

# Assessing parliamentary engagement with petition systems through a procedural justice framework

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## *Introduction*

A range of observers have expressed concern that Australians—and citizens of other developed nations—are losing trust and confidence in their political leaders, leading to increased levels of political disengagement that may have negative consequences for the nation's democratic system. As part of wider reforms to reengage with the community, parliamentary petition systems have been identified by scholars as a key area through which to reengage a sceptical and mistrustful citizenry.

Past analysis of parliamentary reforms have largely focused on the institutional aspects of parliamentary petition systems, rather than on the actions of individuals using these systems. Accordingly, this paper examines actions taken by Members of the New South Wales Legislative Assembly within their petition system to assess whether certain measures might benefit the wider goal of political reengagement with the community. This analysis of Members' actions, undertaken using a framework of procedural justice, seeks to determine how these actions might affect an individual's perceptions of the petition system.

The paper first provides an overview of political disengagement in Australia and the possible consequences of this fall in trust in the political system. The paper then outlines how a framework of procedural justice can be used to measure perceptions of fairness of political institutions and systems, before explaining why parliamentary petition systems may help improve political engagement and discussing recent reforms designed to meet this goal. The paper then discusses the importance of parliamentary actions within parliamentary petition systems, before using a framework of procedural justice, along with case studies from the NSW Legislative Assembly, to examine how its Members engage with petitioners through their petition system.

## *An overview of political disengagement and its consequences*

Some may view it as an unkind characterisation, yet the evidence is uncontroversial: a significant proportion of Australians—perhaps even a majority—dislike their politicians.<sup>1</sup> There are undoubtedly exceptions to this characterisation, and external factors such as economic performance also affect levels of disapproval,<sup>2</sup> yet on aggregate many Australians hold negative views of their parliamentarians ranging from apathy and scepticism to outright contempt.<sup>3</sup> These opinions are not new, with

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<sup>1</sup> For example, see: Sarah Cameron, I McAllister, *Trends in Australian Political Opinion: Results from the Australian Election Study 1987-2016* (Australian Election Study, 2016); Ann Evans, Ian McAllister, *Australia 2012* (World Values Survey Wave 6, 2012); Mark Evans, Gerry Stoker, Jamal Nasir, *How do Australians image their democracy? Australian Survey of Political Engagement Findings 2013* (Institute for Governance and Policy Analysis, University of Canberra, 2013).

<sup>2</sup> Timothy Hellwig, Ian McAllister, "Does the economy matter? Economic perceptions and the vote in Australia", *Australian Journal of Political Science*, 51, no. 2 (2016): 236-254.

<sup>3</sup> See note 1.

considerable evidence showing that the Australian political class has long acted as a wellspring of community mistrust.<sup>4</sup> However, recent surveys indicate that levels of trust and confidence continue to fall,<sup>5</sup> with recent public attitudes to Australian politics summarised as follows:

[A]cross the age range citizens are judging their politics not through the lens of complacency but more through the lens of righteous indignation with a democratic politics too influenced by powerful sectional interests, and too prone to allowing politicians to break their promises with impunity.<sup>6</sup>

The attitudes in Australia reflect in many respects a broader decline of public confidence in, and support for, democratic institutions across developed nations.<sup>7</sup> Scholars have not clearly established the exact causes of this decline,<sup>8</sup> but some suggested factors include:

- Political performance falling below citizens' expectations;<sup>9</sup>
- Falling interpersonal trust and a trend towards post-materialist values within society;<sup>10</sup> and/or
- A media sector whose commercial imperatives are increasingly dependent on polarisation, drama and emotion, and which is being challenged by internet and social media technologies.<sup>11</sup>

Whatever the reasons, the consequence is an increased sense of economic and political disenfranchisement, as citizens no longer believe they can influence policy, or that they are listened to or treated fairly by their political leaders.<sup>12</sup> This may have profoundly negative consequences for the democratic system.<sup>13</sup>

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<sup>4</sup> Michael Hogan, David Clune, eds., *People's choice – Electoral politics in 20<sup>th</sup> century New South Wales: Volume One – 1901 to 1927* (Sydney: Parliament of New South Wales and University of Sydney, 2001); Murray Goot, "Distrustful, Disenchanted and Disengaged? Polled Opinion on Politics, Politicians and the Parties: an Historical Perspective", in *The Prince's new clothes: Why do Australians dislike their politicians?*, eds. David Burchell, Andrew Leigh (Sydney: UNSW Press, 2002) 9-46.

<sup>5</sup> See note 1.

<sup>6</sup> Gerry Stoker, Jinjing Li, Max Halupka, Mark Evans, "Complacent young citizens or cross-generational solidarity? An analysis of Australian attitudes to democratic politics", *Australian Journal of Political Science* 52, no. 2 (2017): 218-235, 232.

<sup>7</sup> Paul Whiteley, Harold Clarke, David Sanders, Marianne Stewart, "Why Do Voters Lose Trust in Governments? Public Perceptions of Government Honesty and Trustworthiness in Britain 2000–2013", *British Journal of Politics and International Relations*, 18, no. 1 (2016): 234-254; Philip Norton, "Speaking for Parliament", *Parliamentary Affairs*, 70, no. 2 (2017): 191-206.

<sup>8</sup> Peter Somerville, "Democracy and participation" *Policy and Politics* 39, no. 3 (2011): 417-437.

<sup>9</sup> Ben Seyd, "Exploring political disappointment", *Parliamentary Affairs* 69, no. 2 (2016): 327-347; Annika Werner, "Party responsiveness and voter confidence in Australia", *Australian Journal of Political Science*, 51, no. 3 (2016): 436-457.

<sup>10</sup> Andrew Leigh, "Explaining distrust: Popular attitudes towards politicians in Australia and the United States", in *The Prince's new clothes: Why do Australians dislike their politicians?*, eds. David Burchell, Andrew Leigh (Sydney, UNSW Press, 2002) 47-61.

