supply of ballot papers and electoral rolls, order of candidates' names, and appointment of scrutineers
- who may vote
- how voting takes place, including ordinary voting, pre-poll ordinary voting, declaration voting, electronically assisted voting, and marking of ballot papers
- counting of votes, including preliminary processing of declaration envelopes and ballot papers, preliminary and official counting of votes, preliminary counting of ordinary votes, official counting of votes, objections by scrutineers and recounting of votes
- notifying the results of elections, including return of writ for election, counting for information purposes, notice of failure to vote, payments for failure to vote, and storage of ballot papers and declaration envelopes.

Section 138 of the Electoral Act provides that the election of a person may be disputed by an application to the Court of Disputed Returns.

Summary: This benchmark is met through legislation, but can be set aside through legislative amendment.

3.1.3 Term lengths for members of the popular house shall reflect the need for accountability through regular and periodic legislative elections.



Currently, section 2 of the *Constitution Act Amendment Act 1890* provides that a parliamentary term is a maximum of three years, measured from the day set for the return of the electoral writs. The Legislative Assembly continues for (up to) three years from the day set for the return of writs for the previous election, after which time the Legislative Assembly lapses.

However, the passing of the *Constitution (Fixed Term Parliament) Amendment Bill 2015* and the successful referendum on the introduction of fixed four year terms, means that the Constitution will be amended to provide for four-year fixed terms for the Legislative Assembly which are to commence after the next election. It will also amend the *Constitution Act Amendment Act 1934* and repeal the *Constitution Act Amendment Act 1890*.

Summary: This benchmark is included in constitutional legislation and can only be changed via a referendum, as illustrated above.

3.2 Candidate eligibility

3.2.1 Restrictions on candidate eligibility shall not be based on religion, gender, ethnicity, race or disability.



Section 64 of the *Parliament of Queensland Act 2001* (POQA) outlines the qualifications to be a candidate and an elected member of the Legislative Assembly. The provisions are not based on religion, gender, ethnicity race or disability. However, bankruptcy and conviction for certain offences may disqualify candidates.

It is important to note that pre-selection of candidates is determined by the political parties themselves. While state and federal anti-discrimination legislation would apply to this process, it

could be difficult to prove that discrimination has occurred. It is also worth noting that some parties have adopted positive discrimination practices, such as affirmative action plans.

Summary: This benchmark is met through legislation, as actual eligibility is not based on religion, gender, ethnicity, race or disability. However, given that pre-selection of candidates is determined by the political parties themselves, there is the potential for the selection of the candidate by the party to be impacted by these factors.

3.2.2 Special measures to encourage the political participation of marginalized groups shall be narrowly drawn to accomplish precisely defined, and time-limited, objectives.

N/A

There are no special measures imposed by the Parliament to encourage the political participation of marginalized groups, and therefore this benchmark is not applicable to the Parliament of Queensland.

Summary: Not applicable.

3.3 Incompatibility of office

3.3.1 No elected Member shall be required to take a religious oath against his or her conscience in order to take his or her seat in the Legislature.



Members are provided a choice of either taking an oath or making an affirmation in order to take their seat in the Legislative Assembly. However, members are limited to the wording provided in Schedule 1 of the Constitution. Section 22 states that 'No member may sit or vote in the Legislative Assembly unless the member has taken or made the oath or affirmation of allegiance and of office in schedule 1'.

Summary: This benchmark is included in constitutional legislation and can only be set aside through legislative amendment requiring an absolute majority.

3.3.2 In a bicameral legislature, a legislator may not be a Member of both Houses.

N/A

This benchmark is not applicable, as Queensland in a unicameral parliament.

Summary: Not applicable.

3.3.3 A legislator may not simultaneously serve in the judicial branch or as a civil servant of the executive branch.



Section 66 of the POQA provides that if a person who holds a paid public appointment becomes a candidate for election to the Assembly, the person must be absent on leave from the appointment for the election period.

If the person is elected as a member, the person's paid public appointment is taken to end on the day before the day of the poll at which the person is elected. Section 65 of the POQA provides the definition of paid public appointment, which includes a person who holds an appointment or is

employed by or in an entity of the State or Commonwealth, the Parliamentary Service of the Legislative Assembly, a court or tribunal or a registry, or a local government.

Summary: This benchmark is included in legislation and can only be set aside through legislative amendment.

3.4 Immunity

3.4.1 Legislators shall have immunity for anything said in the course of the proceedings of Legislature.



Section 9(1) of the Constitution provides that the powers, rights and immunities of the Legislative Assembly and its members and committees are:

- (a) the powers, rights and immunities defined under an Act; and
- (b) until defined under an Act—the powers, rights and immunities, by custom, statute or otherwise, of the Commons House of Parliament of the United Kingdom and its members and committees at the establishment of the Commonwealth

Section 8 of the POQA provides that the freedom of speech and debates or proceedings in the Assembly cannot be impeached or questioned in any court or place out of the Assembly. To remove doubt, it is declared that this is intended to have the same effect as article 9 of the *Bill of Rights (1688)*.

Summary: This benchmark is included in constitutional legislation and can only be set aside through legislative amendment requiring an absolute majority..

3.4.2 Parliamentary immunity shall not extend beyond the term of office; but a former legislator shall continue to enjoy protection for his or her term of office.



As mentioned above, section 9(1) of the Constitution provides that the powers, rights and immunities of the Legislative Assembly and its members and committees are the powers, rights and immunities defined under an Act, or the powers, rights and immunities, by custom, statute or otherwise, of the Commons House of Parliament of the United Kingdom and its members and committees at the establishment of the Commonwealth.

Under section 8 of the POQA, parliamentary immunity (privilege) is attached to a proceeding of the Assembly, rather than to an individual and so remains despite the end of a member’s term. Section 9 of the POQA provides that proceedings in the Assembly include all words spoken and acts done in the course of, or for the purposes of or incidental to, transacting business of the Assembly or a committee.

Summary: This benchmark is included in constitutional legislation and can only be set aside through legislative amendment requiring an absolute majority.

3.4.3 The executive branch shall have no right or power to lift the immunity of a legislator.



As mentioned above, section 9 of the Constitution provides for the powers, right and immunities of the Legislative Assembly, and section 8 of the POQA provides that the freedom of speech and

debates or proceedings in the Assembly cannot be impeached or questioned in any court or place out of the Assembly.

Parliamentary privilege afforded by the POQA cannot be waived.

Summary: This benchmark is included in constitutional legislation and can only be set aside through legislative amendment requiring an absolute majority.

3.4.4 Legislators must be able to carry out their legislative and constitutional functions in accordance with the constitution, free from interference.



Once again, section 9 of the Constitution provides for the powers, right and immunities of the Legislative Assembly.

Section 37 of the POQA provides that a person may be in contempt of Parliament if their conduct, including words, amounts or is intended or likely to amount, to an improper interference with the free exercise by the Assembly or a committee of its authority or functions, or the free performance by a member of the member's duties as a member.

Summary: This benchmark is included in constitutional legislation and can only be set aside through legislative amendment requiring an absolute majority.

3.5 Remuneration and benefits

3.5.1 The Legislature shall provide proper remuneration and reimbursement of parliamentary expenses to legislators for their service, and all forms of compensation shall be allocated on a non-partisan basis.



Section 41 of the *Queensland Independent Remuneration Tribunal Act 2013* (QIRT Act) provides that a member is entitled to an annual salary decided by the tribunal under a determination. The Queensland Independent Remuneration Tribunal (QIRT) reviews and decides remuneration in connection with members and former members of the Assembly, which includes salary, allowances and entitlements in connection with the member or former member. The QIRT is not subject to direction or control by any entity, including any Minister.

Summary: This benchmark is met through legislation but can be set aside through legislative amendment.

3.6 Resignation

3.6.1 Legislators shall have the right to resign their seats.



Section 75 of the POQA provides that a member may resign his or her seat by signed writing addressed to the Speaker and the member's seat becomes vacant when the Speaker receives the resignation.

Summary: This benchmark is included in legislation but can be set aside through legislative amendment.

3.7 Infrastructure

3.7.1 The Legislature shall have adequate physical infrastructure to enable Members and staff to fulfil their responsibilities.



Section 5 of the *Parliamentary Service Act 1988* (PSA) provides that the Speaker has control of accommodation and services in the parliamentary precinct and accommodation and services supplied elsewhere by the Legislative Assembly for its members. The accommodation and services supplied by the Parliamentary Service are detailed in the Members' Remuneration Handbook, which the Clerk is required to keep up to date, in accordance with section 60 of the QIRT Act.

Each member is provided with office accommodation in the Parliamentary precinct and regional members provided with bedroom accommodation on the precinct. Members are provided with access to a range of office equipment.

Each member is also provided with an electorate office, and may elect to be provided with an additional electorate office if representing an electoral district of 100,000km² or more in area. The Speaker seeks to maintain certain standards for electorate offices, encompassing size, accessibility and security. Each office is managed and maintained by the Parliamentary Service with costs met by the Parliament. Each member is provided with certain items of office equipment including laptops, desktop computers, printing/copy equipment and phones.

Summary: This benchmark is met through legislation but may be set aside through legislative amendment or changes to the Members' Remuneration Handbook.

3.8 Summary

The Parliament meets the 'General' benchmarks provided by the CPA. Of the 15 benchmarks that make up this section, two were not applicable to the Queensland Parliament. The Queensland Parliament's rating against each of the remaining benchmarks made a total of 60 points out of a potential score of 65 (13 applicable benchmarks).

It is worth noting that while there is the theoretical potential for a change to be made to legislation governing a number of these benchmarks, changes that diminish provisions relating to elections, candidates and members' immunity and remuneration are highly unlikely.

4 ORGANISATION OF THE LEGISLATURE

This section of the benchmarks covers the organisation of the legislature, including:

- procedure and sessions
- committees
- political parties, party groups and cross party groups, and
- parliamentary staff.

PROCEDURE AND SESSIONS

4.1 Rules of Procedure

4.1.1 Only the Legislature may adopt and amend its rules of procedure.



Section 9 of the Constitution provides that the Legislative Assembly has powers, rights and immunities defined under an Act or, if not defined under an Act (the POQA), then those of the Commons House of Parliament of the United Kingdom.

Section 11 of the POQA provides the Legislative Assembly with the power to prepare and adopt standing rules and orders to conduct proceedings in the Assembly, known as the Standing Rules and Orders of the Legislative Assembly (Standing Orders).

