

(MR SPEAKER)

SPEAKER'S RULING – ALLEGED CONTEMPT OF PARLIAMENT

MR
SPEAKER

Honourable members,

On 8 December 2022, the Member for Maroochydore wrote to me alleging that the Premier and Minister for Olympic and Paralympic Games deliberately misled the House on 1 December 2022.

The matter relates to a statement made by the Premier during Question Time in response to a question about the Minister for Health and Ambulance Services and requirements to disclose potential conflicts of interest arising in relation to ministerial responsibilities in accordance with the Ministerial Code of Conduct.

Specifically, *'This did not come to cabinet because it was a decision of the department. ... If there is no decision made in cabinet, you do not have to declare a conflict'*.

The Member for Maroochydore argued that this is misleading because the Ministerial Code of Conduct not only contemplates conflicts that might arise in relation to matters that are subject to Cabinet consideration, but also those arising in respect of ministerial responsibilities.

The Member for Maroochydore also argued that as the Code of Conduct falls within the Premier's ministerial responsibilities, it is difficult to draw any conclusion other than she was aware her statement is incorrect.

I sought further information from the Premier about the allegation made against her, in accordance with Standing Order 269(5).

The Premier contended that her response was attempting to convey that because the decision regarding the vaccination hub was made by Queensland Health, with no involvement by Executive Government through the Minister or Cabinet, there could be no conflict, real or perceived, and therefore no interest to declare.

The Premier added that she was not saying that only matters which go to Cabinet are subject to the requirement to declare a conflict, as interpreted by the Member for Maroochydore. She further contended that her statement was made off the cuff during Question Time, and that if she had the opportunity to answer in writing, she may have provided a more fulsome response.

Standing Order 269(4) requires that in considering whether such a matter should be referred to the Ethics Committee, that I should take account of the degree of importance of the matter which has been raised and whether an adequate apology or

explanation has been made in respect of the matter.

McGee states that remarks made off the cuff in a debate can rarely fall into the category of deliberate mislead. However, McGee also states that where a member can be assumed to have personal knowledge of the stated facts and made the statement in a situation of some formality, a presumption of an intention to mislead the House will more readily arise.

While I accept that the Premier as the responsible Minister for the Ministerial Code of Conduct could be assumed to have personal knowledge of the stated facts, her statement was also made off the cuff during Question Time.

The Premier has also provided an explanation, of which I am satisfied, that at the time she made her statement she believed that the Minister for Health and Ambulance Services did not have a conflict, and was intending to convey that in the absence of a conflict, there was nothing for the Minister to declare.

Accordingly, I consider the Premier has provided an adequate explanation.

Therefore, I **will not** be referring the matter for the further consideration of the House via the Ethics Committee.



Fiona SIMPSON MP

Member for **Maroochydore**

Shadow Minister for Finance and Better Regulation

Shadow Minister for Integrity in Government



Ref: FS:rkd/corr/speaker/2022

8th December 2022

Hon Curtis Pitt
Speaker
Queensland Parliament

Email: speaker@parliament.qld.gov.au

Dear Mr Speaker

I write regarding a matter of privilege requesting you refer the Premier and Minister for the Olympics, Hon Annastacia Palaszczuk MP, to the Ethics Committee for consideration as to whether she has committed a contempt of the House.

I believe the Premier has misled the House in relation to a response to a Question without Notice on 1 December 2022 at pages 3834 and 3835.

Background

The member's answer contained statements that are false and misleading, in that she gave inaccurate advice to the House as to the requirements of the Government's Ministerial Code of Conduct.

Substance of the allegations

1. I posed the question:

Despite what the health minister said yesterday the Ministerial Code of Conduct says a minister must notify the Premier about any conflict of interest with their ministerial responsibilities and what action they will take to deal with it. When did the health minister notify the Premier about the storage conflict and did the minister provide the required conflict of interest management plan?

The Premier responded at page 3834 of *Hansard*:

This did not come to cabinet because it was a decision of the department. ... If there is no decision made in cabinet, you do not have to declare a conflict.

The Premier continued at page 3835:

There we go: there was no conflict declared because it was not a decision of the cabinet.

