



## ETHICS COMMITTEE

Report No. 179

### Report on a Right of Reply No. 34

#### *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. Mr Max Barrie wrote to Speaker Wellington on 6 September 2017 (55<sup>th</sup> Parliament) to seek a citizen's right of reply to a statement made in a document titled 'Council – Cook Shire Council' tabled by the then Member for Cairns, Mr Rob Pyne MP, on 24 August 2017.
7. On 7 September 2017, the Speaker referred Mr Barrie's request for a citizen's right of reply to the committee for consideration.

**Committee's Inquiry**

8. The Ethics Committee of the 55<sup>th</sup> Parliament met in private session to consider the submission from Mr Barrie 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.
9. The committee corresponded with Mr Barrie and negotiated a response in the context of the Standing Orders. On 24 October 2017, Mr Barrie responded by agreeing to the proposed response.
10. On 29 October 2017, the Acting Governor dissolved, by Proclamation, the 55<sup>th</sup> Parliament of Queensland. The Ethics Committee of the 55<sup>th</sup> Parliament was also dissolved on this date.
11. The Ethics Committee of the 56<sup>th</sup> Parliament was established by the Legislative Assembly on 15 February 2018. On 8 March 2018, the Ethics Committee of the 56<sup>th</sup> Parliament resolved to continue and finish dealing with the matter, in accordance with section 105 of the *Parliament of Queensland Act 2001*.
12. In accordance with Standing Order 282(5), the Ethics Committees of the 55<sup>th</sup> and 56<sup>th</sup> Parliaments did not consider or judge the truth of any statements made in the document tabled by the then Member for Cairns, or the truth of the statements made by Mr Barrie in response.
13. The Ethics Committee of the 56<sup>th</sup> Parliament resolved to recommend to the Legislative Assembly that the agreed response be incorporated into the Record of Proceedings.

**Recommendation 1:**

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



**Joe Kelly MP**  
Chair

20 March 2018

**Membership — 55<sup>th</sup> Parliament**

Mr Don Brown MP, Chair  
*Member for Capalaba*

Mr Jeff Seeney MP, Deputy Chair  
*Member for Callide*

Mr Craig Crawford MP  
*Member for Barron River*

Mr Linus Power MP  
*Member for Logan*

Ms Fiona Simpson MP  
*Member for Maroochydore*

Mr Trevor Watts MP  
*Member for Toowoomba North*

**Membership — 56<sup>th</sup> Parliament**

Mr Joe Kelly MP, Chair  
*Member for Greenslopes*

Ms Nikki Boyd MP  
*Member for Pine Rivers*

Ms Leanne Linard MP  
*Member for Nudgee*

Mr Mark McArdle MP  
*Member for Caloundra*

Mr Tim Nicholls MP  
*Member for Clayfield*

Mr Ray Stevens MP  
*Member for Mermaid Beach*

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**RESPONSE BY MR MAX BARRIE TO A STATEMENT MADE IN A DOCUMENT TABLED BY THE MEMBER FOR CAIRNS, MR ROB PYNE MP, ON 24 AUGUST 2017**

On 24 August 2017, the Member for Cairns tabled a document in the Queensland Parliament which included the following statement:

*The Councillors wife was treated so badly during the complaints process that following a phone call with Max Barrie from the department, this wife and mother of two young children 'went out the back' and committed suicide.*

I was not in the departmental position dealing with councillor conduct complaints on or about 18 January 2012, being the time when the Cook Shire councillor's wife passed away. Furthermore, I would not have had any permission under the department's records security policies to have any knowledge of this or any other complaints about councillors at that time.

The first knowledge I had of the Cook Shire councillor's complaint was on 31 January 2013, when he resubmitted an earlier complaint to the department which had been finalised by the then Director-General of the department on 6 June 2012, prior to me assuming responsibility for the management of councillor conduct complaints on 1 July 2012.

I can also categorically advise that in fulfilling my responsibilities in managing councillor conduct complaints on behalf of the department between 1 July 2012 and 20 January 2017, I did not on any occasion discuss any complaint made against a councillor with a spouse or partner or any other relative of a subject councillor.

## 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.



## MINUTES



Objective ID: A294013

**Ethics Committee**

Meeting No. 01

Thursday, 8 March 2018, 1:06PM

Committee Room 1, Parliamentary Annexe

<b>Present</b>	Mr Joe Kelly MP, Chair Ms Nikki Boyd MP Ms Leanne Linard MP Mr Mark McArdle MP Mr Tim Nicholls MP Mr Ray Stevens MP
<b>Apologies</b>	Nil
<b>In attendance</b>	Ms Bernice Watson, Committee Secretary Ms Ciara Furlong, Assistant Committee Secretary

**1. Welcome and apologies**

The meeting commenced at 1:06pm. There were no apologies.

*Extract from minutes of a meeting of the Ethics Committee*

**Citizen's Right of Reply – Barrie****1.1 Briefing Paper No. 02**

Discussion ensued.

**Resolved**

That the committee adopt draft Report No. 179: Report on a Right of Reply No. 34.

Moved: Mr McArdle                      Seconded: Ms Boyd

**Endorsed**

That the Chair table the report on Tuesday 20 March 2018.

Moved: Ms Boyd                      Seconded: Mr Stevens

**Resolved**

- (a) that the submission from Mr Max Barrie remain confidential in accordance with Standing Order 282 (4), and therefore not be published with the report.
- (b) that the Committee endorses the minutes of the committee's meeting of 12 October 2017 related to the committee's consideration of Mr Max Barrie's request for a right of reply be published with the Report No. 179 : Report on a Right of Reply No. 34, and
- (c) that the committee meet at a time of its choice prior to Tuesday 20 March to consider the minutes of this meeting (1B of 8 March 2018) to be published with the Report No. 179: Report on a Right of Reply No. 34, and that the minutes of that subsequent meeting not be published with the report.

Moved: Mr Nicholls

Seconded: Ms Linard

Close      The meeting closed at 1:52pm

Certified correct on the 16 day of March 2018.



Joe Kelly MP

Chair