Parliaments within Australia are responsible for their procedural and democratic standards. Benchmarking amongst other national and international Parliaments can provide evidence of verifiable quality standards.

The CPA’s Recommended Benchmarks for Democratic Legislatures are intended to be a model for Parliaments to be able to assess themselves against a Commonwealth standard designed to help legislatures identify ways in which to improve their democratic performance. This article is based on the Queensland Parliament’s 2017 report on its self-assessment against the CPA benchmarks.

Parliament of Queensland
Under sections 1 and 2 of Queensland’s Constitution Act 1867, the State’s legislative power is vested in the monarch (via Her Majesty’s representative in Queensland, 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 unicameral state parliament, following the abolition of the Legislative Council in 1922.

The Legislative Assembly is comprised of 93 members each representing a single-member electorate. The Constitution of Queensland 2001 (Qld) (the Constitution) was recently amended to introduce fixed four-year parliamentary terms from the previous flexible three-year terms.

As a representative assembly, the Legislative Assembly is responsible for a number of functions which overlap and interact. The Legislative Assembly:
• provides, after each general election or on occasions during a term, 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,
• 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),
• has a financial responsibility of overseeing and granting the Government’s requested appropriations of revenue and expenditure (the financial function),
• provides a forum to scrutinise the Executive Government’s activities and action through a variety of parliamentary procedures including Question Time, Private Members Motions, Bill debates and parliamentary Committee activities (the scrutiny function),
• is a representative institution for all of the State’s citizens via their elected Members (the representative function), and
• 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, Private Members’ Bills, Private Members’ Statements, Adjournment Debates, Grievance Debates, Address-in-Reply debates and Bill debates (debate and grievance).

There are a range of instruments which guide and support the Legislative Assembly and its Members in relation to the areas covered by the benchmarks. These include but are not limited to: the Code of Ethical Standards for Members, Media Guidelines, Member’s Remuneration Handbook, the Constitution, Parliament of Queensland Act 2001, (POQA) Parliamentary Service Act 1988, Queensland Parliamentary Procedures Handbook, Sessional Orders and Standing Rules and Orders.

Benchmarks and the Queensland Parliament’s performance
The Queensland Parliament meets the majority of the CPA’s Recommended Benchmarks for Democratic Legislatures.

As part of its self-assessment, the Queensland Parliament rated its performance against each benchmark using a five-star rating system, as outlined below:
• 5 Stars — 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.
• 4 Stars — Complies with the benchmark via legislation,
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but may be set aside through legislative amendment,
- 3 Stars – Complies with the benchmark, but can be set aside with relative ease, for example, in Standing Orders or statute but can be set aside or suspended by a simple majority,
- 2 Stars – Substantially complies with the benchmark,
- 1 Star – Partially complies with the benchmark,
- 0 Stars – Does not comply, and
- N/A – Not applicable to the Queensland Parliament.

Each star is worth one point. The results of the self-assessment, separated into the four categories identified by the CPA (general, organisation of the Legislature, functions of the legislature, and values of the legislature) are discussed below.

**General**
These benchmarks cover general aspects of the parliament, including:
- elections
- candidate eligibility

- incompatibility of office
- immunity
- remuneration and benefits
- resignation, and
- infrastructure

Of the fifteen General benchmarks, the Queensland Parliament did not score less than 4 stars, with a total of 60 points out of a potential 65 points. Two benchmarks were not applicable (3.2.2 regarding special measures to encourage the political participation of marginalized groups and 3.3.2 regarding bicameral legislatures).

**Elections and candidates:** The Queensland Parliament scored highly with respect to elections. Elections are held regularly, and suffrage is governed by the *Electoral Act 1992 (Qld)* (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 enrol to vote. 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. Recent amendments to the Constitution introduced fixed four-year parliamentary terms. Elections are undertaken by the Electoral Commission of Queensland (ECO), an independent statutory body established under legislation. The purpose of the ECO is to support democratic electoral process by preparing for, conducting and reporting on elections in Queensland.

Eligibility of candidates and elected representatives is not based on religion, gender, ethnicity, race or disability. However, pre-selection of candidates is determined by political parties so there is potential for the selection of the candidate by the party to be impacted by these factors. Members may take an oath or
SELF-ASSESSMENT AGAINST THE CPA’S RECOMMENDED BENCHMARKS FOR DEMOCRATIC LEGISLATURES

make an affirmation in order to take their seat in the Legislative Assembly – this is included in constitutional legislation and can only be set aside through legislative amendment requiring an absolute majority.

Immunity: Members of the Queensland Parliament have immunity for things said during proceedings of the Legislature. The powers, rights and immunities of the Legislative Assembly and its Committees is defined in the Constitution and 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 any doubt, it is declared that this is intended to have the same effect as article 9 of the Bill of Rights (1688). Parliamentary immunity (privilege) attaches to proceedings of the Assembly, rather than to an individual and so remains despite the end of a Member’s term. Section 8 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 and cannot be waived.