I contend this statement constitutes contempt as it is a deliberate misleading of the House in relation to the requirements of the government's own Ministerial Code of Conduct.

Contempt

There are three elements to be proved in order to establish that a member has committed the contempt of deliberately misleading the House:

1. The statement must have been misleading;
2. The member making the statement must have known, at the time the statement was made, that it was incorrect; and
3. In making the statement, the member intended to mislead the House.

The Statement was misleading

This complaint revolves around the Premier's response to a question seeking information on the need for ministers to abide by the Ministerial Code of Conduct in relation to potential conflicts of interest.

In the two instances referred to above the Premier claimed that, as no decision on the question of contracts with Queensland Health came before Cabinet, there was no reason for the Minister for Health and Ambulance Services to make any declaration concerning a potential conflict of interest.

This is in direct conflict with the Ministerial Code of Conduct.

The issue of managing conflicts of interest is a significant section of the Code which states (see <https://www.premiers.qld.gov.au/publications/categories/policies-and-codes/handbooks/ministerial-handbook/appendices/appendix-1.aspx>):

Managing conflicts of interest

Ministers are personally responsible for managing and resolving real, perceived, and potential conflicts of interest (all referred to as conflicts of interest) in accordance with this Code.

Whether a personal interest of a Minister gives rise to a conflict that must be managed, involves an objective test of whether, in the circumstances, a fair and reasonable member of the community might perceive that the Minister would be unable to bring an impartial mind to a decision because of their personal interest and which might conflict with the proper performance of the Minister's duties.

It is not always easy to determine whether a personal interest gives rise to a conflict of interest that would require management action. Ministers are encouraged to seek the advice of the Integrity Commissioner and consider the examples at Attachment 2 and any guide developed by the Integrity Commissioner.

A Minister must notify the Premier about any conflict of interest with their ministerial responsibilities and the actions that will be implemented to manage the conflict.

A Conflict of Interest Management Plan (Attachment 3) must be prepared detailing the Minister's personal interest, why a conflict of interest may exist, and the proposed actions to manage the conflict, having regard to this Code and any guide developed by the Integrity Commissioner.

The Minister must obtain the Integrity Commissioner's advice on the actions proposed by the Minister to manage the conflict. Where required, the Minister may need to settle the actions required to respond to the conflict in consultation with the Integrity Commissioner.

The Conflict of Interest Management Plan must be provided to the Premier:

- *within one month of being sworn into office*
- *any time there is a change in the Minister's personal interests giving rise to a potential conflict or a new conflict of interest issue arises.*

The Premier will provide the Conflict of Interest Management Plan to the Director-General of the Department of the Premier and Cabinet to be recorded by the Director-General on a departmental register of interests. It is recommended that Ministers also advise their Directors-General and Chiefs of Staff about their conflicts of interests to assist with the management of their portfolio responsibilities.

The Minister must comply with the Conflict of Interest Management Plan.

These obligations arise irrespective of whether a matter comes before Cabinet. This part of the Code envisages precisely what has happened in this case – the actions of Queensland Health have drawn the Minister into a situation giving rise to a potential conflict of interest.

It should be noted that the Code then goes on to discuss what should occur if a matter comes before Cabinet.

The Code states:

A Minister also may become aware of a potential conflict between their personal interests and a matter proposed for consideration of Cabinet or a Cabinet committee.

Clearly, there are two sets of circumstances envisaged – firstly, one in which a conflict with ministerial responsibilities arises and, secondly, one in which the conflict arises as a result of Cabinet consideration.

The issue in this instance arises from the first set of circumstances where the relationship between the Minister for Health and Ambulance Services and a party contracting with Queensland Health gave rise to a potential conflict of interest. Ministerial obligations to accommodate this set of circumstances are clearly set out and are contrary to the Premier's claim.

The Premier's assertion that the Minister is not required to declare a conflict of interest is inaccurate and conflicts with the requirements of the Code of Conduct.

The member was aware that the statement was misleading

The Premier is responsible for the Ministerial Code of Conduct.

The Code states:

Any allegation that a Minister has breached this Code of Conduct is to be referred to the Premier.