Under Standing Order 3, the Legislative Assembly may adopt Sessional Orders which override the Standing Rules and Orders with the leave of the House on a majority vote (if necessary) to allow flexibility in how the House operates. The Sessional Orders have effect for the duration of the session, unless a lesser or longer period is specified.

The Committee of the Legislative Assembly (CLA) has responsibility for the standing rules and orders about the conduct of business by, and the practices and procedures of, the Assembly and its committees under section 84 of the POQA. The CLA is an all-party committee with cross-bench participation. All members of the committee may vote, and questions are decided by a majority of the votes of the members present and voting.

Summary: This benchmark is included in constitutional legislation and can only be set aside through legislative amendment requiring an absolute majority.

4.2 Presiding Officers

4.2.1 The Legislature shall select or elect presiding officers pursuant to criteria and procedures clearly defined in the rules of procedure.



Section 14 of the POQA requires the Legislative Assembly to, immediately upon sitting, elect a member to be Speaker.

Chapter 8 of the Standing Orders then provides for the process to elect the Speaker which is to occur immediately after the members are sworn in.

Summary: This benchmark is met through legislation and Standing Orders, but can be set aside through legislative amendment or the Legislative Assembly can suspend this Standing Order by a simple majority.

4.3 Convening Sessions

4.3.1 The Legislature shall meet regularly, at intervals sufficient to fulfil its responsibilities.



Section 19 of the Constitution requires at least two sittings of the Legislative Assembly in every calendar year, and that six months must not pass between sittings.

In practice, for 2017, the House has scheduled 13 sitting weeks for 40 days, excluding Estimates hearings.

Summary: This benchmark is included in constitutional legislation and can only be set aside through legislative amendment requiring an absolute majority.

4.3.2 The Legislature shall have procedures for calling itself into regular session.



Chapters 11 to 13 of the Standing Orders provide for the House to appoint the days and the hours of each day on which it will meet. Sessional Orders provide for the order of business per sitting day.

The practice is for the Leader of the House to advise the House of the sitting dates each year, and when in session, the practice is for House to adjourn to its next sitting day on each adjournment.

Summary: The provisions in the Standing Orders comply with the benchmark, but however the Legislative Assembly can suspend these Standing Orders by a simple majority.

4.3.3 The Legislature shall have procedures for calling itself into extraordinary or special session.



Chapter 48 of the Standing Orders provides for the Speaker to summons the members of the Legislative Assembly to a sitting to elect a Senator of the Senate of the Commonwealth within a specified timeframe, if necessary.

Section 15 of the Constitution provides for the Governor to summon the Legislative Assembly in the Sovereign’s name by instrument under the Public Seal of the State.

Section 18 of the Constitution provides that the Governor may set the times and places for the sessions of the Legislative Assembly that the Governor considers appropriate and, with sufficient notice, may change the times and places of sessions where the Governor considers that change advisable and more consistent with general convenience and public welfare. However, as advised in Chapter 1.3 of the Executive Council Handbook, convention provides that the Governor will seek the advice of the Premier in respect of the summons of the Parliament.

The Legislative Assembly was recalled in accordance with section 15(1) of the Constitution on 9 December 2005.

Summary: This benchmark is included in constitutional legislation and can only be set aside through legislative amendment requiring an absolute majority.

4.3.4 Provisions for the executive branch to convene a special session of the Legislature shall be clearly specified.



As mentioned above, section 15 of the Constitution provides for the Governor to summon the Legislative Assembly. There are no other provisions for the executive branch to convene a special session of the Legislature.

Summary: This benchmark is included in constitutional legislation and can only be set aside through legislative amendment requiring an absolute majority.

4.4 Agenda

4.4.1 Legislators shall have the right to vote to amend the proposed agenda for debate.



The Sessional Orders set out the Order of Business for each sitting day.

Standing Order 23 provides that the Clerk is to publish a notice paper after each sitting day and before the next sitting day, which lists all items of business currently before the House.

In practice, the Leader of the House determines the order in which items on the notice paper are to be considered. The Parliamentary Procedures Handbook provides that the Leader of the House may alter the order of any Government Business on the Notice Paper prior to its publication. However, once the Notice Paper has been published the order may only be varied by the House.

Any member can seek leave of the House to move a motion, to be determined by a majority of the members present, to alter the time for consideration of business or to add, remove, or alter the order of business to be considered by the House.

Summary: The provisions in the Standing Orders and Parliamentary Procedures Handbook comply with the benchmark, however, they can be set aside with relative ease, such as through a motion to suspend by a simple majority.

4.4.2 Legislators in the lower or only House shall have the right to initiate legislation and to offer amendments to proposed legislation.



Section 8 of the Constitution provides law-making powers for the Legislative Assembly.

Part 5 of the Standing Orders provides for the introduction, consideration and passing of both government bills and private member bills.

The Sessional Orders set aside time for the debate of government business, including government bills, and a separate time for the introduction and debate of Private members' bills.

All Members have the right to offer amendments to proposed legislation (bills) in the consideration in detail stage of the Bill.

Additionally, Standing Orders provide that a portfolio committee, in examining a bill, may recommend amendments.

Summary: The constitution provides law-making powers for the Legislative Assembly, and can only be set aside through legislative amendment requiring an absolute majority .

4.4.3 The Legislature shall give legislators adequate advance notice of session meetings and the agenda for the meeting.



As mentioned above, Standing Order 23 provides that the Clerk is to publish a notice paper after each sitting day and before the next sitting day, which lists all items of business currently before the House.

The sitting dates for each year are usually published and publicly available by the end of the year prior.

In practice, a yearly calendar has been produced since 2012, and the House at the final adjournment of each sitting week, adjourns to the commencement of the next sitting week.

Summary: The provision in the Standing Orders complies with the benchmark, however, the Legislative Assembly can suspend the relevant Standing Order by a simple majority.

4.5 Debate

4.5.1 The Legislature shall establish and follow clear procedures for structuring debate and determining the order of precedence of motions tabled by Members.



Chapter 15 of the Standing Orders provides procedures for motions including order and precedence for the debate of motions.

Sessional Orders allocate a specific time to private members' motions and for the debate of other motions.

Motions may be moved and debated outside the allocated times with the leave of the House.

Summary: The provisions in the Standing Orders and Sessional Orders comply with the benchmark, however, the Legislative Assembly can suspend the relevant order by a simple majority.

4.5.2 The Legislature shall provide adequate opportunity for legislators to debate bills prior to a vote.



Part 5 of the Standing Orders provide for a process for the passage of Bills through the House.

Sessional Orders provide timeframes for members to debate the bill during each stage. While there are set speaking times for members in the second reading debate, there is no set duration for the second reading stage unless an urgency motion has been passed. Each member is able to speak to each question during consideration and detail stage. This stage also affords members, particularly the opposition, further opportunity to seek explanations from the minister about the operation of the bill and the interpretation of clauses prior to a vote

Committees, which are made up of members of Parliament, also play an important role in the legislative process. All Bills, except those deemed urgent, are referred to a portfolio committee or another committee for examination for up to a maximum of six months or such other time fixed by the House or the Committee of the Legislative Assembly.

Under the Constitution, a minimum review period of six weeks is provided for unless the bill is declared urgent.

Each relevant committee examines Bills to consider their policy intent and implementation as well as the application of fundamental legislative principles. In addition, committees consider the lawfulness of items of subordinate legislation. The committee reports back to the Legislative Assembly, providing further analysis of the bill to inform the debate prior to the vote.

Summary: While a minimum review period of six weeks is provided, under the Constitution this can be shortened if the bill is declared urgent. The provisions in the Standing Orders and Sessional Orders comply with the benchmark, however, the Legislative Assembly can suspend the relevant Standing Order by a simple majority.

4.6 Voting

4.6.1 Plenary votes in the Legislature shall be public.



Members vote according to Chapters 17 to 19 in the Standing Orders and must be in the Chamber to vote. All members present in the Chamber are to participate in the vote.

Standing Order 36 authorises the Speaker and the Clerk to publicly broadcast the proceedings of the Legislative Assembly via the internet, and visitors are able to view proceedings from the Chamber gallery. The results of the vote are included in the Record of Proceedings, as required under Standing Order 21.

However, under Standing Order 106(10), if fewer than five members vote with either the “Ayes” or the “Noes”, the Clerk will record whether the question was agreed to or not in the Record of Proceedings but the result of the vote and the names of members voting will not be recorded.

The only vote taken by way of secret ballot, is the vote on the election of the Speaker.

Summary: The provisions in the Standing Orders and Sessional Orders comply with the benchmark, however, the Legislative Assembly can suspend the relevant Standing Order by a simple majority.

4.6.2 Members in a minority on a vote shall be able to demand a recorded vote.



As mentioned above, Standing Order 21 requires a record of proceedings to be made which is to include a transcript of debates in the House and is to record the names of members present, all questions moved and debated, all amendments moved and debated, all questions put and the result, the division lists and the results of all divisions, all documents tabled, and other matters determined by the Standing Orders, the House or the Speaker. Members are provided with a copy of the Record of Proceedings for each day and the Record is published as a proof and then as a final, corrected version.

However, as mentioned above, under Standing Order 106(10) if fewer than five members vote with either the “Ayes” or the “Noes”, the Clerk will record whether the question was agreed to or not in the Record of Proceedings but the result of the vote and the names of members voting will not be recorded.

As mentioned above, Standing Order 36 authorises the Speaker and the Clerk to publicly broadcast the proceedings of the Legislative Assembly via the internet.

Summary: The provisions in the Standing Orders substantially comply with this benchmark, however if fewer than five members vote with either the “Ayes” or the “Noes”, then this benchmark is not met.

4.6.3 Only legislators may vote on issues before the Legislature.



Section 10 of the Constitution provides that the Legislative Assembly is to consist of directly elected members, and section 22 of the Constitution provides that no member can sit or vote in the Legislative Assembly unless the member has taken or made the oath or affirmation of allegiance.

Once the member takes their seat after having taken the oath or made the affirmation of allegiance, they then have the privilege and eligibility to vote.

Summary: This benchmark is included in constitutional legislation and can only be set aside through legislative amendment requiring an absolute majority.

4.7 Records

4.7.1 The Legislature shall maintain and publish readily accessible records of its proceedings.



As mentioned in 4.6.1, Standing Order 21 requires a record of proceedings to be made which is available online.

Standing Order 36 authorises the Speaker and the Clerk to publicly broadcast the proceedings of the Legislative Assembly via the internet.

Summary: The provisions in the Standing Orders comply with the benchmark, however, the Legislative Assembly can suspend this Standing Order by a simple majority.

