



Queensland Nurses' Union

Submission to the
Attorney-General and Minister for Justice

Electoral Reform

March, 2012

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Introduction

The Queensland Nurses' Union (QNU) thanks the Attorney-General and Minister for Justice, for providing the opportunity to comment on the issues and options raised in the *Electoral Reform Discussion Paper* (the Discussion Paper). Our comments relate to Part A of the Discussion Paper – political donations, public funding of elections and election campaign expenditure.

About the QNU

Nurses and midwives¹ are the largest occupational group in QH and one of the largest across the Queensland government. The QNU - the union for nurses and midwives - is the principal health union in Queensland. The QNU covers all categories of workers that make up the nursing and midwifery workforce in Queensland including registered nurses, registered midwives, enrolled nurses and assistants in nursing who are employed in the public, private and not-for-profit health sectors including aged care.

Our more than 48,000 members work across a variety of settings from single person operations to large health and non-health institutions, and in a full range of classifications from entry level trainees to senior management. The vast majority of nurses in Queensland are members of the QNU.

Issues for consultation – Political donations

Are the existing laws in relation to political donations effective in protecting against the potential for undue influence and corruption?

The Queensland Nurses' Union is a democratic organisation where members are actively encouraged to be involved in Union activities. We highlight the following aspects of the QN's structure to indicate that our governance is sound and transparent.

The Union's structure is designed specifically to provide opportunities for members to be involved and to directly participate in determining the policies, activities and direction of the Union. This in turn ensures that the QNU:

- maintains a working structure which is truly democratic and participative;

¹ The terms 'nurse' and 'nursing' include 'midwife' and 'midwifery'.

- has a structure which recognises, respects and responds to the needs and interests of all sections of the membership;
- is appropriately informed about the needs and interests of all sections of the membership;
- is competent to initiate reforms and improvements to wages and working conditions throughout the health and aged care industries;
- is equipped to influence the development of progressive policies and attitudes regarding all aspects of nursing and midwifery practice and the professional development of nurses and midwives and nursing and midwifery;
- is able to quickly and effectively respond when the rights of individual members are challenged;
- is well placed to accurately represent the needs, concerns and interests of nurses and midwives in both public and private sectors when seeking to influence a range of organisations, including:
 - Industrial Commissions;
 - local, state and federal governments and government departments;
 - opposition parties;
 - union peak councils;
 - educational authorities;

The QNU rules determine its structure. These rules state who has rights, powers and responsibilities within the organisation. Over the course of 2010-2012 the QNU undertook an exhaustive review of the union's rules. We conducted this review to improve the governance of the union, streamline union processes and to provide greater clarity around roles such as branch delegates and branch representatives.

The QNU's governing body is the Council which is responsible for managing the affairs of the QNU, and may exercise all the powers of the QNU in attaining the objects of the rules. The union executive consists of the offices of President, Vice-President, Secretary and Assistant Secretary and four executive members of Council. There are a total of 22 councillors who, along with the executive are elected every four years. The Secretary and Assistant Secretary are the only two full-time paid positions. All other positions are honorary.

The QNU Annual Conference is held each year and is responsible for formulating policy for recommendation to the Council. It is through the annual conference the membership from across the State and from a variety of backgrounds, determine the policy directions of the QNU.

Therefore we see no reason to intrude into the democratic operation of this union by banning political donations. Nor do we support any requirement to hold ballots of our

members regarding political donations. The comparison between union and corporations in respect to voting on political donations is a nonsense. Individual members comprise the union, whereas corporations may include individual shareholders or institutional shareholders. A vote within a corporation may allow disproportionate representation of institutional shareholders whereas a union would rely on each individual's vote.

The QNU contends that it is an important role of the parliament to safeguard our representative democracy by protecting the people from executive attempts to restrict, in such a disproportionate way, such things as their freedom to engage in political discourse, individually and collectively, and freedom of association. The issue of expenditure and donations is best dealt with through provisions that provide for full and timely disclosure, rather than caps or restrictions on the rights of membership-based organisations.

Issues for consultation – Public funding of elections

Are the public funding arrangements in Queensland fair?

Whilst we understand the desire to deliver an election funding regime that promotes fairness in politics, and supports political parties by providing public funding for their administration and electioneering, it is critical that the regime does not stifle debate on issues that are of public interest or suppress political and ideas-based communication within the community.

The QNU supports public funding for election campaigns along with reasonable caps on expenditure. The existing arrangements appear to be sufficient.

Issues for consultation – Election campaign expenditure

Are the existing laws relating to electoral expenditure effective in creating a more level playing field?

The QNU believes the imposition of spending caps and restrictions on third party campaigners violates the political, industrial and democratic rights of membership-based organisations. The current spending cap on third party campaigners significantly restricts the capacity of those outside the political parties or media to participate in and respond to the public debate during election periods. This is contrary to the principles of a free, open

and democratic society. It also does anything but create a level playing field as it significantly favours political parties and private media companies.

The High Court has heard many legal arguments around political advertising and freedom of speech². Although free speech is a paramount interest in the electoral process, it nevertheless is not an absolute interest. The High Court has clearly established that some restrictions of free speech are permissible and has devised a test of reasonable proportionality to govern such cases.

The QNU believes the imposition of expenditure caps on third party campaigners creates a massive distortion in the political process by enhancing the power of certain media outlets and political parties during the capped period, at the expense of other legitimate groups.

The QNU contends that powerful media outlets, which themselves are mostly private companies with private interests and agendas, have greater control of the political process than other organisations. To continue to give private media companies the unrestricted right of political discourse with the only real restrictions being their own corporate resources and editorial policies, while imposing spending caps on other private entities, especially membership-based organisations, seriously compromises the rights of the people of Queensland.

The expenditure cap on third parties imposes serious restrictions on the so-called “free market” of ideas and significantly reduces the availability of the variety of alternative platforms to organisations such as the QNU. Campaigning restrictions on membership-based collectives, such as unions, undermines our democracy and, during election periods, leaves debate largely to the established political parties and powerful media interests.

The QNU believes the cap should be removed completely and disclosure laws strengthened to ensure third party campaigners are open and honest about such campaigning. The QNU has always effectively behaved in such a manner. We announce the running of any campaigns and usually hold a full press conference, to which all sections of the media are invited and at which we subject ourselves to scrutiny.

QNU campaigns are very public affairs and those opposed to our position have every opportunity to make an assessment and respond to it. There is no justification for ceasing or capping our capacity to run such candid and high-profile campaigns at any time, but especially during State election periods when the electorate’s focus is very much on which policies will take priority over the next three years.

² See for example *Australian Capital Television Pty Ltd v Commonwealth* 177 CLR 106 in which the High Court struck down the *Political Broadcasts and Political Disclosures Act 1991 (Cth)* which restricted political advertising on the electronic media during Federal, State, Territory and local elections.