It is up to the Premier to determine the appropriate sanction for a breach of the code, having regard to the nature and seriousness of the breach.

The Premier has a long record of asserting her government's commitment to the highest ethical standards and it is difficult to imagine a situation in which the Premier is unaware of her ministers' obligations to comply with the Code.

In her response to the question on 1 December 2022 the Premier reaffirmed her familiarity with Cabinet procedures:

I am happy to give the opposition a little lecture here today on how cabinet operates. I have been involved in cabinet decisions now for over a decade and chair of cabinet for over seven years, so I do have some experience to give to the member for Maroochydore about how cabinet operates. (Hansard, 1 December 2022, page 3835)

The set of circumstances relating to Queensland Health contracts is potentially embarrassing for the government as it appears the Minister for Health and Ambulance Services has not met her ministerial obligations. The Premier has sought to limit this embarrassment by contending no rules have been breached.

However, as the Code falls within the Premier's ministerial responsibilities it is difficult to draw any other conclusion than that she was aware her statement was misleading.

The member intended to mislead the House

As stated in McGee on Parliamentary Procedure, whether a member intended to mislead the House can be inferred from the formality of the circumstances.

The Premier was responding to a question without notice. Although she would not have had any warning of the contents of the question, she had sufficient time to consider her response. The fact that the matter was the subject of considerable media speculation would have given the Premier time to prepare for any possible questions and familiarise herself with the requirements of the Code.

There is no other possible explanation than that the Premier, an experienced minister and member of parliament, sought to minimise the government's embarrassment by denying any contravention of the Code.

Under these circumstances, it is reasonable to assume the Member intended to mislead the House as to the requirements of the Code.

I have attached a copy of an ABC report, dated 30 November 2022, describing the events surrounding this issue.

As a consequence of these circumstances I ask you to consider referring the member to the Ethics Committee.

Yours sincerely,

A handwritten signature in blue ink that reads "Fiona Simpson". The signature is written in a cursive, flowing style.

Fiona Simpson MP
Member for Maroochydore
Shadow Minister for Finance and Better Regulation
Shadow Minister for Integrity in Government



Health Minister Yvette D'Ath accepted free storage from businesswoman whose company was paid to host department vaccine hub

By Rory Callinan

Posted Wed 30 Nov 2022 at 5:48am, updated Wed 30 Nov 2022 at 5:45pm

"Temporary use of storage space – Marlene Newcombe."

It's one of the briefest of entries buried among the free football tickets, airline lounge memberships and other gifts that Queensland Health Minister Yvette D'Ath declared receiving on her register of interests last year.

But it highlights the relationship the minister has developed with the Newcombe family who operate car dealerships under the name Village Motors and other businesses around Ms D'Ath's Redcliffe electorate, north of Brisbane.

The minister has confirmed Ms Newcombe is a friend and told the ABC the storage was for furniture.

But she has declined to say where this storage occurred and over what time frame.

State parliament rules require gifts or benefits worth more than \$969.95 be declared on the register of interests within a month of their receipt.

Ms Newcombe, a successful local businesswoman who owns commercial sites around the Redcliffe region, did not respond to questions about the storage.

In June last year, Ms D'Ath gave an interview mentioning one of these properties – a partially vacant car dealership lot and office complex at 433 Elizabeth Street, Kippa-Ring.

The property is owned by Ms Newcombe through her private company Colbury Pty Ltd.

In the interview for local news website the Moreton Daily, which is published by Ms Newcombe's son Shane Newcombe, Ms D'Ath revealed the site would be used as a vaccination clinic by her department.

"I'm incredibly excited to see that we will have a community-based vaccination hub right here in our local community," she said in an online article on the Moreton Daily, which lists its contact address as being at the same Elizabeth Avenue location.

'Best available site on short notice'

Ms D'Ath did not answer questions about whether any of her furniture was ever stored at this location.

She told the ABC that she "had no involvement in any discussions, approvals or decisions in the selection of this site" for a vaccine clinic by the health department.

"This is not a ministerial decision and I have not made or received any representations from the department about this matter," she said.

