

ETHICS COMMITTEE

REPORT NO. 154

MATTER OF PRIVILEGE REFERRED BY THE SPEAKER ON 16 OCTOBER 2014 RELATING TO AN ALLEGED DELIBERATE MISLEADING OF THE HOUSE BY THE THEN LEADER OF THE OPPOSITION

Introduction and background

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). The current committee was appointed by resolution of the Legislative Assembly on 27 March 2015.
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.
3. The matter in this report concerns an allegation by the then Minister for Education, Training and Employment, Mr John-Paul Langbroek MP (the Member for Surfers Paradise), that the then Leader of the Opposition, Hon Anastacia Palaszczuk MP (the Member for Inala) deliberately misled the House on 5 June 2014 in statements made during her budget reply speech.
4. In accordance with Standing Order 269, the Member for Surfers Paradise wrote to the former Speaker, the Member for Maroochydore, Hon Fiona Simpson MP (the former Speaker) on 17 June 2014 and asked her to refer the matter to the committee.
5. Standing Order 269(5) provides that, in relation to the procedures for raising and considering complaints, the Speaker may request information from the member the subject of the complaint. Accordingly, the former Speaker sought further information from the Member for Inala regarding the complaint. The former Speaker received a submission from the Member for Inala on 8 July 2014.
6. On 16 October 2014, after examining the information before her, the former Speaker referred the matter to the committee for its consideration.

¹ *Parliament of Queensland Act 2001*, section 104B.

7. The committee invited both parties to provide a supplementary submission to the committee. The committee received submissions from the Member for Inala and the Member for Surfers Paradise on 17 November 2014 and 4 December 2014, respectively.
8. On 6 January 2014, the Acting Governor dissolved, by Proclamation, the 54th Parliament of Queensland. The Ethics Committee of the 54th Parliament was also dissolved on this date.
9. The Ethics Committee of the 55th Parliament was established by the Legislative Assembly on 27 March 2015. On 23 April 2015, the Ethics Committee of the 55th Parliament resolved to continue the consideration of the Member for Surfers Paradise's allegation, in accordance with section 105 of the POQA.

The referral

10. Upon referring the matter to the committee, the former Speaker made the following statement in the House:

On 18 June 2014 I received a letter from the Minister for Education, Training and Employment about a matter of privilege relating to statements made by the Leader of the Opposition. The minister alleges that the Leader of the Opposition intentionally misled the House in her budget reply speech by referring to the last two state budgets and claiming that there have been 'massive budget cuts' in relation to Education and that there were 'teachers losing their jobs'. The minister disputes both assertions and provides evidence that the budget for Education has actually increased in the last two budgets and that no teacher has lost their job because of budget decisions made by the government.

I sought further information and in correspondence received on 8 July 2014 the Leader of the Opposition provided further information regarding her statements. In relation to the first issue of alleged budget cuts, the Leader of the Opposition accepts that the budget for Education has increased in total in the last two budgets but contends that the make-up of funding sources which constitute the total budget support her statement. As I have stated in previous rulings, the nature of political debate is that members engage in argument by discussing opposing viewpoints or different opinions, oftentimes using different statistics or methods of calculation. Of course, this does not preclude the question of whether, in using different methods of calculation, a member was deliberately misleading the House.

In relation to the second aspect of the complaint regarding 'teachers losing their jobs' because of the budgets, the Leader of the Opposition refers to various answers to questions on notice to support the statement made. The claim that teachers have lost their jobs through the budgets referred to is a very specific and serious claim. However, the information provided to me by the Leader of the Opposition does not necessarily support the statements made. If the assumption cannot reasonably be made from the material it leaves open the issue of intent.

I remind all members that, if a matter of privilege is raised regarding their statements, it would help if the member chose to provide in the House a clarification or apology at the earliest opportunity. It has been refreshing to see this occur in this session of parliament and I expect the hardworking members of the Ethics Committee probably find it equally refreshing.

Referral to the Ethics Committee should not be interpreted as a determination of guilt but on this matter, in the absence of sufficient explanation and with a prima facie matter to be investigated, this stands referred to the Ethics Committee.²

² Legislative Assembly of Queensland, *Parliamentary Debates (Hansard)*, 16 October 2014, p.3463.

