



ETHICS COMMITTEE

Report No. 165

REPORT ON A RIGHT OF REPLY NO. 29

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.

Referral

6. The Chief Executive Officer of the Local Government Association of Queensland (LGAQ), Mr Greg Hallam, wrote on behalf of the LGAQ to Speaker Wellington on 17 March 2016 to seek a citizen's right of reply to allegations made by the Member for Cairns, Mr Rob Pyne, and the Member for Lockyer, Mr Ian Rickuss, about local government in Queensland and the Lockyer Valley Regional Council respectively.

7. On 17 March 2016, Speaker Wellington referred Mr Hallam's request, on behalf of the LGAQ, for a citizen's right of reply to the committee for consideration. Mr Speaker was of the opinion that the submission would be a practical subject for a right of reply, however, left it to the committee to determine whether the LGAQ is a corporation within the meaning of Chapter 46 of the Standing Orders. The Standing Orders do not provide a definition of "corporation".

Committee's consideration of the meaning of 'corporation'

8. The LGAQ is the peak body for local government in Queensland. The committee considered whether the LGAQ fits within the meaning of "corporation" by seeking to identify a definition of the term and identify the nature of the LGAQ in the *Local Government Act 2009*.
9. In the *Acts Interpretation Act 1954*, a corporation is defined in Schedule 1 to include "a body politic or corporate".
10. In Section 32D(2), the *Acts Interpretation Act 1954* provides examples of express references to a corporation which include a:
- *body corporate*
 - *company*
 - *corporation sole*
11. Section 287 of the *Local Government Act 2009* states that:
- (1) *On and from 1 July 2010—*
- (a) *the Local Government Association of Queensland (Incorporated) (LGAQ Inc.) established under the 1993 Act stops being a public authority (however called) for the purposes of an Act (including the Ombudsman Act 2001 and Public Records Act 2002, for example); and*
- (b) *all rights, liabilities and interests of LGAQ Inc., that are in existence immediately before 1 July 2010, are taken to be the rights, liabilities and interests of LGAQ Ltd.*
- (2) *The LGAQ Ltd. is the **corporation** prescribed under a regulation for this section (emphasis added).*
12. The committee found that the LGAQ fits within the meaning of corporation under Standing Order 279 in accordance with the definition provided by the *Acts Interpretation Act 1954* and the *Local Government Act 2009*, and therefore eligible to seek a Citizen's Right of Reply.

Committee's consideration of the application

13. Upon determining that the LGAQ fits within the meaning of corporation, the committee considered the submission from the Council 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.
14. The committee considered Standing Order 280 which provides that "a person [which includes a corporation] 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".

15. The committee noted that none of the statements referred to in the submission, by either the Member for Cairns or the Member for Lockyer, made any reference to the LGAQ.
16. The committee concluded that the LGAQ is not a corporation that has been referred to in the Legislative Assembly by name and therefore not an affected person who may make a submission for a Citizen's Right of Reply in accordance with Standing Order 280.
17. The committee noted their previous finding in the Ethics Committee's Report No. 158 (Report on a Right of Reply No. 28) that a Regional Council fits within the meaning of corporation under Standing Order 279 in accordance with definitions provided by the *Local Government Act 2009* and the *Acts Interpretation Act 1954*, and therefore a Regional Council, or a staff member within, may make a submission for a citizen's right of reply. However, the LGAQ is not eligible to make a submission on behalf of a person or a council.
18. In accordance with Standing Order 283(a), the committee resolved to recommend to the House that no further action be taken by the House in relation to the submission from the LGAQ.

Recommendation:

The committee recommends no further action be taken by the House in relation to the submission from the Local Government Association of Queensland.



Mr Don Brown MP

Chair

May 2016

Membership — 55th Parliament

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Member for Capalaba

Mr Glen Elmes MP, Deputy Chair
Member for Noosa

Mr Craig Crawford MP
Member for Barron River

Mr Linus Power MP
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Mr Trevor Watts MP¹
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¹ On 10 May 2016, the Member for Toowoomba North replaced the Member for Mudgeeraba as a member of the committee.