"I was not aware that it was to be a vaccination site until it was established."

Ms D'Ath did not provide an answer to questions about whether the gift of storage at the same time gave rise to a perceived conflict of interest.

Her department repeatedly refused to release details of what it paid to Colbury Pty Ltd for use of the property for a vaccine clinic, citing commercial-in-confidence.

It also declined to reveal who negotiated the deal within the department's Metro North division.

But the ABC has found expenditure records on the Queensland government's open data portal that reveal tens of thousands of dollars of "lease" payments were made by the health department's Metro North division to Colbury and the dates they occurred in the last financial year.

According to the open data records, Ms D'Ath's department paid Colbury a total of about \$419,000 in the past financial year.

The first outlay in the last financial year for the lease was listed as having been paid to Colbury on August 9 last year in the form of three payments in the amounts of \$12,342, \$56,342 and \$34,100.

The open data portal shows the department then made regular payments to Colbury of about \$30,000 every month from September last year to April this year.

The department did not respond to questions as to why the three payments occurred on the same day.

A department spokesperson said the decision to lease the property was made based on "a number of factors that made it the best available site on short notice", noting the suburb was identified as a key area based on population needs and demographic.

The spokesperson said the site rent included electricity, water, air conditioning, waste disposal and car parking as well as COVID-19 cleaning daily.

The ABC does not suggest any wrongdoing by Ms Newcombe in relation to the vaccine clinic or providing storage to the minister.

On Wednesday after the matter was raised in parliament, Queensland Health director-general Shaun Drummond issued a statement saying he "could categorically confirm that all appropriate processes were followed" with the selection of the site.

"These are operational decisions made by officers of the Department of Health and Hospital and Health Services."

Mr Drummond said the minister had "no involvement" in the process.

"Community-based vaccination clinics were a key component in the vaccination program's success, making the COVID-19 vaccine available to Queenslanders closer to home," he said.

In parliament today, after being asked if the furniture was stored in the same complex as the vaccine clinic, Ms D'Ath said: "I have made it very clear that I have appropriately declared that I was offered storage by a friend who owns the site where the vaccination centre ended up being."

"I am calling on the ABC management to immediately retract this article which is based solely on smear and innuendo," Ms D'Ath said.

Ms D'Ath said the ABC article "alleged a conflict of interest where no conflict exists".

Premier Anastacia Palaszczuk told parliament she had been advised by the director-general that, "the minister has complied with the requirement to register it on her register of interests".

Ms Newcombe is listed as being the sole director of Colbury, according to Australian Security and Investment Commission records.

The sole shareholder of Colbury is another company, Newcombe Holdings Pty Ltd, which has Ms Newcombe's son Shane as one of its directors.

Shane Newcombe has previously told the ABC he was not involved in the deal with the health department.

The sole shareholder of Newcombe Holdings is Ms Newcombe.

Shane Newcombe and D'Ath thank each other

The open data portal records also reveal a residential address in the Redcliffe region as being the place listed for the health department to make payments to Colbury.

Property searches show this address is owned by Ms Newcombe. Another property next door is listed as being owned by her son Shane.

It is a street not unknown to the health minister.

Around April last year, real estate records show Ms D'Ath purchased a property in that street, about 400 metres down the road from Ms Newcombe's house.

Real estate records also show Ms D'Ath selling another residential property that she had owned for years, in about September last year.

That same month Ms D'Ath spoke in parliament about the old Village Motors site at Kippa-Ring which hosted the vaccine hub and praised Ms Newcombe's son Shane in the same speech.

On September 16, about seven days after declaring on her register receipt of free storage, Ms D'Ath rose in parliament to thank Shane Newcombe and a not-for-profit entity the Moreton Bay Region Industry and Tourism (MBRIT) that he runs.

"I put on my record my thanks to the Moreton Bay Region Industry and Tourism chief executive Shane Newcombe and the MBRIT team did an incredible job putting on festivals across the Moreton Bay region," she said.

In the same speech she also mentioned the vaccine hub at the old Village Motors site as being open as part of a blitz on vaccinations.

It is not unusual for Ms D'Ath to mention Mr Newcombe in parliament.

