



ETHICS COMMITTEE

Report No. 135

Report on a study investigation by the committee – June 2013

The Ethics Committee

1. The Ethics Committee (the committee) is a statutory committee of the Queensland Parliament established under section 102 of the *Parliament of Queensland Act 2001* (the POQA or the Act). The current committee was appointed by resolution of the Legislative Assembly on 17 May 2012.
2. The committee's area of responsibility includes dealing with complaints about the ethical conduct of particular members and dealing with alleged breaches of parliamentary privilege by members of the Assembly and other persons.¹ The committee investigates and reports on matters of privilege and possible contempts of parliament referred to it by the Speaker or the House.

The study investigation

3. On 12 June and 13 June 2013, three members of the committee undertook a study investigation to Wellington, New Zealand.²
4. The purposes of the study investigation were to conduct a comparative assessment of the New Zealand Privileges Committee's processes for dealing with complaints in relation to privilege; pecuniary interests; and the code of conduct, particularly in light of the recent changes to the Queensland Committee System in 2011.
5. The committee often draws on the practices and procedure of the New Zealand Parliament as a comparable unicameral parliament in relation to matters of privilege. The secondary purpose of the investigation was to examine the processes of a parliament with a similar unicameral structure to that of Queensland's Parliament.

¹ S.104B *Parliament of Queensland Act 2001*.

² Committee members attending were:
Mr Peter Dowling MP, Member for Redlands (Chair);
Mr Ian Kaye MP, Member for Greenslopes; and
Mr Michael Pucci MP, Member for Logan.
Members were accompanied by Ms Erin Pasley, Principal Research Officer.

6. Pursuant to these objectives the committee arranged meetings with:
 - The Rt Hon David Carter, Speaker of the New Zealand House of Representatives;
 - Members of the New Zealand House of Representatives Privileges Committee, and Ms Catherine Parkin, Clerk of the Committee;
 - The Clerk of the House of Representatives, Ms Mary Harris;
 - The Deputy Clerk of the House of Representatives, Ms Debra Angus; and
 - Ms Catherine Rogers, Manager (Policy), Parliamentary Relations and Policy, regarding the Register of Pecuniary Interests.
7. In addition, the committee was privileged to be able to observe the proceedings of Select Committees; a special debate in the House of two Privileges Committee reports; as well as the processes and procedures during question time.

Privileges Committee

8. The Privileges Committee is comprised of 11 members of parliament. The Chair of the Committee is a government member, Hon Christopher Finlayson QC. The Privileges Committee considers and reports on any matter referred to it by the House relating to or concerning parliamentary privilege.³
9. Members of the study investigation were able to view the debate of two Privileges Committee reports in the New Zealand House of Representatives.
10. On 11 June 2013, the Privileges Committee tabled a report on the *Question of privilege concerning the defamation action Attorney-General and Gow v Leigh*.⁴
11. In that report, the Privileges Committee considered the potential effect on the House of a 2011 Supreme Court judgement. The Supreme Court in *Attorney-General and Gow v Leigh* [2011] NZSC 106 applied a legal test to Parliament's freedom of speech privilege that potentially collapsed the scope of that privilege. The committee considered that the test had been incorrectly applied.
12. The Privileges Committee recommended that the Government introduce a Parliamentary Privilege Bill to clarify for the avoidance of doubt the nature of parliamentary privilege in New Zealand, and that once enacted, the Bill be administered by the Clerk of the Parliament.
13. Amongst other things, the committee specifically recommended that the Bill include a definition of 'parliamentary proceedings', and clarify what is meant by 'impeaching or questioning' such proceedings as set out in Article 9 of the Bill of Rights 1688, and provide for the power of the House to fine for contempt.
14. The committee will follow the potential introduction of a Parliamentary Privilege Bill in the New Zealand House of Representatives with interest.
15. Committee members also viewed the debate of a second report tabled by the Privileges Committee on 11 June 2013, titled, *Interim report on the question of privilege concerning the agreements for policing, execution of search warrants, and collection and retention of information by the NZSIS*.

³ Chapter 8, Standing Orders, New Zealand House of Representatives

⁴ Report I.17A, Privileges Committee, June 2013.

16. In this matter, the Privileges Committee is considering the issues associated with privilege by the exercise of powers such as search, seizure, and intelligence-gathering regarding members of parliament.
17. In its report, the committee states that, 'the exercise of intrusive or coercive powers against democratically elected representatives or within the parliamentary precincts... raise[s] significant issues for the relationship between the different arms of government.'⁵
18. The committee stated that it would report in full on the issues in due course. However, the committee raised one issue in relation to an agreement with the New Zealand Security Intelligence Service it wished to bring to the attention of the Intelligence and Security Committee which is currently considering a Bill in relation to the matter.
19. The Privileges Committee made recommendations to the Intelligence and Security Committee relating to its consideration of the Bill.

