

## ETHICS COMMITTEE

Report No. 150

### Report on a Right of Reply No. 27

#### *Introduction and Background*

1. The Legislative Assembly provides a right of reply to persons and corporations who are the subject of adverse comment in Parliament. The Ethics Committee (the committee) has responsibility for advising the Assembly regarding submissions for a right of reply.
2. The right of reply relates to statements made by members under parliamentary privilege. Persons or corporations who are named, or referred to in such a way as to be readily identified and who consider their reputation has been adversely affected, may request a right of reply.

#### *Procedure*

3. Chapter 46 of the *Standing Rules and Orders of the Legislative Assembly*, effective from 31 August 2004 (the Standing Orders), sets out the operation of the right of reply for persons and corporations and the procedure for the committee to follow when considering submissions.
4. Standing Order 282(5) provides that the committee is not to consider or judge the truth of any statements made in the House or the submission when considering a submission for a right of reply.
5. Under Standing Order 283, the committee may recommend—
  - that no further action be taken by the committee or the House in relation to the submission; or
  - that a response by the person who made the submission, in terms specified in the committee's report and agreed to by the person or corporation and the committee, be incorporated in the Record of Proceedings or published in some other manner.

#### *Person referred to in the Parliamentary Proceedings: Mr Kelly*

6. On 5 March 2013, the Member for Lockyer, Mr Ian Rickuss, made a statement in the House about Mr Kelly and the Save Greenbank campaign against the approval of Teviot Downs Greenbank.
7. Mr Kelly initially wrote to the Speaker on 9 April 2013 raising concerns about the conduct of the Member for Lockyer. The Speaker wrote to Mr Kelly on 10 April 2013 to advise that his submission did not meet the criteria, as set out in the Standing Orders, and to invite him to make a modified submission for the Speaker's consideration.

8. Mr Kelly wrote to the Speaker, on 1 July 2014, with a modified submission, asserting that the Member for Lockyer's statement was not true and had adversely affected his reputation. Mr Kelly sought to have an appropriate response incorporated in the parliamentary record.
9. After satisfying herself that the matter was not frivolous, vexatious or offensive in character, and that it was practicable for the committee to consider the matter, on 14 July 2014, the Speaker referred the matter to the committee for its consideration, in accordance with Standing Order 280.

### ***Committee Membership***

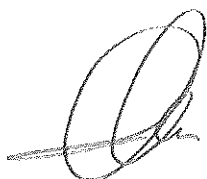
10. On 24 July 2014, Mr Pucci wrote to the Speaker, to advise of his intention to stand down from consideration of the matter, in accordance with Standing Order 272(1), as he is directly concerned in the matter.
11. On 5 August 2014, the Speaker wrote to the committee, appointing the Member for Ferny Grove, Mr Shuttleworth MP, to replace Mr Pucci for consideration of this matter.

### ***Committee's Inquiry***

12. The committee met in private session to consider the submission from Mr Kelly and how to proceed with the matter, noting—
  - the Standing Orders; and
  - the practice and established procedures of Ethics Committees in respect of similar submissions in the past.
13. The committee corresponded with Mr Kelly and negotiated a response in the context of the Standing Orders. On 22 September 2014, Mr Kelly suggested a proposed response which was agreed to by the committee.
14. In accordance with Standing Order 282(5), the committee did not consider or judge the truth of any statements made in the House by the Member for Lockyer or the truth of the statements made by Mr Kelly in response.
15. The committee resolved to recommend to the Legislative Assembly that the agreed response be incorporated into the Record of Proceedings.

#### **Recommendation:**

**The committee recommends that the response in the terms set out in this report, be incorporated in the Record of Proceedings.**



**Mr Michael Crandon MP**  
**Chair**

October 2014

**Membership — 54th Parliament**

Mr Michael Crandon MP, Chair  
*Member for Coomera*

Mrs Jo-Ann Miller MP, Deputy Chair  
*Member for Bundamba*

Mr Ian Kaye MP  
*Member for Greenslopes*

Mr Michael Pucci MP<sup>1</sup>  
*Member for Logan*

Ms Jackie Trad MP  
*Member for South Brisbane*

Mr Peter Wellington MP  
*Member for Nicklin*

**Secretariat**

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<sup>1</sup> On 5 August 2014, the Speaker wrote to the committee, appointing the Member for Ferny Grove, Mr Shuttleworth MP, to replace Mr Pucci for consideration of this matter.