The allegation

11. In his letter to the former Speaker, the Member for Surfers Paradise alleged that the Member for Inala deliberately misled the House on 5 June 2014 by stating that:

Let us recap some of the things we have seen from the previous two budgets: massive cuts to health and education funding; ...nurses and teachers losing their jobs....

12. The full extract of the relevant part of the Member for Inala's speech on 5 June 2014 is:

Unfortunately, the third budget of the Newman LNP government is like its two predecessors: a budget of broken promises and twisted priorities. Let us recap some of the things we have seen from the previous two budgets: massive cuts to health and education funding; mass sackings of up to 20,000 people; nurses and teachers losing their jobs; cuts to front-line health services delivered by community groups; cuts to funding for 500 not-for-profit groups in the community services sector alone; more than 400 positions abolished in our TAFE system; cuts totalling \$3 billion over four years in the health system; 4,000 job cuts in hospitals and other parts of our health system; jobs gone across our state in RoadTek, QBuild, Goprint, QFleet and other government business units; attacks on our public housing tenants; the scrapping of tenant advisory services; and who can forget the elderly residents forced to move out of Eventide and the Moreton Bay Aged Care Unit? Labor will never let Queensland forget their legacy.³

Definition of contempt

13. Section 37 of the POQA defines the meaning of 'contempt' of the Assembly as follows:

- (1) "Contempt" of the Assembly means a breach or disobedience of the powers, rights or immunities, or a contempt, of the Assembly or its members or committees.
- (2) Conduct, including words, is not contempt of the Assembly unless it amounts, or is intended or likely to amount, to an improper interference with—
 - (a) the free exercise by the Assembly or a committee of its authority or functions; or
 - (b) the free performance by a member of the member's duties as a member.

Nature of the contempt of deliberately misleading the House

14. The *Standing Rules and Orders of the Legislative Assembly: Effective from 31 August 2004* (the Standing Orders) provide that the Legislative Assembly may treat deliberately misleading the House or a committee (by way of submission, statement, evidence or petition) as a contempt.⁴
15. There are three elements to be established when it is alleged that a member has committed the contempt of deliberately misleading the House:
- firstly, the statement must, in fact, have been misleading;
 - secondly, it must be established that the member making the statement knew at the time the statement was made that it was incorrect; and

³ Legislative Assembly of Queensland, Parliamentary Debates (Hansard), 5 June 2014, p.2092.

⁴ Standing Order 266(2), Standing Rules and Orders of the Legislative Assembly, available at <http://www.parliament.qld.gov.au/work-of-assembly/procedures>

- thirdly, in making it, the member must have intended to mislead the House.⁵
16. The Ethics Committee of the 48th Parliament held that the term misleading is wider than 'false' or 'incorrect'. That committee considered it "...possible, although rare and unlikely, that a technically factually correct statement could also be misleading..." by, for example, the deliberate omission of relevant information.⁶
 17. The *Code of Ethical Standards: Legislative Assembly of Queensland* emphasises to members that "... misleading is a wider concept than making incorrect statements. A totally factually correct statement can still be misleading."⁷
 18. Previous ethics committees, and David McGee in *Parliamentary Practice in New Zealand*, have noted that the standard of proof demanded in cases of deliberately misleading parliament is a civil standard of proof on the balance of probabilities, but requiring proof of a very high order having regard to the serious nature of the allegations. Recklessness, whilst reprehensible in itself, falls short of the standard required to hold a member responsible for deliberately misleading the House.⁸

Establishing a prima facie case of possible contempt

19. The committee has established procedures for dealing with privileges references, which ensure procedural fairness and natural justice is afforded to all parties. These procedures are set out in Chapters 44 and 45 of the Standing Orders. The committee is also bound by the *Instructions to committees regarding witnesses* contained in Schedule 3 of the Standing Orders.
20. The committee found that it had sufficient material before it from all parties to deliberate on the matter. This material included both parties' correspondence to the former Speaker and supplementary submissions provided to the committee by the Member for Inala and the Member for Surfers Paradise.
21. The issues to be resolved in establishing whether the allegation, on the face of it, gives rise to a contempt are listed below.
 - Did the Member for Inala's statements contain any apparent or proven factually incorrect matter?
 - Were the Member for Inala's statements misleading?
 - (If yes), did the Member for Inala know at the time the statements were made that they were misleading, and was it the Member for Inala's intention to mislead the House?