COMMITTEES

4.8 Organisation

4.8.1 The Legislature shall have the right to form permanent and temporary committees.



Queensland Parliamentary committees can be established by:

- Acts of Parliament (statutory committees);
- Standing Orders (standing committees); and
- Resolution of the Legislative Assembly (select committees).

The Constitution provides that the Legislative Assembly must at the commencement of every session establish a minimum of six portfolio committees, as defined in the POQA, which are to be allocated areas of responsibility that collectively cover all areas of government activity. In practice there have been between 7 and 8 portfolio committees established.

There are currently three special purpose statutory committees. Under the POQA, the CLA is established under section 80 and the Ethics Committee is established under section 102. The *Crime and Corruption Act 2001* (CCA) establishes the Parliamentary Crime and Corruption Committee (PCCC) under Section 291.

Section 88 of the POQA also provides that the Standing Orders must establish portfolio committees to cover the range of government departments. Currently, there are seven portfolio committees in accordance with Standing Order 194 and Schedule 6.

Summary: The benchmark to establish permanent portfolio committees is included in constitutional legislation and can only be set aside through legislative amendment requiring an absolute majority. The CLA, Ethics Committee and PCCC are established under legislation, but can be set aside through legislative amendment of the relevant act. The right to form temporary committees is provided on resolution of the Legislative Assembly, and therefore is subject to the will of the House.

4.8.2 The Legislature’s assignment of committee Members on each committee shall include both majority and minority party Members and reflect the political composition of the Legislature.



The membership of committees is provided for by the POQA and the Standing Orders.

For the portfolio committees, sections 89-91 of the POQA provides a formulae for the membership and operation of portfolio committees which varies according to the numbers of government members and non-government members making up the membership of the Assembly. Members are nominated by the Leader of the House and Leader of the Opposition and appointed by the Assembly.

Section 81 of the POQA determines the membership of the CLA. For the Ethics Committee, the POQA provides for 6 members, those being three members nominated by the Leader of the House and three members nominated by the Leader of the Opposition. Section 300 of the CCA provides that there are to be seven members of the PCCC, four nominated by the Leader of the House, and three nominated by the Leader of the Opposition.

Summary: This benchmark is included in legislation but can be set aside through legislative amendment.

4.8.3 The Legislature shall establish and follow a transparent method for selecting or electing the chairs of committees.



For portfolio committees, sections 89-91 of the POQA provide that depending on the percentage of government and non-government members in the House, either the Leader of the House nominates the chairperson, or the chairperson is the member of the committee nominated as chairperson by an order of the Assembly.

In practice, the Leader of the House and the Leader of the Opposition nominate government and non-government members, and the House endorses the nominations by way of a resolution.

Section 82 of the POQA provides that the chair of the CLA is the Speaker of the House and section 104 provides that the chair of the Ethics Committee is to be the member of the committee nominated as chairperson by the Leader of the House.

Section 300 of the CCA provides that the chairperson of the PCCC must be the member nominated as chairperson by the Leader of the House.

Summary: This benchmark is included in legislation but can only be set aside through legislative amendment.

4.8.4 Committee hearings shall be in public. Any exceptions shall be clearly defined and provided for in the rules of procedure.



Under Standing Order 133, a portfolio committee examining a bill is to operate in as public and transparent manner as practicable, which includes holding briefings from departmental officers and

hearings in public unless there are compelling reasons to hold such briefings and hearings in private. A committee may also authorise the broadcasting of its public hearings, so long as the committee complies with any rules that the Legislative Assembly may approve for the broadcasting of proceedings in accordance with Standing Order 210.

Under section 302A of the CCA, a meeting of the PCCC must be held in public. However, the parliamentary committee may decide that a meeting or a part of a meeting be held in private if the committee considers it is necessary to avoid the disclosure of confidential information or information important to a complaint about corrupt conduct, or an investigation or operation conducted.

Summary: The provisions in the Standing Orders comply with the benchmark, however, there is the capacity for this benchmark to be set aside with relative ease as a committee may resolve to hold hearings in private. While there is legislation which provides that a meeting of the PCCC must be held in public, this can be set aside if the PCCC considers that the meeting should be held in private.

4.8.5 Votes of committee shall be in public. Any exceptions shall be clearly defined and provided for in the rules of procedure.



Committees generally deliberate in private. The only procedural resolutions agreed to by the committee in public would be during a public hearing.

Under Standing Order 211, the proceedings of a portfolio committee, the Committee of the Legislative Assembly Committee or a select committee or a subcommittee of any of those committees that is not open to the public or authorised to be published remains strictly confidential to the committee until the committee has reported those proceedings to the House or otherwise published the proceedings.

Standing Order 214 provides that any member who does not agree with a committee report, or any part of the report, may give the committee notice that they intend to add a dissenting report or statement of reservation to the committee’s report.

Recent amendments to the Standing Orders has seen the inclusion of Standing order 211B, which provides that when the Ethics Committee makes its final report to the House on a matter, the Committee shall at the same time, table in the House:

- a. The minutes of its proceedings relevant to the matter; and
- b. Any submissions received or evidence taken in respect of the matter (including transcripts of hearings)

unless the committee resolves that some or all of its proceedings remain confidential.

Summary: The Queensland Parliament partially complies with this benchmark.

4.9 Powers

4.9.1 There shall be a presumption that the Legislature will refer legislation to a committee, and any exceptions must be transparent, narrowly-defined, and extraordinary in nature.



Section 26B of the Constitution requires that the Legislative Assembly must ensure each Bill for an Act that is proposed for enactment is referred to a portfolio committee, or another committee of the Legislative Assembly, for examination by the committee. The Constitution provides for a minimum review period of six weeks for every bill, but also provides that the Assembly can declare a Bill urgent by ordinary majority under the Standing Orders (which means a bill may be referred to a committee

for a review period of less than six weeks, may be discharged from a committee or may not be referred to a committee before the bill is passed by the Assembly).

Currently, under section 93 of the POQA, a portfolio committee is responsible for examining each Bill and item of subordinate legislation in its portfolio area. Standing Order 131 provides that if a question for the first reading of the Bill succeeds, then the Bill stands referred to the portfolio committee or other committee nominated by the Member who presented the Bill, although the CLA has the power to change the committee that examines the bill.

If a bill is declared urgent, under Standing Order 137 it may be considered immediately, and therefore shall either not stand referred to a portfolio committee, or if it has already been referred to a portfolio committee it shall be deemed discharged from the committee and set down on the notice paper for its second reading stage. There are no guidelines around the capacity to declare a bill urgent.

Summary: This benchmark is included in constitutional legislation and can only be set aside through legislative amendment requiring an absolute majority.

4.9.2 Committees shall scrutinise legislation referred to them and have the power to recommend amendments or amend the legislation.



As mentioned above, section 26B of the Constitution requires that the Legislative Assembly must ensure each Bill for an Act that is proposed for enactment is referred to a portfolio committee, or another committee of the Legislative Assembly, for examination by the committee. However, the Constitution does not make specific reference to committees having the power to recommend amendments or amend the legislation.

Section 93 of the POQA provides that a portfolio committee is responsible for examining each Bill and item of subordinate legislation in its portfolio area to consider the policy to be given effect by the legislation, the application of fundamental legislative principles to the legislation, and for subordinate legislation, its lawfulness.

Under Standing Order 132, when a bill (except for an annual appropriation bill) is referred to a committee the portfolio committee shall examine the bill and:

- determine whether to recommend that the bill be passed;
- may recommend amendments to the bill; and
- consider the application of fundamental legislative principles contained in Part 2 of the *Legislative Standards Act 1992* to the Bill and compliance with Part 4 of the same act regarding explanatory notes.

The report prepared by a portfolio committee on the Bill is to indicate the committee's determinations on the matter set out above.

Standing Order 133 provides that a portfolio committee may examine the bill by:

- calling for and receiving submissions about the bill;
- holding hearings and taking evidence from witnesses;
- engaging expert or technical assistance and advice; and
- seeking the opinion of other committees.

A portfolio committee may recommend only amendments that are relevant to the subject-matter of the bill, are consistent with the principles and objects of the bill, and otherwise conform to Standing Orders and the practices of the House. In its report to the Legislative Assembly, a portfolio committee must distinguish between those amendments recommended unanimously by the committee and those recommended by a majority of the committee.

Portfolio committees examine bills to consider their policy intent and implementation as well as the application of fundamental legislative principles. However, a committee has no power to move amendments during the consideration in detail stage of a bill and cannot amend the legislation directly.

Summary: This benchmark is met through legislation, but can be set aside through legislative amendment. Provisions in the Standing Orders can be set aside by the Legislative Assembly by a simple majority.

4.9.3 Committees shall have the right to consult and/or employ experts.



As advised above, under Standing Order 133, a portfolio committee may examine a Bill by engaging expert or technical assistance and advice.

Summary: The provision in the Standing Orders complies with the benchmark, however, the Legislative Assembly can suspend this Standing Order by a simple majority.

4.9.4 Committees shall have the power to summon persons, papers and records, and this power shall extend to witnesses and evidence from the executive branch, including officials.



Under section 25(2) of the POQA, a committee may order a person, other than a member, to attend before the committee and also to produce to the committee any document or other thing in the person’s possession. The resolution establishing a select committee usually grants the select committee the power to call for persons, documents and other things.

Under section 28 of the POQA, a member may be given an order under section 25 without being given a summons.

Under section 37 of the POQA and Standing Order 266, if a person fails to comply with the summons, it may constitute a contempt of the Parliament.

Summary: This benchmark is included in legislation but can be set aside through legislative amendment.

4.9.5 Only legislators appointed to the committee, or authorised substitutes, shall have the right to vote in committee.



Only members of a committee, or a substitute appointed by either the Leader of the House for a government member, or the Leader of the Opposition for a non-government member, and authorised by the Speaker, have the right to vote. Standing Order 202 states that where a member is appointed in accordance with this process, that member will have the rights of the member replaced.

Summary: The provision in the Standing Orders complies with the benchmark, however, the Legislative Assembly can suspend this Standing Order by a simple majority.

4.9.6 Legislation shall protect informants and witnesses presenting relevant information to commissions of inquiry about corruption or unlawful activity.



The *Public Interest Disclosure Act 2010 (Qld)* (PID Act) provides unique protection from reprisal for public officers disclosing information in the public interest to an appropriate entity. Under section 6 of Chapter One of the PID Act, the meaning of a public sector entity includes a committee of the Legislative Assembly, whether or not a statutory committee, and the parliamentary service. Chapter Four of the PID Act outlines the protections given to persons who make a public interest disclosure, which includes section 36 which provides that a person who makes a public interest disclosure is not subject to any civil or criminal liability or any liability arising by way of administrative process, including disciplinary action, for making the disclosure.