<sup>11</sup> Nathaniel Persily, "Can democracy survive the internet?", *Journal of Democracy*, 28, no. 2 (2017): 71-2; Norton, "Speaking for Parliament", 198-199.

<sup>12</sup> Somerville, "Democracy and participation".

<sup>13</sup> *Ibid.* As noted by Flinders, "[w]ithout a civic culture that reflects an engaged and active citizenry we will not be able to address the challenges that undoubtedly exist on the horizon". See: Matthew Flinders, "The Problem with Democracy", *Parliamentary Affairs* 69, no. 1 (2016): 181-203, 199-200.

## ***Reengaging citizens: the role of procedural justice***

Despite this mistrust, there remains evidence that Australian citizens continue to believe in the values of liberal democracy.<sup>14</sup> According to Evans and Stoker, many Australians display behaviours that indicate they remain on “standby” to participate in the political process, and have knowledge of political issues and dynamics, and the requisite skills, to participate effectively.<sup>15</sup>

However, the public must be convinced that it is worth participating. Accordingly, if a reform is to fulfil its goal of reconnecting the public with political institutions, the reforms must not only be fair, but the public must *perceive* them as fair.<sup>16</sup> The extent to which the public perceives fairness by authorities has a significant role in community willingness to accept these decisions; indeed, it is argued that an individual’s perception of fairness around decision processes has more bearing on institutional legitimacy than his or her personal ability to influence a decision outcome.<sup>17</sup>

Measuring fairness—both actual and perceived—can be done using a framework of procedural justice, defined by Bochel as “the fairness of the process by which decisions are made, and the role participants may have in this”.<sup>18</sup> Procedural justice offers a useful tool for assessing political institutions and participants, as well as forming a framework of ideas through which these systems may be improved.<sup>19</sup> Drawing on a range of literature, Bochel identifies six broad characteristics of procedural justice:<sup>20</sup>

- Voice (and participation);
- Decision-making;
- Transparency;
- Treatment;
- Legitimacy; and
- Trust.

The first three characteristics are ‘system’ characteristics. These can be used to measure the actual fairness of a system through analysis of the boundaries that are set by the processes in place in each system, and which are likely to facilitate, or hinder, the extent of procedural justice.<sup>21</sup> The remaining three characteristics are ‘perception’ characteristics. These are judgements made by individuals on the ‘system’ characteristics, and can be used to assess perceptions of fairness. In the case of parliamentary systems, these characteristics may be observed through interviews with

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<sup>14</sup> Gerry Stoker, Mark Evans, “The “Democracy-Politics Paradox”: The Dynamics of Political Alienation”, *Democratic Theory*, 1 (2014): 26-36; Evans and McAllister, “World Values Survey”.

<sup>15</sup> Mark Evans, Gerry Stoker, “Political participation in Australia: contingency in the behaviour and attitudes of citizens”, *Australian Journal of Political Science*, 51, no. 2 (2016): 272-287.

<sup>16</sup> Christopher Carman, “The Process is the Reality: Perceptions of Procedural Fairness and Participatory Democracy”, *Political Studies* 58, no. 4 (2010): 731-751, 746.

<sup>17</sup> Marcia Grimes, “Organizing consent: The role of procedural fairness in political trust and compliance”, *European Journal of Political Research*, 45, no. 2 (2006): 218-315, 306.

<sup>18</sup> Catherine Bochel, “Process matters: petitions systems in Britain’s legislatures”, *Journal of Legislative Studies* 22 no. 3 (2016): 368-384, 371.

<sup>19</sup> *Ibid* 382.

<sup>20</sup> *Ibid* 372.

<sup>21</sup> *Ibid*.

and observations of petitioners, as well as clerks and parliamentarians.<sup>22</sup>

While system characteristics are a valuable means by which to assess the impact of system processes on procedural justice, the views of participants are also important. For example, petitioners who perceive the petition process to be fair are more likely to accept the outcome, even if it is not what they desired. In contrast, petitioners who believe the process to be unfair may judge the parliamentary institution in its entirety based on this limited interaction.<sup>23</sup>

Further discussion of each of the three perception characteristics occurs later in this paper.

### ***Reengaging citizens through parliamentary petition systems***

As institutions with a central role in making public policy, parliaments are a key institution in the battle to reestablish community trust in the political system.<sup>24</sup> Many parliaments have recognised the need for change, with a variety of reforms being introduced or proposed to entice the public to reengage with their political institutions and leaders. These reforms cover different areas of parliaments including committee systems,<sup>25</sup> public education,<sup>26</sup> community outreach programs,<sup>27</sup> the diversity of parliamentarians and political parties, and parliamentary petition systems.<sup>28</sup>

Petitions have existed since at least Roman times, and remain one of the most common forms of political participation in many countries.<sup>29</sup> The parliamentary petition systems in Australia are derived from the Westminster petition system that emerged in 13<sup>th</sup> century England, one which historically regards petitioning as a fundamental right of the citizen.<sup>30</sup> Aside from elections, petitions are considered the only formal avenue by which the popular will can be conveyed directly to parliament.<sup>31</sup>

Hough identifies three main functions of parliamentary petition systems:<sup>32</sup>

- 1) Providing a link between parliaments and citizens;
- 2) Informing policy development and executive scrutiny by granting people the

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<sup>22</sup> Ibid.

<sup>23</sup> Carman, "The Process is the Reality", 746-747.

<sup>24</sup> Philip Norton, *Parliament in British Politics* (Hampshire: Palgrave Macmillan, 2005), 224-225.

<sup>25</sup> Carolyn Hendricks, Adrian Kay, "From 'Opening Up' to Democratic Renewal: Deepening Public Engagement in Legislative Committees", *Government and Opposition* (2017): 1-27.

<sup>26</sup> Hansard Society, [\*Parliaments and Public Engagement: Innovation and Good Practice from Around the World\*](#) (2011).

<sup>27</sup> J McCann, [\*Community cabinets in Australia\*](#) (Commonwealth Parliamentary Library, 2012).