Did the Member for Inala's statements contain any apparent or proven factually incorrect matter?

22. The committee considers that the Member for Inala's statements on 5 June 2014 can be separated into two parts: "massive cuts to ... education funding" and "teachers losing their jobs".

⁵ McGee, David, *Parliamentary Privilege in New Zealand*, Third Edition, Dunmore Publishing Ltd, Wellington, 2005, p.653-655.

⁶ Members' Ethics and Parliamentary Privileges Committee, *Alleged Misleading of the House by a Minister on 14 November 1996*, Report No. 4, Goprint, Brisbane, 1997, p.10.

⁷ Queensland Legislative Assembly, *Code of Ethical Standards: Legislative Assembly of Queensland*, Goprint, Brisbane, 2004, as amended 30 June 2006, 9 February 2009, 11 May 2009, p.25, available at <http://www.parliament.qld.gov.au/work-of-assembly/procedures>

⁸ McGee, David, *Parliamentary Privilege in New Zealand*, Third Edition, Dunmore Publishing Ltd, Wellington, 2005, p.654.

Members' Ethics and Parliamentary Privileges Committee, *Report on a Matter of Privilege – The Alleged Misleading of the House by a Minister on 20 October 1998*, Report No. 27, Goprint, Brisbane, 1999, p.2.

Statement about massive cuts to education funding

23. In his letter to the former Speaker, the Member for Surfers Paradise stated that:

My Department has advised that:

- *the 2012-13 School Education Budget was \$6,786.542m, an increase of 4.61% on 2011-12;*
- *the 2013-14 School Education Budget was \$7,042.368m, an increase of 3.77% on 2012-13; and*
- *the 2014-15 School Education budget is \$7,227.795m, an increase of 6.17%.*

All these figures are available in the Budget Service Delivery Statements.

24. In her initial submission to the former Speaker, the Member for Inala stated:

I referred in my speech to education funding 'from the previous two budgets', which referred to the 2012-13 budget and the 2013-14 budget. Further, I did not restrict this to School Education funding. The funding provided for education in Queensland comes from two sources: the Queensland Government and the Commonwealth Government. The cuts to education funding to which I referred in my budget reply speech related to the cuts in the Queensland Government funding.

The Queensland Government's contribution to the Department of Education budget in 2011-12 was \$6.066 Billion. In 2013-14, the period of the 'previous two budgets' referred to in my speech, the Queensland Government's contribution to the Department of Education budget was \$6.388 Billion.

There was a cumulative nominal increase of 5.3 % over those two years. However, Budget Paper 2 ~Budget Strategy and Outlook for 2014-15 states that inflation for 2012-13 was 2.4% and inflation for 2013-14 was 3.25%. Therefore, this was ultimately a cut in education funding in real terms of 0.4% once adjusted for the cumulative inflation rate of 5.7% over the same two financial years.

The statement that 'from the previous two budgets' we have seen 'massive cuts to ... education funding' is accurate and therefore cannot be misleading.

25. The Member for Inala provided a supplementary submission which also addressed this issue. The Member for Inala restated that her statement on 5 June 2014 referred to State Government education funding, while the Member for Surfers Paradise's figures referred to the School Education Budget, which includes State and Commonwealth funding. The Member for Inala also stated that:

... the reduction in funding in real terms, adjusted to have regard to the cumulative inflation rate of 5.7% was in fact 0.4%. Of a budget of \$6.388 billion, this amounts to a reduction of \$25,552,000. This is a massive cut by any definition.

26. The Member for Surfers Paradise, in his submission to the committee, stated that "there have not been cuts to education funding". The Member for Surfers Paradise stated that:

Not only did Queensland Government contributions increase in both the 2012-13 and 2013-14 Budgets, but these increases occurred despite a jump in federal government funding in 2013-14 (and again in 2014-15)

27. The Member for Surfers Paradise also stated that a "... 0.4 per cent differential could hardly be portrayed as representing a 'massive cut', as stated by the Member for Inala on 5 June 2014.

28. The committee, in examining the information before it, considered that the Member for Inala's statement that there have been "massive cuts to education funding" is factually incorrect,

because school education funding, as expressed in the Department for Education, Training and Employment's (the Department) Service Delivery Statements, has increased over the last three financial years.