She has regularly thanked him for his work at MBRIT and in 2018, during a speech for the Births, Deaths and Marriages Registration Amendment Bill, she described him as a "dear friend" and noted she had attended his wedding.

MBRIT's offices are listed as being in the same complex at Kippa-Ring where the vaccine clinic was located.

Ms D'Ath has also praised Ms Newcombe in parliament in relation to business acumen and contribution to the Redcliffe community.

On March 10 last year, in a speech referencing "amazing female leaders in the Redcliffe community", Ms D'Ath told parliament Ms Newcombe was a successful local businesswoman and the managing director of Village Motors which "is extremely supportive of our local groups and the major sponsor of the Redcliffe Dolphins of course".

A day later, Shane Newcombe published his own shout-out to Ms D'Ath on his Facebook page referencing his mother's attendance, along with other women from the Redcliffe community, at the speech and an international women's event at parliament house, which included a tour from Ms D'Ath.

Posting a picture of his mother sitting in the speaker's chair in state parliament, he wrote the caption: "My mum being speaker of the house (love heart emoji) thanks Yvette D'Ath MP."

The ABC on Friday attempted to contact Ms Newcombe and Shane Newcombe about potential conflict of interest concerns in relation to the department's lease of the Kippa-Ring site.

At the time of publication they had not responded.



Your Ref:

Our Ref: 221215-OUT-Premier

15 December 2022

Hon Annastacia Palaszczuk MP
Premier and Minister for the Olympic and Paralympic Games

Email: thepremier@premiers.qld.gov.au

Dear Premier

I have received correspondence on 8 December 2022 from the Member for Maroochydore, raising a Matter of Privilege. The said matter concerns whether you have deliberately misled the House. A copy of this correspondence is attached.

Deliberately misleading the House is listed as an example of behaviour that the House may treat as a contempt (see *Standing Order 266 (2)*).

Standing Order 269 (5) provides that in considering whether such a matter should be referred to the Ethics Committee, the Speaker may request further information from the person the subject of the allegation. Accordingly, I am writing to you pursuant to that Standing Order.

Standing Order 269 (4) provides that in considering whether the matter should be referred to the Ethics Committee, the Speaker shall take account of the degree of importance of the matter which has been raised and whether an adequate apology or explanation has been made in respect of the matter.

I wish to stress that I have not yet formed a view as to whether this particular allegation should be referred to the Ethics Committee. However, as a matter of course, I remind all members who are the subject of such allegations of the long established convention that should a Member become aware they have inadvertently misled the House, they should, at the earliest opportunity, correct the record and apologise for their inadvertence.

Parliament House
George St Brisbane Queensland 4000 Australia

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Should you wish to provide me with further information to assist me in making a determination as to whether the matter should be referred to the Ethics Committee under *Standing Order 269* please provide your response by COB 20 January 2023.

In the meantime, should your office have any queries relating to this matter, they may be directed to my Executive Officer, George Hasanakos, by email to Speaker@parliament.qld.gov.au or on 07 3553 6700.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'C. Pitt'.

HON CURTIS PITT MP
Speaker of the Legislative Assembly

From: [Jim Murphy](#)
To: [Office of the Speaker](#)
Cc: [George Hasanakos](#); [Donna O'Donoghue](#)
Subject: Speakers correspondence
Date: 15 December
Thursday, 19 January 2023 5:00:26 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)

Mr Speaker

I refer to your letter of 15 December to the Premier concerning a matter of privilege raised by the member for Maroochydore.

Given that the Premier is currently on leave, I request that the period for response be extended to 27 January.

Yours sincerely

Jim Murphy

Jim Murphy

Chief-of-Staff

Office of the Hon. Anastacia Palaszczuk MP

Premier of Queensland

Minister for the Olympic and Paralympic Games

P 07 3719 7000

1 William Street Brisbane QLD 4000



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From: [Office of the Speaker](#)
To: [Jim Murphy](#)
Cc: [George Hasanakos](#); [Donna O'Donoghue](#)
Subject: RE: Speakers correspondence15 December
Date: Friday, 20 January 2023 9:00:00 AM
Attachments: [image004.png](#)
[image005.png](#)
[image006.png](#)
[image008.png](#)

Good morning Jim,

Mr Speaker has approved your request on behalf of the Premier.