Neither the Constitution nor the POQA provide for the protection of informants and witnesses presenting relevant information to commissions of inquiry about corruption or unlawful activity.

It is noted however, that a person required to attend or appear at a commission hearing as a witness has the same protection as a witness in a proceeding in the Supreme Court under section 203 of the CCA, and that a witness summonsed to attend a commission of inquiry has the same protection as a witness in a proceeding in the Supreme Court under section 14B of the *Commissions of Inquiry Act 1950*.

Summary: This benchmark is met through legislation, but can be set aside through legislative amendment.

POLITICAL PARTIES, PARTY GROUPS AND CROSS PARTY GROUPS

4.10 Political Parties

4.10.1 The right of freedom of association shall exist for legislators, as for all people.



There is no specific provision in relation to this benchmark in Queensland legislation or in the Standing Orders.

The High Court has held that the Commonwealth Constitution impliedly protects freedom of communication about government and political matters.

Any law which is not reasonably appropriate and adapted, or proportionate, to serve legitimate ends with the maintenance of the constitutionally prescribed system of representative government is likely to be held invalid.

The *Australian Communist Party v The Commonwealth* (1951) 83 CLR 1, also known as the Communist Party Case, held legislation invalid which attempted to authorise the executive to make judicial decisions regarding individual rights.

Summary: This benchmark is included in the Commonwealth Constitution and can only be set aside through amendment of that legislation.

4.10.2 Any restrictions on the legality of political parties shall be narrowly drawn in law and shall be consistent with the International Covenant on Civil and Political Rights.



The Electoral Act provides for the registration of political parties and requires that certain criteria be met before a party is eligible for registration. For example, it must state a name for the political party, be established on the basis of a written constitution that sets out the aims of the party, it must have a constitution which is a complying constitution as defined in the Act, it must have one member who is a member of the Queensland Legislative Assembly or a minimum of 500 members who are enrolled voters (that is, on the electoral roll for an address in Queensland), and it must have as one of its objectives the promotion of the election to the Queensland Legislative Assembly of a candidate or candidates endorsed by it.

Under section 75 of the Electoral Act, the Electoral Commission Queensland may refuse an application to register a political party if the application fails to meet the relevant criteria. If an application is refused, the person who was the registered officer is to be provided with written notice advising of the refusal, the reasons for the refusal and the rights of the person to have the refusal decision reviewed.

Summary: This benchmark is met through legislation, but can be set aside through legislative amendment.

4.11 Party Groups

4.11.1 Criteria for the information of parliamentary party groups, and their rights and responsibilities in the Legislature, shall be clearly stated in the rules.



As noted in 4.10.2, criteria for the formation of parliamentary party groups is set out in sections 70-76 of the Electoral Act.

Summary: This benchmark is met through legislation, but can be set aside through legislative amendment.

4.11.2 The Legislature shall provide adequate resources and facilities for party groups pursuant to a clear and transparent formula that does not unduly advantage the majority party.



The decision in relation to allocation of parliamentary resources to political parties is in the hands of the Executive.

Summary: The Queensland Parliament substantially complies with this benchmark.

4.12 Cross Party Groups

4.12.1 Legislators shall have the right to form interest caucuses around issues of common concern.



There are no statutory or standing order restrictions prohibiting members forming interest caucuses around issues of common concern. Members are only bound by their own unique party structures and internal party discipline.

Summary: While there are no statutory or standing order restrictions prohibiting members forming interest caucuses around issues of common concern, there are also no provisions specifically supporting this right, therefore the Queensland Parliament can be said to substantially comply with this benchmark.

PARLIAMENTARY STAFF

4.13 General

4.13.1 The Legislature shall have an adequate non-partisan professional staff to support its operations including the operations of its committees.



Under section 23 of the PSA, the Parliamentary Service is established to provide administrative and support services to the Assembly and to members and committees. The PSA specifies that the parliamentary service is not an instrument of the Executive Government. Resources and facilities apply equally to all members, on the parliamentary precinct and in their electorate offices, regardless of their political party.

The administrative and support services provided under the PSA include:

- the provision of sufficient clerical staff, attendants and other staff to enable the Legislative Assembly and committees to operate efficiently
- the provision of advice on parliamentary procedures and the functions of Parliament generally
- an accurate and efficient reporting of proceedings of the Legislative Assembly and of meetings of committees as required, and
- the provision of adequate library and research facilities and services for members of the Legislative Assembly.

Also required under the PSA is the provision of dining facilities, the care of the parliamentary gardens and grounds, the provision of ceremonial and security services, and the maintenance of parliamentary buildings.

There are four service areas within the Parliamentary Service, with these being:

- Assembly and Committee Services
- Information Services
- Corporate and Electorate Services
- Property and Facility Services.

Staff are required in general to be non-partisan in their roles. These requirements are outlined further in section 5.1.2 and 5.1.3 below.

Summary: This benchmark is met through legislation, but can be set aside through legislative amendment.

4.13.2 The Legislature, rather than the executive branch, shall control the Parliamentary Service and determine the terms of employment.



Part 4 of the PSA establishes the Parliamentary Service with section 23 (2) stating that the Parliamentary Service is not an instrument of the Executive Government.

Section 20 (3) of the PSA provides that the Clerk of the Parliament (as the Chief Executive Officer) is to be the employing authority of Parliamentary Service officers and employees. The Clerk holds office during good behaviour.

It is incumbent on the Speaker to ensure that the Parliamentary Service is appropriately resourced. Furthermore, the Speaker is responsible for deciding policies about accommodation and services in the parliamentary precinct and accommodation and services supplied elsewhere by the Legislative Assembly for its members.

Under section 5 of the PSA, the general role for the Speaker in relation to the Parliamentary Service is to:

- decide major policies to guide the operation and management of the Parliamentary Service
- prepare budgets
- decide the size and organisation of the Parliamentary Service and the services to be supplied by the Parliamentary Service, and
- supervise the management and delivery of services by the Parliamentary Service.

Additionally, under sections 29(2) and 29(3), the Speaker determines the terms and conditions of employment for the Clerk and the Clerk determines the terms and conditions of employment for parliamentary staff.

Summary: This benchmark is met through legislation, but can be set aside through legislative amendment.

4.13.3 The Legislature shall draw and maintain a clear distinction between partisan and non-partisan staff.



As outlined in section 6.1.1 above, there are four service areas within the parliamentary service, with these being:

- Assembly and Committee Services
- Information Services
- Corporate and Electorate Services
- Property and Facility Services.

Staff in all service areas except the electorate offices are located on the parliamentary precinct in the Brisbane CBD, while Electorate Office staff are located throughout the state in the 93 electorate offices that are run by the 89 Members of Parliament.

There is therefore a distinction between staff located on the parliamentary precinct and those that work in the Electorate Offices. This distinction applies to both work location and also the partisan status of the nature of roles.

Staff on the precinct generally perform non-partisan roles, whereas staff in electorate offices may potentially be involved in partisan work on behalf of the Member of Parliament that they work for.

The *Code of Conduct for the Parliamentary Service* states the following in relation to this-

In the context of the Code, it is recognised that electorate office staff occupy a unique position within the Parliamentary Service. While these staff are employed by the Parliamentary Service, and utilise publicly-funded resources in the performance of their duties, they are appointed on the recommendation of the Member.

They work in a position of trust with, and at the direction of, their Member. Maintenance of the trust and confidence of their Member is, therefore, essential. Electorate office staff must

ensure that at all times they are acting within the authority of their Member. They must ensure that they do nothing to undermine the confidence and trust of the Member, nor compromise the principles of this Code.

In short, the circumstances in which they are appointed, the conditions in which they must work and the conditions under which they are employed, differentiate them from other Parliamentary Service employees.

Notwithstanding the above differences, most of the provisions of this Code apply to electorate office staff. While some specifically noted provisions of the Code (such as rules regarding political activities) do not apply to electorate office staff, all other provisions of the Code do apply to electorate office staff.

Summary: The Queensland Parliament substantially complies with this benchmark.

4.13.4 Members and staff of the Legislature shall have access to sufficient research, library and ICT facilities.



In accordance with the Members' Remuneration Handbook, members are provided with a range of support services delivered by the Parliamentary Service including library, research and ICT services. The Queensland Parliamentary Library provides research and information services and access to comprehensive research collections for all members of the Queensland Parliament, electorate and ministerial staff and staff of the Parliamentary Service. Information professionals and experienced research staff are available to answer individual requests for information and in-depth research enquiries.

The parliament's Information Technology Services is responsible for:

- managing and maintaining the integrity and availability of core information and telecommunications network and desktop systems that service the parliamentary precinct and electorate offices
- investigating, assessing and, when appropriate, implementing new or emerging technologies to ensure information technology systems remain effective, and
- providing support and advice to members and Parliamentary Service staff on information technology systems and services.

Summary: The provisions in the Members' Remuneration Handbook meet the benchmark, however, this entitlement can be set aside with relative ease by the Speaker.

4.14 Recruitment

4.14.1 The Legislature shall have adequate resources to recruit staff sufficient to fulfil its responsibilities. The rates of pay shall be broadly comparable to those in the public service.



Funding of the Parliamentary Service is provided for in the annual Appropriation (Parliament) Bill or Bills that form part of the government's annual budget.

Section 29 of the PSA provides for salaries and conditions of employment for the Parliamentary Service. Remuneration and allowances for the Clerk is decided by the Speaker while those matters

for the Parliamentary Service are decided by the Clerk, subject to any applicable industrial award or industrial agreement.

The Speaker must ensure the remuneration, conditions of employment and other benefits given to the Clerk are comparable to those of State officers and employees who have similar duties.

Similarly, the Clerk must ensure the remuneration, conditions of employment and other benefits given to parliamentary service officers and employees are comparable to those of State officers and employees who have similar duties.

The rates of pay payable to Parliamentary Service staff are from an Enterprise Bargaining Agreement (Parliamentary Service specific) and a whole of government directive. The rates of pay are identical to those in the public service.

Summary: This benchmark is met through legislation, but can be set aside through legislative amendment.

4.14.2 The Legislature shall not discriminate in its recruitment of staff on the basis of race, ethnicity, religion, gender, disability, or, in the case of non-partisan staff, party affiliation.