29. In her submission to the committee, the Member for Inala sought to qualify her statement about massive cuts to education funding by stating that she was referring only to the State's contribution to education funding and that she had taken into account inflation.
30. The committee considers that it is not unreasonable to refer to the State's contribution to education funding during a budget reply speech and to take into account inflation when considering the budget's overall impact.
31. The committee notes, however, that the Member for Inala's statement in the House on 5 June 2014 did not include any qualifying statements or indication that she was referring only to State funding and to cuts in education in real terms, once inflation had been taken into account.
32. The committee also notes that the Member for Inala did not subsequently seek to clarify in the House the statements she made on 5 June 2014.

Statement about teachers losing their jobs

33. In his letter to the former Speaker, the Member for Surfers Paradise stated:

... no teacher has lost his or her job because of budget decisions made by the Newman Government. In fact, in every budget since coming to Government in 2012, more teachers have been employed to meet growing student numbers. Again these figures are available to Members in the Budget Service Delivery Statements.

34. The Member for Surfers Paradise, in his submission to the committee, stated that "The number of DETE staff is set out in the 2012-13, 2013-14 and 2014-15 DETE SDS, all of which show increases to the teaching workforce."

35. In her initial submission to the former Speaker, the Member for Inala stated:

Again, this was a statement in relation to the "previous two budgets", so I will restrict my comments to the 2012-13 and 2013-14 budgets. Again, the statement about "teachers losing their jobs" was a reference to all teachers employed by the Department, including TAFE teachers.

Prior to Estimates Hearings in 2012, the Minister provided responses to questions to the Education and Innovation Committee. In Non-Government Question 9, the Minister was asked to advise how many library services had had their staffing cut or reduced. In response, the Minister advised:

'The Library and Digital Resource Services team has been reduced by 8.4 permanent FTE and 5.9 temporary FTE with a budget reduction of \$0.683m.'

Some of those positions must necessarily have been Teacher/Librarian positions. Therefore, these are jobs which are allocated to teachers which have been lost.

Further, in response to Non-Government Question 10, the Minister was explicitly asked how many positions had been abolished since 26 March 2012. The Minister provided a table of the positions which had been 'separated' from the Department. There are a number of positions in the category of TCHT5, TCHT6, TCHT7, TCHT8, TCHT9, TCHTN3, TCHTN4, TCHTN5 and TCHTN6. The total of these positions is 52.01 FTEs. It is my understanding that all of these are teaching positions.

These Questions on Notice are available at

[http://www.parliament.qld.gov.au/documets/committees/EIC/20 12/Estimates2012/gr-QoNMinETE.pdf](http://www.parliament.qld.gov.au/documets/committees/EIC/20%2012/Estimates2012/gr-QoNMinETE.pdf)

Additionally, prior to the 2013 Estimates hearing, the Minister was asked in Question on Notice 10, to advise the total number of redundancies that had been offered and accepted since 26 March 2012, and of any planned or projected redundancies by TAFE for the 2013-14 financial year.

In response, the Minister advised that there had been a total of 349 redundancies accepted over the period 26 March 2012 to 28 June 2013. The Minister did not advise of any redundancies planned or projected for the 2013-14 financial year.

That Question on Notice is available at

<http://www.parliament.qld.gov.au/documents/committees/EIC/2013/Estimates2013/que-22Jul2013-DETE.pdf>

These responses by the Minister show that there was a reduction in the number of teachers employed by the Department.

Then, during the course of the latter part of 2013, there were media reports of further cuts to teaching staff in Queensland TAFEs. On 11 October 2013, the ABC reported that 35 TAFE teachers in Cairns, Townsville, Charters Towers and Mount Isa were set to lose their jobs by the end of the year. Details of that media report are available at <http://www.abc.net.au/news/2013-10-11/more-teachers-cut-from-qlds-regional-tafe-campuses/5016448>

Then, on 25 October 2013, in an article entitled 'About 50 jobs to go at Brisbane north TAFE' written by Rob Kidd and Brittany Vonow published in the Courier-Mail, it was revealed that 'Voluntary redundancies ha(d) been offered to around 40 administrative staff and 10 teachers at Brisbane North Institute of TAFE'. That media report is available at <http://www.couriermail.com.au/news/queensland/about-50-jobs-to-go-at-brisbane-north-tafe/story-finihsrf2-1226746301455>

Again, this is further evidence that, over the previous two years, teachers' jobs had been lost.