<sup>28</sup> Sarah Childs, [\*The Good Parliament\*](#) (University of Bristol, House of Commons, 2016).

<sup>29</sup> Catherine Bochel, "Petitions Systems: Contributing to Representative Democracy?", *Parliamentary Affairs* 66, no. 4 (2013): 798-815; Joost de Moor, "External Efficacy and Political Participation Revisited: The Role of Perceived Output Structures for State- and Non-State-Oriented Action Forms" *Parliamentary Affairs* 69, no. 3 (2016): 642-662.

<sup>30</sup> Bernard Wright, ed., *House of Representatives Practice* (Canberra, Department of the House of Representatives, 2012) 628.

<sup>31</sup> Daniel Reynolds, George Williams, "Petitioning the Australian Parliament: Reviving a Dying Democratic Tradition" *Australasian Parliamentary Review* 31, no. 1 (2016): 60-79, 78.

<sup>32</sup> Richard Hough, "Do Legislative Petitions Systems Enhance the Relationship between Parliament and Citizen?" *Journal of Legislative Studies* 18 no. 3-4 (2012): 479-495, 481-483.

- opportunity to make their views known to the parliament; and
- 3) Effecting policy change, directly as well as contributing to a climate of opinion that may influence subsequent policy development.

Parliamentary petition systems offer varying degrees of opportunity for petitioners to participate, thereby making their views known and potentially effecting change. In this regard, Bochel distinguishes between two types of parliamentary petition systems ('substantive' and 'descriptive'),<sup>33</sup> and two characteristics of participation ('strong' and 'weak').<sup>34</sup> Substantive systems emphasise consideration of the content of each petition and subsequent action by parliaments; in contrast, descriptive systems generally record petitions only and do not require further action from the parliament or individual parliamentarians.<sup>35</sup> Bochel provides examples of strong and weak participation characteristics within parliamentary petition systems as follows:

'[S]trong' characteristics might include a clear statement of purpose, direct access to the petitions system, a mechanism such as a Petitions Committee to consider each petition on its merit and to make a decision about how to progress the petition, specific feedback on the petition topic to the petitioner, the opportunity to engage with the political system and to perhaps learn more about how it works, the opportunity for petitioners to receive advice or guidance on their petition before it is submitted, a low signature threshold, and the integration of the petitions system into the broader system of the elected body or government within which it operates. 'Weak' characteristics would clearly be the opposite of these.<sup>36</sup>

A substantive system with strong participation characteristics is clearly the preferred framework for a parliamentary petition system. This combination has greater potential to enable petitioners' voices to be heard, and in turn may help underpin the legitimacy and functioning of representative institutions and their policies.<sup>37</sup> Nevertheless, these characteristics function as a spectrum, with different parliamentary petition systems offering different degrees of substantiveness and opportunities for participation.

There are other criticisms of parliamentary petition systems, particularly as to their effectiveness at changing government policy or their ability to meaningfully engage marginalised groups.<sup>38</sup> Despite their shortcomings, many scholars argue that improvements to parliamentary petition systems may assist in reengaging a citizenry that continues to be sceptical and mistrustful of the political system.<sup>39</sup>

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<sup>33</sup> Catherine Bochel, "Petitions: Different Dimensions of Voice and Influence in the Scottish Parliament and the National Assembly for Wales" *Social Policy & Administration* 46, no. 2 (2012): 142-160, 147-148.

<sup>34</sup> Bochel, "Petitions Systems: Contributing to Representative Democracy?", 811.

<sup>35</sup> Bochel, "Petitions: Different Dimensions of Voice and Influence", 147-148.

<sup>36</sup> Bochel, "Petitions Systems: Contributing to Representative Democracy?", 812.

<sup>37</sup> *Ibid.*

<sup>38</sup> Ralf Lindner, Ulrich Riehm, "Electronic Petitions and Institutional Modernization" *JeDEM* 1, no. 1 (2009): 1-11; Christopher Carman, "Barriers are Barriers: Asymmetric Participation in the Scottish Public Petitions System" *Parliamentary Affairs* 67, no. 1 (2014): 151-171.

<sup>39</sup> Ulrich Riehm, Knud Bohle, Ralf Lindner, [Electronic petitioning and modernization of petitioning systems in Europe: Final Report](#) (Office of Technology Assessment at the German Bundestag, 2014).

## ***Reforms to parliamentary petition systems***

Numerous parliaments around the world have introduced reforms to their petition systems in order to improve participation opportunities for citizens.<sup>40</sup> To give one example, e-petition systems have been introduced into the United Kingdom's House of Commons and several Australian State Parliaments<sup>41</sup> with the aim of (and some apparent success in) boosting petition activity and engagement in parliamentary affairs.<sup>42</sup>

Some parliaments, such as the Scottish Parliament, incorporated substantive petition system elements at their onset. The Scottish Parliament was formed in 1999 based on key principles of openness and accessibility, equal opportunities, accountability and power sharing.<sup>43</sup> Its petition system includes a Public Petitions Committee with a broad remit to consider petitions and decide what action should be taken in response:<sup>44</sup> this has included taking evidence directly from witnesses and approaching government authorities for responses.<sup>45</sup>

The House of Parliament discussed in this paper—Australia's New South Wales (NSW) Legislative Assembly—sets out the requirements for the submission and presentation of petitions in its standing and sessional orders. Petitions can only be presented by Members of the Legislative Assembly,<sup>46</sup> and must follow rules as to their content and presentation.<sup>47</sup> The Assembly does not provide for e-petitions, with Standing Order 121(4) requiring petitioners to provide original signatures on sheets containing the petition. The NSW Legislative Assembly also does not have a petitions committee to receive and process petitions.