Observations in relation to the procedures of the House and Select Committees

Composition of the New Zealand Parliament

20. New Zealand has a unicameral Parliament consisting of a House of Representatives elected for a term of up to three years. The House is elected using the mixed member proportional representation of voting system.
21. There are 120 members of the House of Representatives. The committee members found it interesting that of those 120 members, 70 are directly elected and 50 are drawn from party lists.
22. Speaker Carter informed members that there were eight political parties represented in the House. The National Party has formed a minority government and has confidence and supply agreements with the ACT Party, the Maori Party, and the United Future Party. The Labour Party is the main opposition party. Other parties are the Green Party, New Zealand First Party, and the Mana Party.
23. Members also noted with interest that the New Zealand Parliament follows the Westminster tradition of parliamentary practice and procedure, however some aspects have been adapted to suit New Zealand.

Select committee proceedings

24. Select committees are appointed from among the members at the start of each Parliament (after a general election). Committees currently have from seven to 12 members each, with parties represented in proportion to party membership in the House. The areas of ministerial responsibility are reflected in 13 subject-specific committees.⁶
25. At the time of the committee's visit, select committees were considering the 2013-14 Budget Estimates.
26. Similar to Queensland portfolio committees, after the budget has been presented in the House, committees have two months to consider the Government's spending plans (the Estimates) for the new financial year. Committees examine the spending plans and call for evidence from the Minister responsible for the money allocated to the portfolio to justify the planned spending.

⁵ See - http://www.parliament.nz/en-NZ/PB/SC/Documents/Reports/2/8/1/50DBSCH_SCR5878_1-Interim-report-on-Question-of-privilege-concerning.htm, pp 2-3.

⁶ <http://www.parliament.nz/en-NZ/AboutParl/HowPWorks/FactSheets/3/f/a/00HOOCResAboutFactSheetsSelect1-Parliament-Brief-Select-committees.htm>

27. The committee observed the proceedings of the Social Services Committee responsible for matters relating to housing, senior citizens, social development, veterans' affairs, and work and income support, during consideration of the 2013-14 forward estimates for Housing.
28. The committee also observed the proceedings of the Law and Order Committee responsible for matters relating to corrections, courts, criminal law, police, and serious fraud, during considering the 2013-14 forward estimates for Police.
29. Similar to Queensland, the Minister responsible for the portfolio areas were asked questions by committee members and were present with advisors.

Register of Pecuniary and Other Specified Interests

30. In New Zealand, Standing Order 160 provides that members must make returns of certain interests, and that a register of these interests must be maintained.⁷
31. Members are required to make an annual return in each year as at 31 January. The return must be provided to the Registrar by the last day of February.
32. The Registrar of Pecuniary and Other Specified Interests is either the Deputy Clerk of the House or person appointed to act as the Registrar. The role has presently been delegated to Dame Margaret Bazley ONZ, DNZM, Hon D Lit.
33. Members noted with interest that there is no requirement for members of the New Zealand House of Representatives to declare interests associated with related persons. Members also noted that the register is not required to be updated throughout the year, if a member's circumstance changes.
34. That said, if a member becomes aware that they have made an error or omission in their annual return, the Standing Orders provide for members to notify the Registrar as soon as practicable after becoming aware of it.

Conclusion

35. The committee is grateful to the New Zealand Speaker, Members of Parliament, the Clerk and Deputy Clerk and various Parliamentary Staff who made themselves available to the committee during its study investigation.
36. The committee will draw upon its experiences and knowledge of the New Zealand House of Representatives when considering matters of privilege and making recommendations to the Parliament.
37. The committee thanks each person involved in developing the programme and assisting with the organisation of the study investigation, particularly, Ms Yvonne Shelton, Parliamentary Relations Officer.



Michael Crandon MP
Chair

August 2013

⁷ Appendix B, Standing Orders, New Zealand House of Representatives.

Membership — 54th Parliament

Mr Michael Crandon MP, Chair⁸
Member for Coomera

Ms Jackie Trad MP, Deputy Chair
Member for South Brisbane

Mr Ian Kaye MP
Member for Greenslopes

Mr Tim Mulherin MP
Member for Mackay

Mr Michael Pucci MP
Member for Logan

Mr Peter Wellington MP
Member for Nicklin

Secretariat

Mr Michael Ries, *Research Director*

Ms Erin Pasley, *Principal Research Officer*

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⁸ Mr Crandon MP replaced Mr Dowling MP as Chair of the Ethics Committee on 7 August 2013.