The Minister, in his letter to you, Madam Speaker, has merely said that 'no teacher has lost his or her job because of budget decisions made by the Newman Government'. I did not make any allegation about any particular teacher losing his or her job.

My statement was in relation to teachers collectively losing their jobs. Teachers' jobs have definitely been lost to the teaching sector within the Department of Education, Training and Employment as illustrated by the Minister's own responses to Questions on Notice for Estimates.

Therefore, it is my submission to you, Madam Speaker, that my statements were accurate and could not therefore be misleading.

36. In her supplementary submission to the committee, the Member for Inala referred to the 2013-14 Annual Report of the Department which she states demonstrates that "879 people who were employed in the Department at 1 July 2013 were no longer employed by the Department by 30 June 2014". The Member for Inala contends that "There must, necessarily, be some of those persons who are teachers".
37. The Member for Inala also referred to the Department's 2012-13 Annual Report which she states shows that:

967 people employed in the Department at 1 July 2012 were no longer employed in the Department at 30 June 2013. Necessarily, some of these must have been teachers. Additionally, 513 primary teachers received grants under the voluntary Primary Teacher Career Change Program. One of the conditions for eligibility for this program was that applicants:

Must undertake not to seek further employment with Queensland Department of Education, Training and Employment as a teacher or in a school.

38. The Member for Inala questioned the Member for Surfers Paradise's comments in his submission to the former Speaker that "more teachers have been employed to meet growing student numbers" and that "these figures are available to Members in the Budget Service Delivery Statements."
39. The Member for Inala stated that it appears that the Member for Surfers Paradise is referring exclusively to staffing numbers in school education, while her statement was in relation to all teachers, including TAFE teachers.
40. The Member for Inala stated, in her submission to the committee, that:
- the Department's Service Delivery Statement for 2013-14 shows "a reduction in total staff numbers from 65,897 as the adjusted number from 2013-14, to a figure of 61,388 in 2014-15"; and
 - the Department's Service Delivery Statements for 2011-12 and 2012-13 show "that the number of total staff in school education fell from 59,188 in 2011-12 to 58,761 in 2012-13.
41. In his submission to the committee, the Member for Surfers Paradise stated that the Member for Inala has "selectively chosen from a number of documents, including responses taken out of context from responses to Budget Estimates Questions on Notice, and speculative and out-of-date media articles."
42. The committee notes that the Member for Inala has provided a significant amount of information to support her statement that "teachers are losing their jobs". The committee considers, however, that the conclusions drawn from the Member for Inala's evidence rely on a series of assumptions including that:
- some of the "abolished" positions must necessarily have been teachers/library positions;
 - the teacher positions that were abolished were filled at the time as opposed to vacant positions; and
 - redundancies in the Department involved teachers.
43. In addition, the Member for Inala argued that her statement that "teachers are losing their jobs" was based on media reports that TAFE teachers were set to lose their jobs and that voluntary redundancies were offered to 10 TAFE teachers.
44. If these media reports were accurate, then it is arguable that the Member for Inala's statement that "teachers are losing their jobs" is technically correct.
45. The committee raises concerns; however, about members making statements in the House based solely on media reports. The committee also notes that David McGee in *Parliamentary Practice in New Zealand*, stated that it is possible for technically correct information to be misleading.

Were any of the Member for Inala's statements misleading?

Statement about massive cuts to education funding

46. The committee considered that a reasonable person, in the context of the budget reply speech, may have taken the Member for Inala's statement about massive cuts to education funding to be referring to an overall Queensland State budget position on school education funding, and in that sense, without the benefit of the Member for Inala's later contextual statements referred to above, may have been misled by the Member for Inala's statement.

47. Accordingly, based on the information before it, on the balance of probabilities, the committee considers that element one has been established in relation to the Member for Inala's statement about massive cuts to education funding.

Statement about teachers losing their jobs

48. The committee considered that a reasonable person when hearing the Member for Inala's statement that "teachers are losing their jobs", in the context of the budget reply speech, may associate the statement with State primary and secondary teachers, as opposed to tertiary level teachers and, therefore without the benefit of the Member's later contextual statements referred to above, may have been misled by the Member for Inala's statement.
49. In reaching this view, the committee also noted that the Member for Inala appeared to address the issue of job losses at the tertiary level separately in her statement on 5 June 2014 when referring to "more than 400 positions abolished in our TAFE system".
50. Accordingly, based on the information before it, on the balance of probabilities, the committee considers that element one has been established in relation to the Member for Inala's statement about teachers losing their jobs.