However, the Assembly has introduced several changes to its petition system of a substantive nature. Since July 2009, the House's standing orders require the relevant NSW Government Minister to, within 35 calendar days, respond to a petition received by the Legislative Assembly that has been signed by 500 or more people.<sup>48</sup> In May 2011 the House's sessional orders were changed so that petitions signed by 10,000 or more persons would be automatically set down as an Order of the Day for debate at 4.30pm on the Thursday of the next sitting week.<sup>49</sup> They remain in force as of the current Parliament.<sup>50</sup>

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<sup>40</sup> Reynolds and Williams, "Petitioning the Australian Parliament", 61.

<sup>41</sup> Queensland, Tasmania and the Australian Capital Territory.

<sup>42</sup> Reynolds and Williams, "Petitioning the Australian Parliament", 71-73.

<sup>43</sup> Consultative Steering Group on the Scottish Parliament, *Shaping Scotland's Parliament* (Scottish Parliament, 1998) s 3.6.

<sup>44</sup> Karen Ellingford, "The Purpose, Practice and Effects of Petitioning the Victorian Parliament", *Australasian Parliamentary Review* 23, no. 2 (2008): 86-112, 109.

<sup>45</sup> Reynolds and Williams, "Petitioning the Australian Parliament", 75; Bochel, "Petitions Systems: Contributing to Representative Democracy?", 806.

<sup>46</sup> Department of the Legislative Assembly, *Parliament of New South Wales*, "[About petitions](#)", accessed 25 November 2017.

<sup>47</sup> Department of the Legislative Assembly, *Consolidated Standing and Sessional Orders and Resolutions of the House* (Parliament of New South Wales, 2016) SO 121-122.

<sup>48</sup> *Ibid* SO 125.

<sup>49</sup> *Ibid* SO 125A; Department of the Legislative Assembly, *Annual Report 2012-13* (Parliament of New South Wales, 2013) 6.

<sup>50</sup> Legislative Assembly, *Votes and Proceedings No 1* (Parliament of New South Wales, May 2015) 45-

## ***Politicians and political reengagement through petition systems***

As their institutions change to better engage the community, parliamentarians are acknowledging the need to reform their own practices.<sup>51</sup> However, parliamentarians face an especially difficult obstacle: longstanding public mistrust. As noted by Fox, politicians “cannot readily regain what they have never really possessed, namely trust”.<sup>52</sup> This means that the overtures parliamentarians make to try and reengage the community risk being rejected, or viewed with strong suspicion. Yet institutional reforms alone are unlikely to adequately resolve political disengagement. In the case of petition systems, while moves toward a substantive system may help regain community trust, the actions of parliamentarians<sup>53</sup> in their positions as ‘gatekeepers’ of the petition system can help, or hinder, these reforms.<sup>54</sup>

Not all parliamentarians have the requisite interest to work with their petition systems, nor will others have the capacity to facilitate the petition process. This is not a criticism, but the reality of politics; parliamentarians have many responsibilities and limited resources, and for many Members the additional burden of engagement with the petition system may affect their ability to perform other duties electors expect of them. For parliamentarians who can or want to be involved in the petition process though, the skills and support they can offer petitioners—time, effort, resources, experience—can play as important a role as the petition system itself. A parliamentarian who can guide petitioners through what may be a complicated and unclear process will likely enhance not only his or her personal standing with petitioners, but may also boost the reputation of the parliament itself as an institution that listens to, and should be trusted by, the community.

### ***Methodology***

Using the three perception characteristics of procedural justice discussed earlier, this paper has developed a framework of procedural justice (see overleaf) that outlines each of the three perception characteristics in one column, and possible measures that parliamentarians may take that affect petitioner perceptions in a second column.

Inevitably, there are overlaps between the three characteristics, with some measures taken by parliamentarians able to be categorised under more than one perception characteristic.<sup>55</sup> Nevertheless, each perception characteristic is analysed in turn in its own section of the paper.

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<sup>51</sup> Norton, “Parliament in British Politics”.

<sup>52</sup> Ruth Fox, *What's trust got to do with it? Public Trust in and Expectations of Politicians and Parliament* (Hansard Society, 2010) 15.

<sup>53</sup> As well as other parliamentary staff.

<sup>54</sup> Carman, “The Process is the Reality”, 747.

<sup>55</sup> Bochel, “Process matters”, 372.

Perception characteristics of procedural justice	Possible measures
Treatment	<ul style="list-style-type: none"> <li>Engage with constituents to identify petition issues</li> <li>Provide further support/advocacy to promote petition</li> <li>Public recognition of key petitioners</li> </ul>
Legitimacy	<ul style="list-style-type: none"> <li>Petitioners informed of petition process</li> <li>Consent obtained from petitioners before parliamentary actions</li> <li>Manage petitioner expectations of likely outcomes</li> </ul>
Trust	<ul style="list-style-type: none"> <li>Engage in public dialogue about petition</li> <li>Justify the decisions made in relation to petition matter</li> <li>Address petitioner concerns</li> </ul>

To perform this analysis, parliamentary actions are identified and discussed using a series of case studies from the NSW Legislative Assembly. The case studies were derived from a sample of 47 private members' statements and 33 debates on petitions signed by more than 10,000 persons, and date between July 2009<sup>56</sup> and November 2017. The sample is spread across years approximately evenly (between 6-10 statements or debates each year), and provides an approximate 80-20 split between Members of major political parties and crossbench Members.

It should be acknowledged that these case studies form a very narrow source of information with which to assess parliamentary engagement through the petition system, and do not allow analysis of petitioner attitudes of the petition process or Member actions. As these are public parliamentary statements and debates, speaking Members are likely to prioritise discussion of the petition issue at hand rather than giving comprehensive explanations of the measures they take prior to their speeches. Furthermore, speaking Members will likely focus primarily on positive elements of the petition process, and downplay negative events or perspectives.

More extensive research is needed to overcome these limitations; for example, interviews with petitioners and Members, statistical analysis of petition system usage over time compared to Members' behaviour towards petitioners, or comparative analysis of other parliaments and their petition systems. Due to time and space limitations this research was not possible, meaning that this analysis will invariably be limited and not necessarily reflective of the experiences of all Members or petitioners, both in the NSW Legislative Assembly and in other parliaments.

