

27 September 2018

Our ref: WD - NFP

Committee Secretary
Joint Standing Committee on Electoral Matters
PO Box 6021
Parliament House
Canberra ACT 2600

By email: em@aph.gov.au

Dear Committee Secretary

Inquiry into the proposed amendments to the Electoral Legislation Amendment (Electoral Funding and Disclosure Reform) Bill 2017

Thank you for the opportunity to provide comments on the proposed amendments to the Electoral Legislation Amendment (Electoral Funding and Disclosure Reform) Bill 2017 (the **proposed amendments**). The Queensland Law Society (**QLS**) appreciates being consulted on this important piece of legislation.

QLS is the peak professional body for the State's legal practitioners. We represent and promote over 13,000 legal professionals, increase community understanding of the law, help protect the rights of individuals and advise the community about the many benefits solicitors can provide. QLS also assists the public by advising government on improvements to laws affecting Queenslanders and working to improve their access to the law.

This response has been compiled by the QLS Not for Profit Law Committee who have substantial expertise in this area.

QLS delivered a submission dated 25 January 2018 to the first iteration of this Bill.

QLS has had the benefit of reviewing the submission prepared by the Law Council of Australia, which we endorse. As acknowledged in the Law Council of Australia submission, the proposed amendments respond to many of the concerns raised in relation to the first iteration of the Bill. However, some concerns remain.

Due to time constraints, QLS is unable to comment on the entirety of the proposed amendments. However, this should not be taken as endorsement of the proposed amendments which are not addressed below.

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With respect to the proposed amendments, we raise the following key issues:

- The timeframes for consultation are extremely short. QLS was only notified of the proposed amendments on 19 September 2018, with submissions due 27 September 2018.
- This short timeframe does not allow for proper detailed consideration of the extensive amendments (reflected in 127 pages of revised 'tracked' legislation). QLS considers the proposed amendments would benefit from a longer consultation period to ensure any unintended consequences are identified and addressed.
- QLS considers that charities should be excluded from the operation of this Bill in light of the existing significant regulation of charities, as outlined in our submission of 25 January 2018 (at page 8) and in the present submission of the Law Council of Australia.
- For the reasons outlined in our submission of 25 January 2018 (pages 6-8), QLS reiterates its view that an exemption should be provided for:
 - organisations, particularly professional membership organisations, that are already subject to financial accountability and disclosure regimes;
 - a legal practitioner who engages in conduct within the scope of legal practice regulated by the *Legal Profession Act 2007* (Qld) and similar regulatory legislation in other States.
- If this legislation is passed and ultimately does apply to not for profits and charities, then as outlined in our submission of 25 January 2018, it is incumbent upon the government to ensure appropriate funding is allocated for education and guidance materials for this sector because of its volunteer management and governance structures and the interaction with existing regulation under the *Charities Act 2013* (Cth).

It is noted that the Joint Standing Committee particularly recommended that the Government appropriately resource both the Australian Electoral Commission and the Australian Charities and Not-for-Profits Commission to undertake a comprehensive education campaign in relation to obligations under the *Electoral Act 1918* (Cth).

- QLS submits that the new definition of "**electoral expenditure**" needs further clarification. We continue to hold concerns, as outlined on pages 11-12 of our submission dated 25 January 2018, about how to calculate "*electoral expenditure*".

For example, it is unclear whether this definition would relate only to the cost of a particular campaign or other expense (eg the cost of publishing "*electoral matter*" on a billboard) or whether it would encapsulate volunteer time, employee time or gifts in kind.

If the concept is intended to capture employee time, this will be a difficult if not impossible task for organisations whose staff are not engaged on a full-time basis to generate "*electoral matter*". It also raises a query regarding the CEO of an organisation speaking on an issue of concern to an organisation, which qualifies as

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“electoral matter” due to the proximity of an election. Should a portion of the CEO’s salary be attributed as *“electoral expenditure”*?

The proposed amendments should clarify the scope of and method of calculating *“electoral expenditure”*.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Principal Policy Solicitor, Wendy Devine by phone on (07) 3842 5896 or by email to w.devine@qls.com.au.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Ken Taylor', with a long horizontal flourish extending to the right.

Ken Taylor
President