An extension of time has been granted for provision of a response to COB Friday 27 January 2023.

Kind regards



George Hasanakos

Executive Officer
Office of the Speaker

Parliament House
George Street, Brisbane Qld 4000
Ph 07 3553 6700 | Fax 07 3553 6709
Speaker@parliament.qld.gov.au
www.parliament.qld.gov.au

From: Jim Murphy <Jim.Murphy@ministerial.qld.gov.au>
Sent: Thursday, 19 January 2023 5:00 PM
To: Office of the Speaker <Office.oftheSpeaker@parliament.qld.gov.au>
Cc: George Hasanakos <George.Hasanakos@parliament.qld.gov.au>; Donna O'Donoghue <donna.odonoghue@ministerial.qld.gov.au>
Subject: Speakers correspondence15 December

Mr Speaker

I refer to your letter of 15 December to the Premier concerning a matter of privilege raised by the member for Maroochydore.

Given that the Premier is currently on leave, I request that the period for response be extended to 27 January.

Yours sincerely

Jim Murphy

Jim Murphy

Chief-of-Staff

Office of the Hon. Anastacia Palaszczuk MP

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Premier of Queensland
Minister for the Olympic and Paralympic Games

24 January 2023



Brisbane 2032
Olympic and Paralympic
Games Host
Queensland



Hon Curtis Pitt MP
Speaker of the Legislative Assembly
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Email ThePremier@premiers.qld.gov.au
Website www.thepremier.qld.gov.au

Dear Mr Speaker,

I write in response to your letter dated 15 December 2022 concerning correspondence you received from the Member for Maroochydore, Miss Fiona Simpson MP, alleging I deliberately misled the Parliament. Thank you for your invitation to provide further information to assist you in deciding whether the matter warrants referral to the Ethics Committee.

I will respond to the Member for Maroochydore's arguments as they relate to each of the elements.

1. WAS THE MEMBER'S STATEMENT ACTUALLY MISLEADING?

The Member for Maroochydore correctly sets out the question she asked and my response:

Despite what the health minister said yesterday the Ministerial Code of Conduct says a minister must notify the Premier about any conflict of interest with their ministerial responsibilities and what action they will take to deal with it. When did the health minister notify the Premier about the storage conflict and did the minister provide the required conflict of interest management plan?

I responded (recorded at page 3834 of Hansard):

This did not come to cabinet because it was a decision of the department. ... If there is no decision made in cabinet, you do not have to declare a conflict.

The Premier continued at page 3835:

There we go: there was no conflict declared because it was not a decision of the cabinet.

My statement was made based on information provided to me by the Member for Redcliffe and by my Department.

What I was attempting to convey by my response provided to the Member for Maroochydore was that, as the decision regarding the vaccination hub was made by Queensland Health, with no reference to or involvement by Executive Government through the Minister for Health and Ambulance Services or Cabinet, there could be no conflict of interest, either real or perceived, and therefore no requirement to declare such a conflict could arise. You can't declare a conflict that doesn't exist.

The response to the question was made during a heated question time. I was answering off the cuff and, whilst on my feet in the Chamber, formulating an answer that as accurately as possible reflected the facts. Had I had the opportunity to answer in writing following more careful consideration, the wording might have been more succinct and comprehensive.

However, what I said was not incorrect. I was not saying that only matters which go to Cabinet are subject to the requirement to declare a conflict of interest, as the Member for Maroochydore appears to have interpreted my response. What I was trying to convey in a short, pithy response suitable for question time, was that because this was a purely operational matter for the Department, and was not at any time referred to executive government, the Minister could not have had a conflict and therefore there was no need to declare it.

There is inherent difficulty in answering a question where the question itself is misleading. The preamble to the Member for Maroochydore's question presupposes that the Minister had a conflict of interest that required a conflict of interest management plan. She asked

"When did the health minister notify the Premier about the storage conflict and did the minister provide the required conflict of interest management plan? (my emphasis)

The Member for Maroochydore has neither established that there was a 'storage conflict' nor that a conflict of interest management plan was 'required'. So my response was in respect of a question that had little meaning because it of itself was inherently misleading.