In Australia, national and state laws cover equal employment opportunity and anti-discrimination in the workplace. The Queensland Parliament is bound by the Anti-Discrimination Act 1991.

The *Human Resource Management Services Recruitment and Selection Guidelines* provide for merit based selection of staff and preclude any form of discrimination in recruitment and selection decisions.

In relation to any party affiliation of non-partisan staff, the *Code of Conduct for the Parliamentary Service* states the work of employees or agents of the Parliamentary Service employee or agent does not remove the right to be active privately in a political party, professional organisation or trade union. However, because of the nature of the relationship needed with Members of Parliament from all political sides, some positions within the Parliamentary Service have a special requirement against officers holding those positions being engaged in political activity. In these positions, officers and applicants must be willing to certify that they have not engaged in any recent political activity, and will not engage during the course of their employment in any political activity which is likely to raise a suspicion or question of bias in a fair-minded person which would:

- a) jeopardise or diminish the confidence of Members in the Parliamentary Service or the relevant employment unit, or
- b) otherwise impede the efficient and effective performance by the officer of their duties.

Positions to which this requirement relates includes Chamber Services staff, Committee research staff, Library research and information staff, Senior Executives and other classes of officers specifically advised by the Parliamentary Service.

Summary: This benchmark is met through legislation, but can be set aside through legislative amendment.

4.15 Promotion

4.15.1 Recruitment and promotion of non-partisan staff shall be on the basis of merit and equal opportunity.



In addition to Australia's national and state laws as mentioned in section 6.2.2. above, the Parliamentary Service has a policy of equal employment opportunity, which ensures that recruitment and selection is based on fairness, equity, open competition and selection on merit.

The Parliamentary Service's *Recruitment and Selection Guidelines* provide for merit based selection of staff and preclude any form of discrimination in recruitment and selection decisions.

Summary: This benchmark is met through legislation and parliamentary guidelines, but can be set aside through legislative amendment and amendment to the guidelines.

4.16 Organisation and Management

4.16.1 The head of the parliamentary service shall have a form of protected status to prevent undue political pressure.



Part 3 of the PSA establishes the position, as well as the roles and responsibilities, of the Clerk of the Parliament. Under section 18(2), the PSA provides that the Clerk shall be appointed by the Governor by commission on the recommendation of the Minister after consultation with the Speaker. It is the commission, as opposed to a contract, that protects the Clerk from interference from the executive in the performance of his functions.

Section 21 of the PSA outlines the provisions of the tenure of the Clerk, which sees that it is the Governor, not the Legislative Assembly or Executive who may suspend or remove the Clerk. The grounds for removal or suspension are disability, bankruptcy or misconduct.

Summary: This benchmark is met through legislation, but can be set aside through legislative amendment.

4.16.2 Legislatures should, either by legislation or resolution, establish corporate bodies responsible for providing services and funding entitlements for parliamentary purposes and providing for governance of the parliamentary service.



The Parliamentary Service is separate to the Public Service and is set up under its own legislation, the PSA. The PSA outlines the management of the Parliamentary Service.

The Clerk of the Parliament, as Chief Executive Officer of the Parliamentary Service, is:

- responsible to the Speaker for the efficient and cost effective management of the Parliamentary Service, and
- the employing authority, for the Legislative Assembly, of Parliamentary Service officers and employees.

The Clerk is also the Accountable Officer, as defined under the *Financial Accountability Act 2009*, and as such has a range of financial management responsibilities and obligations in the management of the Parliamentary Service.

As mentioned above, funding of the Parliamentary Service is provided for in the annual Appropriation (Parliament) Bill or Bills that form part of the government's annual budget.

Summary: This benchmark is met through legislation, but can be set aside through legislative amendment.

4.16.3 All staff shall be subject to a code of conduct.



Section 40 of the PSA refers to a code of conduct approved by the Clerk for officers of the employees in the parliamentary service.

All Parliamentary Service staff are subject to the *Code of Conduct for the Parliamentary Service*. This document is provided to all new employees and is available on the Parliamentary Service's intranet for all staff to access. Periodic training in relation to the Code of Conduct is undertaken.

The first version of the parliamentary service code of conduct was based on the *Public Sector Ethics Act 1994* and introduced after this date (exact date unknown). A second version of the Code of Conduct was then introduced on 1 January 2002.

The current code of conduct was last reviewed in January 2017.

Summary: The Code of Conduct complies with the benchmark, however, there is the capacity for this benchmark to be set aside through legislative amendment.

4.17 Summary

The Parliament meets the majority of the 'Organisation of the Legislature' benchmarks provided by the CPA. Of the 41 benchmarks that make up this section, the Queensland Parliament's rating against the benchmarks made a total of 150 points out of a potential score of 205 points.

Procedures and sessions

The Parliament meets the majority of benchmarks for procedures and sessions, although perhaps not to the full intent of the benchmark. For example, the Leader of the House sets the agenda for debate. General business notices of motion placed on the Notice Paper lapse after 30 days. Generally these notices of motion are private members motions. Where the Leader of the House does not agree to allocate time to move the motion for debate, the motion lapses. Hence, while there is an opportunity for the motions to be placed on the Notice Paper, there is also the possibility that they might not be brought on for debate and therefore lapse.

Despite all members having an opportunity to introduce legislation and amendments, private members bills will only pass their second reading or get their amendments up if there is some government support for them. Furthermore, despite a committee being able to recommend amendments to a bill, there is no provision for the committee to move these amendments in the House. It is the executive that decides if it will consider the amendments and incorporate them into the legislation.

In terms of scrutiny of the legislation, a bill can be referred to a committee for scrutiny but the government can pass amendments after the committee has reported. The amendments can significantly alter the effect of the legislation and have not been reported on by the committee.

Where a bill is deemed urgent there is little, or in some cases, no time for legislators to consider the bill before voting. In some cases, a bill may be introduced, declared urgent and passed immediately with minimal scrutiny.

Committees

The current Parliamentary committee system was established in 2011 following a significant reform of the parliamentary committee system as a result of an inquiry by a select committee. The reforms have led to vast improvements in the Parliamentary committee system, and the majority of the benchmarks are now met.

The legislation regarding the assignment of committee members does not specifically require the involvement of minor party members, as Queensland has two dominant major parties. However, there is still the potential for minority party members to be assigned to a committee by the Leader of Opposition Business.

It is noted that the deliberations of committee's are not usually held in public. However, this may have practical advantages in encouraging a collegiate approach across party lines.

Also, it is noted that in Queensland while committee's have the power to recommend amendments, it is up to the executive to agree if the amendments will be incorporated into the legislation.

Political Parties, Party Groups and Cross Party Groups

The Parliament meets all of these benchmarks, however it should be noted that the Parliamentary Service's ability to provide adequate resources and facilities for party groups is constrained by the budget determined by the Speaker and, ultimately, the executive.

There is also no specific guidance on legislators having the right to form interest caucuses around issues of common concerns.

Parliamentary staff

The Parliament meets all of these benchmarks, although the ease with which they may be set aside varies.

5 FUNCTIONS OF THE LEGISLATURE

This section of the benchmarks addresses the functions of the legislature, including:

- legislative function
- oversight function, and
- representational function.

LEGISLATIVE FUNCTION

5.1 General

5.1.1 The approval of the Legislature is required for the passage of all legislation, including budgets.



Under sections 2 and 2A of the *Constitution Act 1867* and the convention of Supremacy of the Parliament, only the Parliament, constituted by the Legislative Assembly and the Governor as the Sovereign's representative, has power to make or amend laws for the "peace, welfare and good government" of the State.

However, while it is noted that only a bill should authorise the amendment of an Act, Henry VIII clauses are still in use. A Henry VIII clause enables an Act to be expressly or impliedly amended by subordinate legislation or executive action.

Summary: This benchmark is included in constitutional legislation and can only be changed via a referendum.

5.1.2 Only the legislature shall be empowered to determine and approve the budget of the Legislature.



Under Queensland legislation and convention, there is no difference between the approval of the appropriation bill and any other bill.

Summary: This benchmark is included in constitutional legislation and can only be changed via a referendum.

5.1.3 The Legislature shall have the power to enact resolutions or other non-binding expressions of its will.



In accordance with Parliamentary privilege and section 9 of the Constitution, the House has 'exclusive cognisance' over its own proceedings. It may agree to a resolution or other non-binding expression of its will provided the motion is passed by a majority of members.

Summary: This benchmark is included in constitutional legislation and can only be set aside through legislative amendment requiring an absolute majority.

5.1.4 In bicameral systems, only a popularly elected House shall have the power to bring down government.

N/A

The Parliament of Queensland is a unicameral system.

Summary: Not applicable.

5.1.5 A chamber where a majority of Members are not directly or indirectly elected may not indefinitely deny or reject a money bill.

N/A

This benchmark does not apply to the Queensland Parliament.

Summary: Not applicable.

5.2 Legislative Procedure

5.2.1 In a bicameral Legislature there shall be clearly defined roles for each Chamber in the passage of legislation.

N/A

The Parliament of Queensland is a unicameral system.

Summary: Not applicable

5.2.2 The Legislature shall have the right to override an executive veto.



As mentioned above, under section 9 of the Constitution, the Legislative Assembly has ‘exclusive cognisance’ over its own proceedings. Any member of the Legislative Assembly has the capacity to move a motion to override an executive veto.

Summary: This benchmark is included in constitutional legislation and can only be set aside through legislative amendment requiring an absolute majority.

5.3 The Public and Legislation

5.3.1 Opportunities shall be given for public input into the legislative process.



Standing Order 133 provides that portfolio committees, when examining legislation, are to operate in as public and transparent manner as practicable. In practice, this includes inviting submissions from stakeholders and members of the public and holding public briefings and hearings which are broadcast on the Parliament’s website.

Summary: The provision in the Standing Orders complies with the benchmark, however, there is the capacity for this benchmark to be set aside with relative ease, as committees may resolve not to involve members of the public in the consideration of a bill.

5.3.2 Information shall be provided to the public in a timely manner regarding matters under consideration by the Legislature.



Under Standing Orders, the Record of Proceedings and Notice Paper for the next sitting day is published on the Parliament’s website shortly after the House has adjourned for the day. The Committee Business Schedule is also published on the Parliament’s website.

The Parliamentary Service provides a live broadcast of proceedings in the Chamber and of Committee hearings and briefings.

Tabled papers are made available on the Tabled Papers database as soon as practicable during the recess, and within 24 hours on a sitting day.

Details of the bills currently before the House are also available on the Parliament’s website.

Summary: The provisions in the Standing Orders comply with the benchmark, however, the Legislative Assembly can suspend the Standing Orders by a simple majority.