Additional questions must also remain unaddressed in this paper due to time and space limitations, such as the role of political parties and other organisations within the petition system, or differences in perspective between Government and Opposition Members. Despite these limitations, this analysis performs two useful functions:

- 1) Identifying potentially common actions or behaviours, which can be presented to participants in future studies to assess participant and/or public opinion;
- 2) Determining what actions the *Members* themselves believe to be of benefit for petitioners and their petition system. Subsequent research could confirm that these actions are well-regarded by the community, or, in contrast, that Members' actions are misguided.

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<sup>56</sup> The month when the NSW Legislative Assembly's Standing Orders were modified to require Ministers to respond to petitions signed by 500 or more persons: see note 48.



## Treatment

Tyler contends that participants' views of institutional legitimacy are affected primarily by their treatment under a system, rather than judgements about gain or loss.<sup>57</sup> Other studies report that factors affecting acceptance of authorities' decisions include being treated with respect by the relevant authority, as well as fair treatment of all parties.<sup>58</sup> Treatment is an important aspect of the NSW Legislative Assembly's petition system, as Members are required to present petitions to the House and so must interact with petitioners. Indeed, many Members in the sample first became aware of the issues dealt with in their petition by constituents who approached them.

One Member learned of an issue when attending a local community meeting and being presented with the petition,<sup>59</sup> while another attended a protest march organised by a local community group, where he gained firsthand knowledge of the matter at hand and the community's concerns.<sup>60</sup> Perhaps indicative of Members' increasing use of social media technologies, another Member appears to have taken up a petition following Twitter exchanges with a local constituent.<sup>61</sup> Other Members made more direct engagement with petitioners; soon after being elected, one Member in regional NSW met directly with a petition organiser in a café to discuss the matter and make assurances that he would provide all the help he could to assist the petition.<sup>62</sup>

Some Members took constituent engagement beyond these initial interactions. Prior to discussing the matter in the Legislative Assembly, one inner Sydney Member spoke to schoolchildren who were using public transport in order to canvass their views of the system and any challenges they had experienced.<sup>63</sup> Another Member attended several community rallies related to a telecommunications tower proposal that was subject to a petition,<sup>64</sup> while a regional NSW Member organised a meeting with the school-aged petitioners to discuss what the petition was about, and what they had learnt about government and the parliamentary process as a result of their efforts.<sup>65</sup>

Some of these actions may have been taken as part of a Member's wider duties to his or her electorate, with the subsequent petition sponsorship an indirect consequence. Nevertheless, these Members have not only made efforts to engage with their communities, but in some cases have given individual petitioners the opportunity to express their concerns directly to them and discuss possible means of addressing the matter. While the sample used does not provide examples of Members who ultimately refused to provide support for a petition, and the reasons for such a refusal, it highlights incidents of positive treatment that Members can provide when contacted by a

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<sup>57</sup> Tom Tyler, "The Psychology of Legitimacy: A Relational Perspective on Voluntary Deference to Authorities", *Personality and Social Psychology Review*, 1, no. 4 (1997): 323-345, 326.

<sup>58</sup> Lynn Maguire, Allen Lind, "Public participation in environmental decisions: Stakeholders, authorities and procedural justice", *International Journal of Global Environmental Issues*, 3, no. 2 (2003): 133-148, 134.

<sup>59</sup> Hansard, *NSW Legislative Assembly*, 22 June 2010, 24454 (Paul Gibson).

<sup>60</sup> Hansard, *NSW Legislative Assembly*, 10 March 2010, 21234 (Greg Smith).

<sup>61</sup> Hansard, *NSW Legislative Assembly*, 21 October 2014, 1537 (Gareth Ward).

<sup>62</sup> Hansard, *NSW Legislative Assembly*, 23 October 2013, 24636 (Andrew Gee).

<sup>63</sup> Hansard, *NSW Legislative Assembly*, 27 March 2014, 28104 (Jamie Parker).

<sup>64</sup> Hansard, *NSW Legislative Assembly*, 1 September 2010, 25008 (Victor Dominello).

<sup>65</sup> Hansard, *NSW Legislative Assembly*, 22 September 2009, 17851 (Craig Baumann).

constituent or made aware of a petition issue.

Some Members may not have provided any further assistance to petitioners beyond the initial constituent engagement and the promise of petition sponsorship. However, in a number of cases Members took it upon themselves to perform greater acts of advocacy, as distinct from mere constituent engagement, in support of the petition's aims.

In several cases the Member made representations to the government of the day to advocate for the petition matter. Two Members made written representations to the relevant Minister to request meetings or further reviews of a decision,<sup>66</sup> while other Members directly approached Ministers or organised private meetings to discuss the issue.<sup>67</sup> Being a government member may provide additional influence when undertaking such representations; one Member stated that he had approached his Minister for Transport over electorate bus services, and using information provided by the lead petitioners was able to persuade the Minister to reinstate a bus service to address the issue.<sup>68</sup> Other examples of ongoing support include a Member helping to form a residents' action group and being involved in public rallies and approaching local media and radio stations,<sup>69</sup> another Member asking Questions on Notice and filing freedom of information requests for information about the petition issue,<sup>70</sup> and a Member, upon noticing an error in the petition format, seeking government support to ensure that the petition would be debated in the chamber.<sup>71</sup>

Not all Members will have the time or resources available to make such representations to the government, or perform other forms of advocacy beyond those necessary to present a petition to the House. For those who can engage in such measures though, it seems likely that additional support for the furtherance of a petition's goals could reinforce the positive experiences petitioners had when they first approached their local parliamentarian to ask for assistance, or reassure them that they, as well as the matter, are being taken seriously.