The Member for Maroochydore cites the Ministerial Code of Conduct (the Code), in particular the section on Managing Conflicts of Interest, which sets out the test for a conflict of interest.

'...whether, in the circumstances, a fair and reasonable member of the community might perceive that the Minister would be unable to bring an impartial mind to a decision because of their personal interest and which might conflict with the proper performance of the Minister's duties. (my emphasis)

The Minister did not make a decision, therefore there could be no conflict of interest.

The Code then goes on to set out when a conflict of interest management plan must be provided to the Premier. It states:

A Minister must notify the Premier about any conflict of interest with their ministerial responsibilities and the actions that will be implemented to manage the conflict.

If there is no conflict of interest, there can be no requirement to furnish a management plan.

The whole question is based on an erroneous premise.

In providing the answer I did, I was attempting to convey this; that there was no requirement as there was no conflict.

I therefore contend that my statement could not be regarded as misleading. My response may have been less fulsome than it should, and clumsily expressed, but it was not misleading.

I turn then to the second element.

2. WAS THE MEMBER AWARE AT THE TIME OF MAKING THE STATEMENT THAT IT WAS INCORRECT?

Let me state at the outset that when I made the statement in the House I believed it to be true. I still believe it to be true. Therefore it cannot be argued that I was aware at the time of making the statement that I was aware it was incorrect.

If, however, that is not accepted, the Member for Maroochydore's argument is that, as Premier, I am responsible for the administration of the Ministerial Code of Conduct, and must therefore be aware of its contents. I should therefore have been aware that the Minister was in breach of the Code.

However, whilst making the bald assertion that *'it appears the Minister for Health and Ambulance Services has not met her ministerial obligations'*, she fails to establish that there has been a breach of the Code.

The Member for Maroochydore has therefore failed to satisfy the second test.

3. DID THE MEMBER INTEND TO MISLEAD THE HOUSE?

Having failed to satisfy the first two tests, the third test is not applicable. However, if you are minded to find otherwise, and are satisfied the first two elements have been satisfied, it is my contention that the third element has not been satisfied.

I believed my response to be true when I made it.

In her letter to you, Mr Speaker, the Member for Maroochydore refers to McGee. She wrote,

'As stated in McGee on Parliamentary Procedure, whether a member intended to mislead the House can be inferred from the formality of the circumstances.'

This is a selective quote from McGee. A more comprehensive quote has been cited by various Ethics Committees in illustrating this point. As the Ethics Committee said in its Report No.168 - Matter of Privilege Referred by the Agriculture and Environment Committee on 20 April 2016 Relating to an Alleged Unauthorised Disclosure of Committee Proceedings and an Alleged Deliberate Misleading of a Committee,

“... there must be something in the nature of the incorrect statement that indicates an intention to mislead. Remarks made off the cuff in debate can rarely fall into this category, nor can matters about which the member can be aware only in an official capacity. But where the member can be assumed to have personal knowledge of the stated facts and made the statement in a situation of some formality (for example, by way of personal explanation), a presumption of an intention to mislead the House will more readily arise.

I couldn't imagine an instance where a statement could be more 'off the cuff' than in providing a response in question time. Further, these are matters of which I have no personal knowledge, and am relying on advice from others. Again, the Member for Maroochydore has been misleading by selectively quoting McGee, and not including the full nature of what he was trying to convey.

At all times I believed the information I provided to the House to be true. I still believe this to be the case. The Member for Maroochydore has failed to establish that my statement was factually incorrect. Further, she has failed in her attempt to prove that I was aware that the statement was incorrect, and that I made the incorrect statement with the intent of misleading the House.

It is my submission, Mr Speaker, that there is insufficient information in the Member for Maroochydore's complaint to warrant a referral to the Ethics Committee. Should you feel I am able to assist in any other manner please feel free to contact me.

Yours sincerely



**HON ANNASTACIA PALASZCZUK MP
PREMIER OF QUEENSLAND AND
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