5.4 OVERSIGHT FUNCTION

5.4.1 The Legislature shall have mechanisms to obtain information from the executive branch sufficient to exercise its oversight function in a meaningful way.



Under section 25 of the POQA, the Legislative Assembly and committees may order persons to attend or produce documents or things.

Standing Order 27 also provides for the Legislative Assembly to order documents to be tabled or produced to the House.

Chapter 20 of the Standing Orders, particularly Standing Order 110 and 114, provides members with the ability to seek information through Question Time (Questions Without Notice) and Questions on Notice.

Summary: This benchmark is met through legislation, but can be set aside through legislative amendment or the Standing Order may be suspended by a simple majority.

5.4.2 The oversight authority of the Legislature shall include meaningful oversight of the military security and intelligence services.



The Parliament of Queensland does not have oversight of the military security and intelligence services.

Summary: Not applicable.

5.4.3 The oversight authority of the Legislature shall include meaningful oversight of state owned enterprises.



Under Standing Order 180 and Schedule 7, members may directly question CEOs of government-owned corporations and statutory authorities in estimates hearings.

Summary: The provision in the Standing Order complies with the benchmark, however, the Legislative Assembly can suspend this Standing Order by a simple majority.

5.5 Financial and Budget Oversight

5.5.1 The Legislature shall have a reasonable period of time in which to review the proposed national budget.



The Constitution provides for annual Appropriation Bills to be referred to portfolio committees for examination at a public hearing (budget estimates process), and that the Appropriation Bill must be accompanied by associated documentation.

Under Queensland legislation and convention, there is no difference between the approval of the appropriation bill and any other bill.

Chapters 30-31 of Standing Orders set out the procedures for consideration of the state (not national) budget. Ad hoc sessional orders for estimates provide the timeframe. Generally, this has been a 6 – 8 week timeframe, with the estimates hearings for each portfolio committee held over a 2 week period.

Summary: This benchmark is met through legislation, but can be set aside through legislative amendment.

5.5.2 Oversight committees shall provide meaningful opportunities for minority or opposition parties to engage in effective oversight of government expenditures. Typically, the Public Accounts Committee will be chaired by a Member of the opposition party.



Until 2011, a stand-alone Public Accounts Committee existed. Since August 2011, committees have performed a public accounts and public works function for matters falling within their portfolio.

As mentioned above, the Constitution provides for annual Appropriation Bills to be referred to portfolio committees for examination at a public hearing (budget estimates process), and that the Appropriation Bill must be accompanied by associated documentation.

Section 92 of the POQA provides that in relation to its portfolio area, a committee may consider Appropriation Bills. Chapter 31 of Standing Orders provides that annual appropriations are considered by portfolio committees in estimates hearings.

Membership of committees is determined by formulae contained in the POQA, and the number of non-government members on committees is determined by the number holdings seats in the Legislative Assembly. However, Standing Orders provide that any member is able to write to the relevant portfolio committee and request permission to participate in an estimates hearing.

Summary: This benchmark is included in constitutional legislation in that committees are referred the annual appropriation bill for examination, and therefore can only be changed through legislative amendment requiring an absolute majority. However, it is worth noting that portfolio committees are chaired by government members. The Standing Order provision can be suspended by the Legislative Assembly by a simple majority.

5.5.3 Oversight committees shall have access to records of executive branch accounts and related documentation sufficient to be able to meaningfully review the accuracy of executive branch reporting on its revenues and expenditures.



As noted in 4.9.4 and 5.4.1, committees have the power to call for people, papers and things.

As mentioned above, the Constitution provides for annual Appropriation Bills to be referred to portfolio committees for examination at a public hearing (budget estimates process), and that the Appropriation Bill must be accompanied by associated documentation.

As also mentioned above, chapter 5 of the POQA provides that portfolio committees have a public accounts function, and under chapter 31 of the Standing Orders, annual appropriations are considered by portfolio committees in estimates hearings. Documents available to the committees include the Appropriation Bill, budget strategy and outlook, capital statement, budget measures and the relevant service delivery statement.

Summary: This benchmark is included in constitutional legislation and can only be set aside through legislative amendment requiring an absolute majority.

5.5.4 There shall be an independent, non-partisan supreme or national audit office whose reports are tabled in the Legislature in a timely manner.



Section 67 of the *Auditor-General Act 2009* (Auditor-General Act) establishes the Queensland Audit Office. Section 8 of the Auditor-General Act provides that the Auditor-General is not subject to direction in relation to the way audits are conducted or the priority given to audits.

The Auditor-General provides certain reports to the Speaker for tabling in the Assembly which must be tabled on the next sitting day.

Summary: This benchmark is met through legislation, but can be set aside through legislative amendment.

5.5.5 The supreme or national audit office shall be provided with adequate resources and legal authority to conduct audits in a timely manner.



The Queensland Audit Office is provided with adequate resources and legal authority to conduct audits in a timely manner via the Auditor-General Act.

The Treasurer must consult with the Finance and Administration Committee (FAC) in developing the proposed budget of the audit office. Section 21 of the Auditor-General Act provides that the Auditor-General must prepare, each financial year, estimates of proposed receipts and expenditure relating to the audit office. The Auditor-General must give the estimates to the Treasurer and the Treasurer must then consult with the FAC regarding the proposed budget each financial year. It is noted that if the FAC is dissatisfied with the proposed funding, it has the power to report to the parliament.

Summary: This benchmark is met through legislation, but can be set aside through legislative amendment.

5.6 No Confidence and Impeachment

5.6.1 The Legislature shall have mechanisms to impeach or censure officials of the executive branch, or express no-confidence in the government.



While there are no specific provisions, Standing and Sessional Orders provide opportunities for motions, particularly private members' motions, to be debated.

Summary: The provisions in the Standing Orders and Sessional Orders that allow motions comply with the benchmark, however, the Legislative Assembly can suspend the Standing or Sessional Orders by a simple majority.

5.6.2 If the Legislature expresses no confidence in the government the government is obliged to offer its resignation. If the head of state agrees that no other alternative government can be formed, a general election should be held.



If a no-confidence motion is passed, convention dictates that the Premier would visit the Governor to resign, as the government would no longer have the ability to pass legislation, including a budget.

Convention would dictate that the Governor would call on the Leader of the Opposition to try to form an alternative government. The Governor has the power to summon, prorogue or dissolve the Legislative Assembly under section 15 of the Constitution. Under section 82 of the Electoral Act, the Governor issues writs for a general election.

Summary: While convention dictates that the Premier would visit the Governor to resign, there is no requirement on the Premier to do so, and therefore the Queensland Parliament only partially complies with this benchmark.

REPRESENTATIONAL FUNCTION

5.7 Constituent Relations

5.7.1 The Legislature shall provide all legislators with adequate and appropriate resources to enable the legislators to fulfil their constituency responsibilities.



The QIRT Act establishes the QIRT, which reviews and decides the remuneration of Members assisting them to fulfill their constitutional responsibilities.

Section 24 of the *Parliamentary Service Act 1988* provides for the Parliamentary Service to provide administrative and support services to Members, which includes electorate office staff and offices.

Resources and facilities apply equally to all members, on the parliamentary precinct and their electorate offices, regardless of their political party.

Summary: This benchmark is met through legislation, but can be set aside through legislative amendment.

5.8 Parliamentary Networking and Diplomacy

5.8.1 The Legislature shall have the right to receive development assistance to strengthen the institution of parliament.



The Parliament of Queensland does not receive development assistance.

Summary: Not applicable.

5.8.2 Members and staff of Parliament shall have the right to receive technical and advisory assistance, as well as to network and exchange experience with individuals from other Legislatures.



The Parliamentary Service provides members with advice on parliamentary procedures and the functions of parliament generally.

As mentioned above, section 2.4.4.1 of the Members' Remuneration Handbook outlines opportunities available to members through the CPA.

Parliamentary Service staff have networking/exchange experiences through organisations such as the Australasian Study of Parliament Group and the Australia and New Zealand Association of Clerks-at-the-Table.

Summary: The provision in the Members' Remuneration Handbook complies with the benchmark, however, there is the capacity for this benchmark to be set aside with relative ease by the Speaker who determines such entitlements.

5.9 Summary

The Parliament meets the majority of the 'Functions of the Legislature' benchmarks provided by the CPA. Of the 22 benchmarks that make up this section, five were not applicable to the Queensland Parliament. The Queensland Parliament's rating against each of the remaining benchmarks made a total of 66 points out of a potential score of 85 points (17 applicable benchmarks).

Legislative Function

The Parliament meets the majority of the benchmarks that are applicable, however there are limitations on public input.

Where a bill is deemed urgent, it may not be referred to a committee for scrutiny at all and therefore there is no opportunity for the public to have any input.

Also, despite there being a separate appropriation bill for the parliament, it is not the legislature that determines the budget, it can only approve it. The executive determines the budget and given the executive numbers in parliament, the bill always passes with limited scope for amendments by the parliament.

Oversight Function

The Parliament meets the majority of the benchmarks that are applicable, however there are limitations to the benchmarks on financial and budget oversight.

While the Treasurer must consult with the committee regarding the budget of the Auditor-General, it is still the executive of the day that determines the budget. The committee can only report its dissatisfaction to the House, it cannot change the budget.

In terms of no confidence motions, while any member can move a no confidence motion, a large majority and strict party discipline restrict the application. Furthermore, members don't always resign when a motion of no confidence has been passed.

Representational Function

The Parliament meets all of these benchmarks, however as noted above, the executive determines the budget of the Parliamentary Service, which can restrict the available resources available to members.

6 VALUES OF THE LEGISLATURE

This section of the benchmarks covers the values of the Legislature, including:

- accessibility
- ethical governance

ACCESSIBILITY

6.1 Citizens and the Press

6.1.1 The Legislature shall be accessible and open to citizens and the media, subject only to demonstrable public safety and work requirements



Under Standing Orders 284 & 286, the Speaker controls public access to the House whilst the House is sitting subject to their proper conduct.

The Speaker and Clerk are authorised to broadcast proceedings over the internet under Standing Order 36.

Section 50 of the POQA provides that the House or a committee may authorise the publication of proceedings. The record of proceedings and tabled documents are published on the internet under Chapter 4 of the Standing Orders.

Under Standing Order 207, persons can be admitted to the public hearing of a committee as the discretion of the Chairperson, and as advised earlier, under Standing Order 133 (2) committees are to operate in as public and transparent manner as applicable.