One of the most common actions by Members in relation to the treatment of petitioners is public recognition of their efforts. Indeed, many of the Members in the sample thanked all the individuals involved in distributing, collecting and/or signing petitions:<sup>72</sup> a small, yet arguably effective means of treating constituents with respect for their actions. Various Members in the sample recognised individuals or organisations that had been involved in forming the petition, thanking them by name and acknowledging their efforts.<sup>73</sup> In one case, the Member thanked two families on behalf of his

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<sup>66</sup> Hansard, *NSW Legislative Assembly*, 16 March 2010, 21450 (Victor Dominello); Hansard, *NSW Legislative Assembly*, 2 September 2010, 25204 (Clover Moore).

<sup>67</sup> Hansard, *NSW Legislative Assembly*, 22 September 2009, 17858 (Daryl Maguire); Hansard, *NSW Legislative Assembly*, 22 September 2010, 17851 (Craig Baumann).

<sup>68</sup> Hansard, *NSW Legislative Assembly*, 13 November 2009, 19630 (Allan Shearan).

<sup>69</sup> Hansard, *NSW Legislative Assembly*, 23 November 2011, 7774 (Tanya Davies).

<sup>70</sup> Hansard, *NSW Legislative Assembly*, 22 November 2017, 108 (Jodi Harrison).

<sup>71</sup> Hansard, *NSW Legislative Assembly*, 15 September 2015, 3622 (Jamie Parker).

<sup>72</sup> For example see: Hansard, *NSW Legislative Assembly*, 12 May 2010, 22627 (Dawn Fardell); Hansard, *NSW Legislative Assembly*, 13 May 2010, 22751 (Paul Pearce); Hansard, *NSW Legislative Assembly*, 12 September 2011, 5407 (Andrew Gee); Hansard, *NSW Legislative Assembly*, 18 February 2016, 6546 (Yasmin Catley).

<sup>73</sup> Hansard, *NSW Legislative Assembly*, 13 May 2010, 22751 (Paul Pearce); Hansard, *NSW Legislative*

government and the State of New South Wales.<sup>74</sup>

Other forms of recognition included a Member acknowledging his local Aboriginal community beyond the standard Legislative Assembly House procedures because of the specific impact that coal seam gas mining (the subject of the petition) could have on their community;<sup>75</sup> acknowledgment of protestors who had braved heavy rain during a rally the previous day;<sup>76</sup> and occasions where Members sought to quote directly from petitioners to allow their voices to be heard.<sup>77</sup> In one example of the latter, the Member quoted from a range of nurses and doctors expressing their concerns about changes to nursing arrangements in nursing homes, explaining that “[i]t is important that I place the voices of our nurses who work in the aged-care sector on record”.<sup>78</sup>

The examples provided above indicate that, while giving thanks is a common way for Members to accord positive treatment to petitioners, the extent to which this can be done can range from more general acknowledgements to detailed overviews of individual or organisational involvement in the petition process. As noted at the beginning of this section, perceived treatment may be regarded as more important to petitioners than whether a petition outcome was successful or not; public recognition of the often arduous work undertaken may well demonstrate to petitioners—and perhaps wider communities—that such efforts will be responded to with respect and interest by their political leaders.

### **Legitimacy**

Legitimacy of authorities can be measured in several ways, including:<sup>79</sup>

- The degree to which people feel they should defer to authority and voluntarily obey their decisions;
- The degree to which people feel they should generally follow group rules; and/or
- The extent of people’s positive evaluations of authorities.

Tyler has argued that the legitimacy of authorities is connected to the legitimacy of the process by which strategies and plans are developed.<sup>80</sup> Behaviours such as informing affected parties and obtaining their consent to undertake actions have been identified as important antecedents for legitimacy.<sup>81</sup>

Informing citizens about a petition system is a simple, yet essential action to enhance

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*Assembly*, 13 November 2009, 19630 (Allan Shearan).

<sup>74</sup> Hansard, *NSW Legislative Assembly*, 13 September 2012, 15215 (Andrew Stoner).

<sup>75</sup> Hansard, *NSW Legislative Assembly*, 15 March 2012, 9777 (Gareth Ward).

<sup>76</sup> Hansard, *NSW Legislative Assembly*, 16 June 2011, 2579 (Sonia Hornery).

<sup>77</sup> For example see: Hansard, *NSW Legislative Assembly*, 16 March 2010, 21450 (Victor Dominello); Hansard, *NSW Legislative Assembly*, 12 May 2010, 22627 (Dawn Fardell); Hansard, *NSW Legislative Assembly*, 18 September 2014, 878 (Andrew McDonald).

<sup>78</sup> Hansard, *NSW Legislative Assembly*, 10 September 2015, 3512 (Trish Doyle).

<sup>79</sup> Tyler, “The Psychology of Legitimacy”, 326.

<sup>80</sup> *Ibid.*

<sup>81</sup> Jouni Paavola, Neil Adger, [Justice and adaptation to climate change](#) (Tyndall Centre for Climate Change Research, Working Paper 23, 2002) 7.

legitimacy of the petition system. If the community is not aware that a petition system is available for the presentation of grievances, or if the system is not actively used by members of the public, it is unlikely that the system will be regarded as a legitimate means of participating in the political process. Similarly, if citizens do not realise that certain outcomes can be obtained through a petition, such as ministerial response or parliamentary debate, then a petition system will not be considered a viable means of political engagement and therefore not used. While parliamentarians are not the sole class of people who can raise awareness of petition systems, they still play an important role in this respect.