RESPONSE BY MR KELLY TO A STATEMENT MADE BY THE MEMBER FOR LOCKYER  
(MR IAN RICKUSS MP) ON 5 MARCH 2013

On 5 March 2013, the Member for Lockyer made the following statement in the Queensland Parliament:

*He [Mr Kelly] has been one of the main instigators of the protest against this process. He wonders why it is difficult to take the protest group seriously, yet as one of the main instigators of the group he is saying, 'if you pay me out, I will dull the noise.'*

And

*I am more than happy to meet with them, but, as I said, it is a shame that people who are on the committee, such as Mike Kelly, are virtually trying to leverage funds for themselves. It is disappointing and corrupt.<sup>2</sup>*

The Member for Lockyer's comments are untrue and have adversely affected my standing and reputation.

I refute the assertion that I tried to leverage funds from the developer and that my conduct was corrupt.

I have attended multiple public meetings where I publicly disclosed the facts in relation to my contact with developers before the campaign commenced and this has also been published in local newspapers with full disclosure; openly and transparently.

No contact was made with the developer once the campaign commenced that could be considered in any way an attempt by me or the committee to leverage funds.

My conduct, as part of the Save Greenbank campaign, was legal, ethical and fully transparent.

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<sup>2</sup> Queensland Legislative Assembly, Record of Proceedings (Hansard), 5 March 2013, p. 377.

Legislative Assembly of Queensland

STANDING RULES AND ORDERS OF THE LEGISLATIVE ASSEMBLY: EFFECTIVE FROM 31 AUGUST 2004

EXTRACT: CHAPTER 46: CITIZEN'S RIGHT OF REPLY

**279. Reference to a person includes a corporation**

- (1) In this chapter a reference to a person includes a corporation.
- (2) A corporation making a submission under this chapter is required to make it under their common seal (if it has a common seal).

**280. Affected person may make a submission**

- (1) A person who has been referred to in the Legislative Assembly or a committee by name, or in such a way as to be readily identified may make a submission to the Speaker:
  - (a) claiming that the person has been adversely affected in reputation or in respect of dealings or associations with others, or injured in occupation, trade, office or financial credit, or that the person's privacy has been unreasonably invaded, by reason of that reference to the person or corporation; and
  - (b) requesting that the person be able to incorporate an appropriate response in Hansard or the relevant committee report.
- (2) The Speaker may refer the submission to the ethics committee if the Speaker is satisfied:
  - (a) that the subject of the submission is not so obviously trivial or the submission so frivolous, vexatious or offensive in character as to make it inappropriate that it be considered by the ethics committee; and
  - (b) that it is practicable for the ethics committee to consider the submission under this chapter.
- (3) A person shall ensure a submission is received by the Speaker within the term of the Parliament in which the person has been adversely referred.

**281. Submissions**

- (1) A submission under this chapter shall be succinct and strictly relevant to the questions in issue and shall not contain anything offensive in character.
- (2) A submission under this chapter shall not contain any matter the publication of which would have the effect of:
  - (a) unreasonably adversely affecting or injuring a person or corporation, or unreasonably invading a person's privacy, in the manner referred to in SO 280(1); or
  - (b) unreasonably adding to or aggravating any such adverse effect, injury or invasion of privacy suffered by a person.

**282. Action by the ethics committee**

- (1) The ethics committee may decide not to consider a submission referred to it under this chapter if the committee considers that the subject of the submission is not sufficiently serious or the submission is frivolous, vexatious or offensive in character, and such a decision shall be reported to the House.

- (2) If the ethics committee decides to consider a submission under this chapter, the ethics committee may confer with the person who made the submission and any member who referred in the House to that person or corporation or where the submission relates to another committee's proceeding, the relevant committee.
- (3) In considering the submission under this chapter, the ethics committee shall deliberate in a private meeting.
- (4) The ethics committee shall not publish a submission referred to it under this chapter or its proceedings in relation to such a submission, but may present minutes of its proceedings and all or part of such submission to the House.
- (5) In considering a submission under this chapter and reporting to the House the ethics committee shall not consider or judge the truth of any statements made in the House or the submission.
- (6) If a person making a submission does not respond to a communication from the committee within three months, the committee may consider the matter to be closed.
- (7) Public servants seeking a right of reply must do so as private citizens.
- (8) Persons making their submission through a representative must personally sign the response.

### **283. Recommendation and report by the ethics committee**

In its report to the House on a submission under this chapter, the ethics committee may make either of the following recommendations and no other recommendations:

- (a) that no further action be taken by the ethics committee or the House in relation to the submission;  
or
- (b) that a response by the person who made the submission, in terms specified in the report and agreed to by the person or corporation and the ethics committee, be incorporated in Hansard.