Summary: The provisions in the Standing Orders comply with the benchmark, however, the Legislative Assembly can suspend these Standing Orders by a simple majority.

6.1.2 The Legislature should ensure that the media are given appropriate access to the proceedings of the Legislature without compromising the proper functioning of the Legislature and its rules of procedure.



The House (by authorisation of the Speaker) and Committees agree to media guidelines to give appropriate access to proceedings.

Rules for Media Access to Parliamentary Precinct and the Legislative Assembly Chamber are approved by the Speaker and tabled in the House.

Parliamentary proceedings are broadcast live and also via live internet stream.

Summary: The provisions in the guidelines and rules comply with the benchmark, however, there is the capacity for this benchmark to be set aside with relative ease by the Speaker.

6.1.3 The Legislature shall have a non-partisan media relations facility.



The Speaker determines access to the 'Parliamentary Media Gallery' provided they comply with specific requirements outlined in the *Rules for Media Access to Parliamentary Precinct and the*

Legislative Assembly Chamber. There are also facilities for print, radio and television journalists on the parliamentary precinct.

Summary: The provisions in the rules comply with the benchmark, however, there is the capacity for this benchmark to be set aside with relative ease by the Speaker.

6.1.4 The Legislature shall promote the public’s understanding of the work of the Legislature.



The Parliamentary Service contains a ‘Parliamentary Education and Communications Secretariat’ who is responsible for promoting understanding of the Parliament and Committees.

Summary: The Queensland Parliament complies with the benchmark, however, there is the capacity for this benchmark to be set aside with relative ease, as the promotion of the public’s understanding of the work of the Legislature is not required by legislation.

6.2 Languages

6.2.1 Where the constitution or parliamentary rules provide for the use of multiple working languages, the Legislature shall make every reasonable effort to provide for simultaneous interpretation of debates and translation of records.



The Parliament of Queensland does not use multiple working languages.

Summary: Not applicable.

ETHICAL GOVERNANCE

6.3 Transparency and Integrity

6.3.1 Legislators should maintain high stands of accountability, transparency and responsibility in the conduct of all public and parliamentary matters.



Under section 86 of the POQA, the CLA is responsible for setting ethical standards for members, including publishing and reviewing a code of ethical conduct for members (other than members in their capacity as Ministers), to assist and educate members in terms of their obligations.

The Ethics Committee established under the POQA is responsible for investigating alleged breaches against the Code of Ethical Standards and contempts of Parliament. Section 37 of the POQA defines contempts and provides a list of examples of contempt. Part 10 of the Standing Orders addresses the powers, rights and immunities of legislators, including addressing contempts.

The Integrity Commissioner, established by section 6 of the *Integrity Act 2009*, can provide written advice to a member on ethics or integrity issues.

Section 64 of the POQA provides criteria for disqualification of candidacy for election, for example, if the person has been convicted of bribery, while section 73 of the POQA provides for the automatic vacation of a members’ seat if convicted of a range of offences.

Summary: This benchmark is met through legislation, but can be set aside through legislative amendment.

6.3.2 The Legislature shall approve and enforce a code of conduct, including rules on conflicts of interest and the acceptance of gifts.



As noted in 6.3.1, the Code of Ethical Standards applies to all members. It provides the rules for conflicts of interests and the acceptance of gifts. The Code of Ethical Standards also provides a mechanism for resolving conflicts in that conflicts are to be resolved in the public interest.

In addition, section 69B of the POQA provides that all members must provide a statement of interests to the Clerk one month after taking their seats. The register is to be updated within a month of any changes.

The particulars of the statement of interest are set out in Schedule 2 of the Standing Orders.

Any member pecuniarily interested may not vote in the House under Standing Order 259.

Under section 104 of the POQA, the Ethics Committee is responsible for dealing with complaints about the ethical conduct of particular members, including the responsibility to:

- a) consider complaints referred to the committee about particular members failing to register particular interests; and
- b) consider complaints against particular members for failing to comply with the code of ethical conduct for members, report on complaints to the Assembly and recommend action by the Assembly.

Summary: This benchmark is met through legislation and the Code of Ethical Standards, but can be set aside through legislative amendment or amendments to the Code of Ethical Standards by the CLA.

6.3.3 Legislatures shall require legislators to fully and publicly disclose their financial assets and business interests.



As above in 10.3.2, members are required to declare financial and business interests in a register of interests in accordance with section 69B of the POQA.

Summary: This benchmark is met through legislation, but can be set aside through legislative amendment.

6.3.4 There shall be mechanisms to prevent, disclose, detect, and bring to justice legislators and staff engaged in corrupt practices.



The Crime and Corruption Commission (CCC) is an independent statutory body established under the *Crime and Corruption Act 2001*. It is responsible for investigating alleged corrupt conduct, as well as improving the integrity of, and reducing the incidence of corruption in, the public sector. Corrupt conduct may also be dealt with under the Criminal Code.

The CEO of the Parliamentary Service has responsibility for reporting suspected misconduct to the CCC.

Summary: This benchmark is met through legislation, but can be set aside through legislative amendment.

6.4 Summary

The Parliament meets the majority of the 'Values of the Legislature' benchmarks provided by the CPA. Of the nine benchmarks that make up this section, one was not applicable to the Queensland Parliament. The Queensland Parliament's rating against each of the remaining benchmarks made a total of 28 points out of a potential score of 40 points (8 applicable benchmarks).

Accessibility

The Parliaments meets all of the benchmarks which are applicable, although it is worth noting that none of the benchmarks are guided by legislation.

Ethical Governance

The Parliament meets all of the benchmarks.

7 CONCLUSION

Overall, the Queensland Parliament performs well against the benchmarks, although there is always room for improvement as in any parliamentary system.

The results of the benchmarking process are shown below, against a potential score for the applicable benchmarks.

BENCHMARKS	QLD PARLIAMENT SCORE	POTENTIAL SCORE
General	60	65
Organisation of the Legislature	150	200
Functions of the Legislature	66	85
Values of the Legislature	28	40
TOTAL	304	390

One of the more obvious challenges to improving against the benchmarks is due to the dominance of the executive. However, as Queensland is a unicameral parliament, dominated by two major parties, it is not anticipated that there will be significant changes to this situation in the near future.

That said, the Queensland Parliament has undertaken significant reform in recent years, such as through the introduction of the current portfolio based committee system in 2011, and continues to identify areas to improve its governance, the Constitution of Queensland and Other Legislation Amendment Bill 2016 as mentioned in the report being a case in point.

While many of the benchmarks were rated with three or four stars in accordance with the ease with which the benchmark can be set aside, it is unlikely in most if not all cases that the Legislative Assembly would attempt to do so. Following the Fitzgerald Inquiry in the 1980s, it would not be in the political interest of either of the major parties to be seen to remove or significantly alter current governance arrangements.

The Parliament will continue to work on strengthening its democratic performance and keeping up to date with advances in parliamentary practices and procedures into the future.

APPENDIX A

Table 1: General

Benchmark	Benchmark met?	Type of governance
General		
1.1 Elections		
1.1.1 Members of the popularly elected or only house shall be elected by direct universal and equal suffrage in a free and secret ballot	Yes	Constitutional legislation
1.1.2 Legislative elections shall meet international standards for genuine and transparent elections	Yes	Legislation
1.1.3 Term lengths for members of the popular house shall reflect the need for accountability through regular and periodic legislative elections	Yes	Constitutional legislation
1.2 Candidate Eligibility		
1.2.1 Restrictions on candidate eligibility shall not be based on religion, gender, ethnicity, race or disability	Yes	Legislation
1.2.2 Special measures to encourage the political participation of marginalized groups shall be narrowly drawn to accomplish precisely defined, and time-limited, objectives	Not applicable	
1.3 Incompatibility of Office		
1.3.1 No elected Member shall be required to take a religious oath against his or her conscience in order to take his or her seat in the Legislature	Yes	Constitutional legislation
1.3.2 In a bicameral Legislature, a legislator may not be a Member of both Houses	Not applicable	
1.3.3 A legislator may not simultaneously serve in the judicial branch or as a civil servant of the executive branch	Yes	Constitutional legislation
1.4 Immunity		
1.4.1 Legislators shall have immunity for anything said in the course of the proceedings of Legislature	Yes	Constitutional legislation
1.4.2 Parliamentary immunity shall not extend beyond the term of office; but a former legislator shall continue to enjoy protection for his or her term of office	Yes	Constitutional legislation
1.4.3 The executive branch shall have no right or power to lift the immunity of a legislator	Yes	Constitutional legislation
1.4.4 Legislators must be able to carry out their legislative and constitutional functions in accordance with the constitution, free from interference	Yes	Constitutional legislation

Benchmark	Benchmark met?	Type of governance
1.5 Remuneration and Benefits		
1.5.1 The Legislature shall provide proper remuneration and reimbursement of parliamentary expenses to legislators for their service, and all forms of compensation shall be allocated on a non-partisan basis	Yes	Legislation
1.6 Resignation		
1.6.1 Legislators shall have the right to resign their seats	Yes	Legislation
1.7 Infrastructure		
1.7.1 The Legislature shall have adequate physical infrastructure to enable Members and staff to fulfil their responsibilities	Yes	Legislation, Manual/Guidelines