In the NSW Legislative Assembly, various Members in the sample noted the efforts they had made to keep petitioners informed about the petition process. One Member held copies of the petition in his electorate office for visiting members of the public to sign, and further stated that, following media discussion of the matter, more people contacted his office enquiring about the petition.<sup>82</sup> Several Members initiated (or purported to initiate) the petitions themselves;<sup>83</sup> although it is not mentioned in their speeches, it is likely that these Members either had the petition available at their offices for signing or had sent copies to constituents, along with information about the goals of the petition and the petition process. Another Member made use of new technology to inform the public about a petition, with his Facebook post urging people to sign the petition being shared more than 600 times by site users.<sup>84</sup>

It was also possible for Members to inform petitioners about different stages of the petition process. One Member outlined the actions he had taken prior to making his private members' statement, which itself was used to inform petitioners of the process and the Member's actions:

On 2 June 2010, I submitted a petition to Parliament with more than 200 signatures, which sought the urgent implementation of pedestrian safety measures. On that day I also followed up my letter of 11 May 2010. On 28 June 2010, I informed each of the petitioners of my request for appropriate safety measures for children crossing Victoria and Marsden roads and my correspondence with the Minister to date. ... I will provide a copy of this speech to all those who signed the petition.<sup>85</sup>

Another element of Members' informational role is the ability to manage the expectations of petitioners, helping them understand the limitations of the system and other problems that may be encountered throughout the petition process. Because the statements and debates in the sample focus predominantly on the petition issue at hand rather than background processes, it is difficult to determine how often petitioner expectations must be addressed, or what measures Members take if it becomes necessary to speak with petitioners about these matters.

Nevertheless, the sample had a small number of examples in which limitations of the petition system are explicitly addressed. One Government Member stated that, while he had spoken to his Minister about the issue, the response had not been supportive. This response had been conveyed to the lead petitioners, who although disappointed

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<sup>82</sup> Hansard, *NSW Legislative Assembly*, 20 June 2013, 21882 (Richard Amery).

<sup>83</sup> Hansard, *NSW Legislative Assembly*, 8 August 2011, 3843 (Carmel Tebbutt); Hansard, *NSW Legislative Assembly*, 15 March 2012, 9790 (Lee Evans); Hansard, *NSW Legislative Assembly*, 15 November 2012, 17004 (Bruce Notley-Smith).

<sup>84</sup> Hansard, *NSW Legislative Assembly*, 8 September 2015, 3230 (Greg Piper).

<sup>85</sup> Hansard, *NSW Legislative Assembly*, 9 September 2010, 25647-48 (Victor Dominello).

had determined to continue their campaign, which received the Member's ongoing support.<sup>86</sup> Two other Members noted in private members' statements that petitions they had received did not comply with the House standing orders, yet were continuing to lobby the Government to have the matters brought for debate or to the attention of the relevant Minister.<sup>87</sup> It is plausible that in both these circumstances the key petitioners would have been informed of this non-compliance prior to the Members' respective speeches, but even if this had not happened these Members had still used their speeches to publicly explain why these petitions were not able to be presented to or debated in the House.

Turning to consent, there was one example where a Member had consulted with petitioners about the petition matter. This Member, having made a representation to a Minister regarding respite care, stated that she had sent a copy of the Minister's response to the lead petitioner for consideration. The petitioner had responded expressing her concerns, which were noted by the Member in her speech.<sup>88</sup> However, it is difficult to determine the extent to which Members would obtain petitioner consent before making decisions in relation to a petition. As detailed in the previous section, many Members engaged with constituents about the petitions they had presented to the House, but this alone does not indicate whether the Members had obtained petitioner consent before undertaking petition-related actions and advocacy.

The lack of examples of obtaining petitioner consent, as with expectation management, may simply be a matter of Members focusing their speeches on the petition issue itself rather than the background processes they undertook. However, as decision-making powers in parliamentary petition systems ultimately rests with elected representatives,<sup>89</sup> it is also possible that many Members prefer to control the petition process rather than hand power to petitioners, and are unilaterally deciding what measures could most effectively promote a petition. The latter scenario is not necessarily problematic in terms of bolstering legitimacy. Members almost certainly have greater levels of knowledge and experience with petitions than most petitioners, and hold significant responsibility in terms of expressing the views of constituents to the parliament. Petitioners will generally be aware of this expertise and, provided they believe they have been adequately informed about what actions a Member is taking and why, it is not unreasonable to believe that a Member's independent decisions will be respected and the petition system still deemed to have legitimacy.

## ***Trust***

The third perception characteristic—trust—is one that many in the community appear to lack in regard to their political leaders and institutions. Increasing trust in a parliamentary petition system is unlikely to single-handedly resolve issues of political mistrust; despite this, the actions of Members may still go some way to developing citizens' trust in politics. According to Grimes, actions central to citizens' trust include the perceived willingness of authorities to engage in public dialogue, explain and justify

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<sup>86</sup> Hansard, *NSW Legislative Assembly*, 19 October 2017, 56 (Christopher Gulaptis).

<sup>87</sup> Hansard, *NSW Legislative Assembly*, 15 September 2015, 3622 (Jamie Parker); Hansard, *NSW Legislative Assembly*, 4 August 2016, 70-71 (Anna Watson).

<sup>88</sup> Hansard, *NSW Legislative Assembly*, 29 May 2014, 29499 (Anna Watson).

<sup>89</sup> Bochel, "Process matters", 378.

their decisions, and address the concerns of citizens.<sup>90</sup> Tyler further discussed the importance in order to develop community trust:

When authorities are presenting their decisions to the people influenced by them, they need to make clear that they have listened to and considered the arguments made. They can do so by accounting for their decisions. Such accounts should clearly state the arguments made by the various parties to the dispute. They should also explain how those arguments have been considered and why they have been accepted or rejected.<sup>91</sup>

With regard to public dialogue, all Members in the sample were engaged in dialogue with the wider community simply by having made public speeches in the Legislative Assembly. While this form of dialogue initially occurred exclusively through private members' statements, the May 2011 change to the Legislative Assembly's sessional orders requiring debate on petitions signed by 10,000 or more persons has given Members additional opportunities to engage in public dialogue on petition issues.