Whilst 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.

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

The Queensland Parliament meets the majority of the forty-one regularly established pursuant to legislation; the Committee of the Legislative Assembly and the Ethics Committee are established under the POQA, and the Crime and Corruption Act 2001 (CCA) establishes the Parliamentary Crime and Corruption Committee (PCCC). Membership of Committees reflects the composition of the Assembly; Members, including the Chairs, are nominated by the Leader of the House and Leader of the Opposition and are appointed and discharged by the House.

The CPA benchmarks state that Committee hearings and votes of Committees shall be in public and that any exception to this shall be clearly defined and provided for in the rules of procedure. The Queensland Parliament partially complies with this standard. Standing Orders require Committees to deliberate in private however, each Committee may resolve to publish its proceedings. While Committee hearings are generally in public and broadcast, this is at the discretion of the Committee.

The Queensland Parliament meets all of the benchmarks in relation to legislative process, party groups and cross-party groups but 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.

Functions of the Legislature
The Parliament scored a total of 66 points out of a potential 85 points. Section 8 of the Constitution provides law-making powers for the Legislative Assembly. The Standing Orders provide for the introduction, consideration and passing of both Government Bills and Private Member Bills and 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. Most Bills are referred to a portfolio Committee for examination and report. Any Bills not referred to a Committee, or referred for a period of less than six weeks must be declared urgent by the House.

In the current government majority, the reality is that, despite all Members having an opportunity to introduce legislation and amendments, Private Members’ Bills will only pass their Second and Third Reading stages if there is some government support for them; it is more likely that the Government would introduce a similar Bill which would pass in lieu of the Private Members’ Bill.

All Members have the right to offer amendments to proposed legislation (Bills) in the consideration in detail stage of the Bill. There is no provision for the Committee to move its recommended amendments to a Bill in the House. It is usually the Executive that decides if it will introduce amendments in accordance with Committee recommendations. As with Bills, it is unlikely that Private Members’ amendments to Bills will be incorporated into legislation during the consideration in detail stage of the legislative process. Amendments moved during the consideration in detail stage can significantly alter the legislation and are not subject to any level of scrutiny by the House or a Committee.

Whilst the Parliament meets the majority of the applicable benchmarks in relation to legislative function, there are limitations on public input in Queensland. For example, Bills declared urgent may not be subject to Committee scrutiny, or provide opportunity for public input and afford little time for legislators to consider the Bill before they are to vote on whether it should pass or not. Also, following a Committee consideration of a Bill, the government may introduce amendments which are not subject to Committee scrutiny.
There are also limitations to the benchmarks on financial and budget oversight by Committees. Ultimately, the executive of the day determines the budget of the Auditor-General, the Ombudsman and the Information Commissioner thereby exercising executive control over them to some degree, despite a requirement to consult with Committees. The Committee can only report its dissatisfaction to the House, it cannot change the budget.

**Values of the Legislature**

On this section, the Queensland Parliament scored 28 points out of a possible 40. In relation to accessibility, the Legislative Assembly is open to citizens and to the media, which is non-partisan, is given access to the proceedings. The Parliament has an Education and Communications Services which promotes the work of and the public's understanding of the Parliament.

In relation to ethical governance, the Parliament has a pecuniary interest register, published twice yearly, code of ethical standards for Members (other than Members in their capacity as Ministers), to assist and educate Members in terms of their obligations. The Ethics Committee investigates alleged breaches against the Code of Ethical Standards and contempt of Parliament. The POA defines and provides examples of contempt and the Standing Orders addresses the powers, rights and immunities of legislators, including contempt. The Integrity Commissioner, an independent statutory officer, provides written advice to Members on ethical or integrity issues as requested.

**Conclusion**

Overall, the Queensland Parliament performs well against the benchmarks though, as in any modern parliamentary system, we acknowledge there is room for improvement.

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

That said, the Queensland Parliament has undertaken significant reform in recent years, for example the introduction of the current portfolio based Committee system in 2011, which has seen the jurisdiction improve markedly against the benchmarks.

Also, it should be noted that, while many benchmarks were rated with three or four out of a possible five 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 or the major parties to be seen to remove or significantly alter current governance arrangements.

The Queensland Parliament will continue to strengthen its performance against the democratic benchmarks and keep a steady course advances in parliamentary practices and procedures.

**References:**


The Commonwealth Parliamentary Association (CPA) produces a number of guides and toolkits for Commonwealth Parliamentarians and Parliamentary staff including the CPA Recommended Benchmarks for Democratic Legislatures; the Recommended Benchmarks for Codes of Conduct for Members of Parliament and the Handbook on Constituency Development Funds (CDFs): Principles and Tools for Parliamentarians.