Table 2: Organisation of the Legislature

Benchmark	Benchmark met?	Type of governance
2. Procedure and Sessions		
2.1 Rules of Procedure		
2.1.1 Only the Legislature may adopt and amend its rules of procedure	Yes	Constitutional legislation/ Practice
2.2 Presiding Officers		
2.2 The Legislature shall select or elect presiding officers pursuant to criteria and procedures clearly defined in the rules of procedure	Yes	Legislation/ Standing Rules and Orders
2.3 Convening Sessions		
2.3.1 The Legislature shall meet regularly, at intervals sufficient to fulfil its responsibilities	Yes	Constitutional legislation
2.3.2 The Legislature shall have procedures for calling itself into regular session	Yes	Standing Rules and Orders
2.3.3 The Legislature shall have procedures for calling itself into extraordinary or special session	Yes	Constitutional legislation /Convention/ Handbook
2.3.4 Provisions for the executive branch to convene a special session of the Legislature shall be clearly specified	Yes	Constitutional legislation
2.4 Agenda		
2.4.1 Legislators shall have the right to vote to amend the proposed agenda for debate	Yes	Standing Rules and Orders/ Sessional Orders/Handbook
2.4.2 Legislators in the lower house or only House shall have the right to initiate legislation and to offer amendments to proposed legislation	Yes	Constitutional legislation/ Standing Rules and Orders
Benchmark	Benchmark	Type of governance

	met?	
2.4.3 The Legislature shall give legislators adequate advance notice of session meetings and the agenda for the meeting	Yes	Standing Rules and Orders
2.5 Debate		
2.5.1 The Legislature shall establish and follow clear procedures for structuring debate and determining the order of precedence of motions tabled by Members	Yes	Standing Rules and Orders
2.5.2 The Legislature shall provide adequate opportunity for legislators to debate bills prior to a vote	Largely, except under urgency provisions)	Standing Rules and Orders/ Sessional Orders
2.6 Voting		
2.6.1 Plenary votes in the Legislative Assembly shall be public	Yes	Standing Rules and Orders
2.6.2 Members in a minority on a vote shall be able to demand a recorded vote	Largely, except under Standing Order 106(10)	Standing Rules and Orders
2.6.3 Only legislators may vote on issues before the Legislature	Yes	Constitutional legislation
2.7 Records		
2.7.1 The Legislature shall maintain and publish readily accessible records of its proceedings	Yes	Standing Rules and Orders
3. Committees		
3.1 Organisation		
3.1.1 The Legislature shall have the right to form permanent and temporary committees	Yes	Constitutional legislation /Standing Rules and Orders/Other (resolution)
3.1.2 The Legislature's assignment of committee Members on each committee shall include both majority and minority party Members and reflect the political composition of the Legislature	Yes	Legislation /Standing Rules and Orders
3.1.3 The Legislature shall establish and follow a transparent method for selecting or electing the chairs of committees	Yes	Legislation
3.1.4 Committee hearings shall be in public. Any exceptions shall be clearly defined and provided for in the rules of procedure	Yes	Standing Orders
3.1.5 Votes of committee shall be in public. Any exceptions shall be clearly defined and provided for in the rules of procedure	Partially	Standing Orders

Benchmark	Benchmark met?	Type of governance
3.2 Powers		
3.2.1 There shall be a presumption that the Legislature will refer legislation to a committee, and any exceptions must be transparent, narrowly-defined, and extraordinary in nature	Yes	Constitutional legislation/Standing Orders
3.2.2 Committees shall scrutinise legislation referred to them and have the power to recommend amendments or amend the legislation	Yes	Legislation
3.2.3 Committees shall have the right to consult and/or employ experts	Yes	Standing Orders
3.2.4 Committees shall have the power to summon persons, papers and records, and this power shall extend to witnesses and evidence from the executive branch, including officials	Yes	Legislation
3.2.5 Only legislators appointed to the committee, or authorised substitutes, shall have the right to vote in committee	Yes	Standing Orders
3.2.6 Legislation shall protect informants and witnesses presenting relevant information to commissions of inquiry about corruption or unlawful activity	Yes	Legislation
4. Political Parties, Party Groups and Cross Party Groups		
4.1 Political Parties		
4.1.1 The right of freedom of association shall exist for legislators, as for all people	Yes	Commonwealth constitution
4.1.2 Any restrictions on the legality of political parties shall be narrowly drawn in law and shall be consistent with the International Covenant on Civil and Political Rights	Yes	Legislation
4.2 Party Groups		
4.2.1 Criteria for the formation of parliamentary party groups, & their rights and responsibilities in the Legislature, shall be clearly stated in the rules	Yes	Legislation
4.2.2 The Legislature shall provide adequate resources and facilities for party groups pursuant to a clear and transparent formula that does not unduly advantage the majority party	Partially	Convention
4.3 Cross Party Groups		
4.3.1 Legislators shall have the right to form interest caucuses around issues of common concern	Substantially	It happens in practice but is not mandated in legislation

Benchmark	Benchmark met?	Type of governance
5. Parliamentary Staff		
5.1 General		
5.1.1 The Legislature shall have an adequate non-partisan professional staff to support its operations including the operations of its committees	Yes	Legislation and Manual/Guidelines
5.1.2 The Legislature, rather than the executive branch, shall control the parliamentary service and determine the terms of employment	Yes	Legislation
5.1.3 The Legislature shall draw and maintain a clear distinction between partisan and non-partisan staff	Substantially	Manual/Guidelines
5.1.4 Members and staff of the Legislature shall have access to sufficient research, library, and ICT facilities	Yes	Handbook
5.2 Recruitment		
5.2.1 The Legislature shall have adequate resources to recruit staff sufficient to fulfil its responsibilities. The rates of pay shall be broadly comparable to those in the public service	Yes	Legislation
5.2.2 The Legislature shall not discriminate in its recruitment of staff on the basis of race, ethnicity, religion, gender, disability, or, in the case of non-partisan staff, party affiliation	Yes	Legislation and Manual/Guidelines
5.3 Promotion		
5.3.1 Recruitment and promotion of non-partisan staff shall be on the basis of merit and equal opportunity	Yes	Legislation and Manual/Guidelines
5.4 Organisation and Management		
5.4.1 The head of the parliamentary service shall have a form of protected status to prevent undue political pressure	Yes	Legislation
5.4.2 Legislatures should, either by legislation or resolution, establish corporate bodies responsible for providing services and funding entitlements for parliamentary purposes and providing for governance of the parliamentary service	Yes	Legislation and Manual/Guidelines
5.4.3 All staff shall be subject to a code of conduct	Yes	Legislation and guidelines

Table 3: Functions of the Legislature

Benchmark	Benchmark met?	Type of governance
6. Legislature Function		
6.1 General		
6.1.1 The approval of the Legislature is required for the passage of all legislation, including budgets	Yes	Constitutional legislation
6.1.2 Only the legislature shall be empowered to determine and approve the budget of the Legislature	Yes	Constitutional legislation
6.1.3 The Legislature shall have the power to enact resolutions or other non-binding expressions of its will	Yes	Constitutional legislation
6.1.4 In bicameral systems, only a popularly elected House shall have the power to bring down government	Not applicable	Not applicable
6.1.5 A chamber where a majority of Members are not directly or indirectly elected may not indefinitely deny or reject a money bill	Not applicable	Not applicable
6.2 Legislative Procedure		
6.2.1 In a bicameral Legislature there shall be clearly defined roles for each Chamber in the passage of legislation	Not applicable	Not applicable
6.2.2 The Legislature shall have the right to override an executive veto	Yes	Constitutional legislation
6.3 The Public and Legislation		
6.3.1 Opportunities shall be given for public input into the legislative process	Yes	Standing Orders
6.3.2 Information shall be provided to the public in a timely manner regarding matters under consideration by the Legislature	Yes	Manual/Guidelines/Practice
7. Oversight Function		
7.1 General		
7.1.1 The Legislature shall have mechanisms to obtain information from the executive branch sufficient to exercise its oversight function in a meaningful way	Yes	Legislation/Standing Rules and Orders
7.1.2 The oversight authority of the Legislature shall include meaningful oversight of the military security and intelligence services	Not applicable	Not applicable

Benchmark	Benchmark met?	Type of governance
7.1.3 The oversight authority of the Legislature shall include meaningful oversight of state owned enterprises	Yes	Standing Rules and Orders
7.2 Financial and Budget Oversight		
7.2.1 The Legislature shall have a reasonable period of time in which to review the proposed national budget	Yes	Legislation/Standing Rules and Orders, Sessional Orders
7.2.2 Oversight committees shall provide meaningful opportunities for minority or opposition parties to engage in effective oversight of government expenditures. Typically, the Public Accounts Committee will be chaired by a Member of the opposition party	Yes	Constitutional legislation/Standing Rules and Orders
7.2.3 Oversight committees shall have access to records of executive branch accounts and related documentation sufficient to be able to meaningfully review the accuracy of executive branch reporting on its revenues and expenditures	Yes	Constitutional legislation/Standing Rules and Orders
7.2.4 There shall be an independent, non-partisan supreme or national audit office whose reports are tabled in the Legislature in a timely manner	Yes	Legislation
7.2.5 The supreme or national audit office shall be provided with adequate resources and legal authority to conduct audits in a timely manner	Yes	Legislation
7.3 No Confidence and Impeachment		
7.3.1 The Legislature shall have mechanisms to impeach or censure officials of the executive branch, or express no-confidence in the government	Yes	Standing Rules and Orders, Sessional Orders
7.3.2 If the Legislature expresses no confidence in the government the government is obliged to offer its resignation. If the head of state agrees that no other alternative government can be formed, a general election should be held	Partially	Convention
8. Representational Function		
8.1 Constituent Relations		
8.1.1 The Legislature shall provide all legislators with adequate and appropriate resources to enable the legislators to fulfil their constituency responsibilities	Yes	Legislation, Handbook

Benchmark	Benchmark met?	Type of governance
8.2 Parliamentary Networking and Diplomacy		
8.2.1 The Legislature shall have the right to receive development assistance to strengthen the institution of parliament	Not applicable	Not applicable
8.2.2 Members and staff of Parliament shall have the right to receive technical and advisory assistance, as well as to network and exchange experience with individuals from other Legislatures	Yes	Handbook

Table 4: Values of the Legislature

Benchmark	Benchmark met?	Type of governance
9. Accessibility		
9.1 Citizens and the Press		
9.1.1 The Legislature shall be accessible and open to citizens and the media, subject only to demonstrable public safety and work requirements	Yes	Legislation/Standing Orders
9.1.2 The Legislature should ensure that the media are given appropriate access to the proceedings of the Legislature without compromising the proper functioning of the Legislature and its rules of procedure	Yes	Rules and guidelines
9.1.3 The Legislature shall have a non-partisan media relations facility	Yes	Rules and guidelines
9.1.4 The Legislature shall promote the public's understanding of the work of the Legislature	Yes	Other
9.2.1 Where the constitution or parliamentary rules provide for the use of multiple working languages, the Legislature shall make every reasonable effort to provide for simultaneous interpretation of debates and translation of records	Not applicable	Not applicable
10. Ethical Governance		
10.1 Transparency and Integrity		
10.1.1 Legislators should maintain high standards of accountability, transparency and responsibility in the conduct of all public and parliamentary matters	Yes	Legislation/Standing Orders/Code

Benchmark	Benchmark met?	Type of governance
10.1.2 The Legislature shall approve and enforce and code of conduct, including rules on conflicts of interest and the acceptance of gifts	Yes	Legislation; Standing Orders; Code
10.1.3 Legislatures shall require legislators to fully and publicly disclose their financial assets and business interests	Yes	Legislation; Standing Orders; Code
10.1.4 There shall be mechanisms to prevent, disclose, detect, and bring to justice legislators and staff engaged in corrupt practices	Yes	Legislation