Some Members in the sample also engaged in public dialogue in forums outside the NSW Parliament. Several Members attended public meetings, summits or rallies dedicated to the petition issue;<sup>92</sup> another Member stated in her private members' statement that she had been directly involved in a range of community actions in opposition to proposed landfill sites, including the creation of a residents action group.<sup>93</sup> Other Members met with the local community to discuss petition matters,<sup>94</sup> or engaged with groups who were directly affected by a proposal or policy.<sup>95</sup>

Such actions by Members likely demonstrate to petitioners that, in circumstances where government decisions are perceived to be unfair, the Legislative Assembly is comprised of more than just the government. Even if only a single Member listens to petitioners and advocates for their cause, such a response show petitioners—and perhaps the wider public—that there are sympathetic individuals in the Legislative Assembly who wish to serve their community. This may lead to positive perceptions of the petition system, and subsequently increase trust in the wider political system.

Nevertheless, if the only Members involved in the petition system are sympathetic to the petition issue, with no response from the decision-makers, the outcome of discussion is limited to expressing discontent. In this regard, the role of government Members in responding to concerns and justifying decisions they have made is also important for increasing trust in the petition system. Although not required under the sessional orders, NSW Government Ministers and Parliamentary Secretaries have attended petition debates in the NSW Legislative Assembly to respond directly to the concerns of petitioners. These responses will not necessarily satisfy petitioners, especially if the response does not result in a substantive change to a position or policy. Nevertheless, for petitioners who desire a direct response from the government

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<sup>90</sup> Grimes, "Organizing consent", 306.

<sup>91</sup> Tom Tyler, "Social Justice: Outcome and Procedure", *International Journal of Psychology*, 35, no. 2 (2000): 117-125, 122.

<sup>92</sup> For example, see: Hansard, *NSW Legislative Assembly*, 17 March 2010, 21621 (Geoff Provest); Hansard, *NSW Legislative Assembly*, 24 September 2009, 18210 (Greg Piper); Hansard, *NSW Legislative Assembly*, 16 February 2016, 6365 (Jamie Parker).

<sup>93</sup> Hansard, *NSW Legislative Assembly*, 23 November 2011, 7774 (Tanya Davies).

<sup>94</sup> See section on Treatment.

<sup>95</sup> For example: Hansard, *NSW Legislative Assembly*, 12 May 2016, 74 (Stephen Bromhead).

regarding their concerns, there were multiple examples of contributions that sought to acknowledge concerns and justify decisions or policy positions.

In response to a petition opposing the closure of a fisheries research centre, the Minister for Primary Industries outlined the factors justifying her decision, and promised that the relocation would consider the needs of staff and their families.<sup>96</sup> Other Ministers sought to explain what consultation processes had been undertaken to make a decision;<sup>97</sup> summarise how new government programs would operate;<sup>98</sup> and outline due diligence measures being taken as part of a policy.<sup>99</sup> There was even one debate where all speaking Members agreed with the petition premise, with the government speakers outlining future courses of action; during this debate, on a ban on single-use lightweight plastic bags, the Minister for the Environment acknowledged the environmental problems of plastic waste and noted that an advisory committee had been appointed to help manage the creation of a container deposit scheme.<sup>100</sup>

There will inevitably be some disappointment emerging from the petition process, as should be expected when petitioners do not wield the power to reverse a decision or force the government of the day to take interest in certain issues. Yet as discussed earlier in the paper, if the community perceives a process to be fair there is a greater chance of it accepting an outcome, even one that is not in their interests.<sup>101</sup>

A petition system that encourages a government to justify its reasoning behind a decision or policy position, and make at least some effort to address the concerns being raised by members of the public, gives petitioners an outcome beyond that of merely expressing their dissatisfaction to the parliament. Even if Government Ministers remained committed to an unpopular decision, the case studies showed that at least some were willing to provide a detailed response to petitions with their justifications for the actions that they or their government had taken. This can demonstrate to the public that, with respect to petitions at least, parliaments are receptive to the needs and desires of the community, and Members across the political spectrum are willing to speak publicly about issues that have aroused public interest. In combination with the measures supportive Members take to help petitioners, these actions may lead to increased levels of trust, both in the Members themselves and in the political system.

## **Conclusion**

Entrenched public mistrust in—and disengagement from—the political system is a challenge for Australia and other democratic societies; addressing this problem will require concerted efforts across political institutions and politicians to succeed. Measuring the effects of different reforms can be performed using a framework of procedural justice, which distinguishes between two categories: (i) the actual fairness of a political system or process, and (ii) public perceptions of the fairness of a system.

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<sup>96</sup> Hansard, *NSW Legislative Assembly*, 19 October 2011, 6783 (Katrina Hodgkinson).

<sup>97</sup> Hansard, *NSW Legislative Assembly*, 21 February 2013, 17877 (Kevin Humphries).

<sup>98</sup> Hansard, *NSW Legislative Assembly*, 22 August 2013, 22692 (Katrina Hodgkinson).

<sup>99</sup> Hansard, *NSW Legislative Assembly*, 23 March 2016, 8169-70 (Paul Toole).

<sup>100</sup> Hansard, *NSW Legislative Assembly*, 13 August 2015, 2655 (Mark Speakman).

<sup>101</sup> Carman, “The Process is the Reality”; Grimes, “Organizing consent”.

As a longstanding formal avenue to convey the popular will to the political class, parliamentary petition systems have seen reforms that seek to increase fairness, and in turn increase public participation and trust in the system. However, the actions of parliamentarians within a petition system affect public perceptions of fairness, which may have a greater impact on institutional legitimacy than actual fairness.

Although it was not possible to assess public perceptions of Members of the NSW Legislative Assembly in the context of their petition system, the paper was able to identify a range of measures taken by Members that likely affect these perceptions. Many of the measures discussed will likely have a positive impact on public perceptions of the petition system, including: that Members treated petitioners fairly throughout the petition process; that Members would enhance the legitimacy of the system by keeping petitioners informed of their actions; and that Members would seek to engender trust in petitioners and the wider community by engaging in public dialogue, and, for Government Members especially, justify their decisions and address concerns being raised by petitioners.

Parliamentary petition systems are but one aspect of the political system, but the actions parliamentarians take within this system play a part in persuading the public to not only participate in the political system, but to trust the system and those within it.