If yes, did the Member for Inala know at the time the statement was made that it was misleading and was it the Member for Inala's intention to mislead the House?

51. The Member for Surfers Paradise, in his submission to the committee, stated that:

The Opposition Leader clearly wished to make the relevant statement as a means of creating a negative perception of the 2014-15 Budget, despite knowing that the relevant facts provided no support for the claims that she made.

Statement about massive cuts to education funding

52. In her submission to the committee, the Member for Inala asserted that her statement about massive cuts to education funding was made, in her understanding, in relation to reductions to the State's contribution to education funding and "cuts" in real terms once inflation had been taken into account, rather than overall School Education Budget figures in the Budget Service Delivery Statements.
53. As mentioned above, previous ethics committees, and David McGee, have noted that the standard of proof demanded in cases of deliberately misleading Parliament is a civil standard of proof on the balance of probabilities, but requiring proof of a very high order having regard to the serious nature of the allegations.
54. The committee found no evidence to support a finding that the Member for Inala knew at the time of making her statement about massive cuts to education funding that it was misleading.
55. On the material before it, the committee finds that the Member for Inala lacked the required "knowledge" of the statement being incorrect, in order to meet the second element.

Statement about teachers losing their jobs

56. In his letter to the former Speaker, the Member for Surfers Paradise stated:

Madam Speaker, I submit that the Member for Inala knowingly misled the House, as she was in the Chamber when I rose on another Matter of Privilege on Wednesday, 7 August 2013, at 14:01 to inform the House that:

Last evening, in a speech beginning at 6:15pm, the member for South Brisbane made a number of statements that ranged from offensive to factually incorrect. These included the claim that the Newman government has sacked teachers. This government has not sacked any teachers.

As the statement made by the Member for Inala on Thursday, 5 June 2014, is untrue, and she had been previously made aware of the false nature of the allegations of teachers losing their jobs, it could be construed as deliberately misleading the Parliament.

57. The Member for Inala, in her submission to the former Speaker, stated:

Minister Langbroek has argued that I must have knowingly misled the House because I was present in the chamber when he rose on a matter of privilege on 7 August 2013 in relation to a statement made by the member for South Brisbane to the effect that 'the Newman Government has sacked teachers'. The Minister said on that occasion that '(t)his government has not sacked any teachers'

It was not my allegation that the Newman Government had 'sacked' any teachers. The statement I made in my budget reply speech was about 'teachers losing their jobs'. As I have shown in relation to the previous element, there are jobs of teachers that have been lost under the Newman Government.

The loss of Teacher / Librarian positions and TAFE teacher positions under the Newman Government is evident from the Ministers own responses, and I believed, at the time that I made the statement, that the statement was true based on the Minister's own figures.

58. The Member for Inala's supplementary submission states that this matter has similarities with the Ethics Committee's Report No. 152 and quoted the following extracts:

On the material before the committee, the committee finds that both the Member for Southport and the Leader of the Opposition are relying on different methods of calculating figures for job losses and accordingly, the Leader of the Opposition lacked the required "knowledge" of the statement being incorrect, in order to meet the second element.

and

The committee noted that the Member for Southport does not provide any additional evidence that the Leader of the Opposition intended to mislead the House on 5 June 2014 beyond his assertion that the Leader of the Opposition knew at the time that her statement was incorrect.⁹

59. While the committee accepts that this matter has some similarities to the matter considered in Report No. 152, it considers that there are a number of differences. Most significantly, the matter considered in Report No. 152 involved a difference of opinion about the method for calculating job losses, while this matter requires a judgement about what constitutes a job loss and whether any have occurred in the teaching sector under the former Government.

60. In his submission to the committee, the Member for Surfers Paradise stated "For the Opposition Leader to claim that she was merely making an observation in respect of these job losses is entirely spurious." The Member for Surfers Paradise stated that:

... the clear implication that the Opposition Leader was making, and was inviting others to draw, was that separations that occur as a matter of course in the DETE workforce were a result of 'massive cuts' to education in the 2012-13 and 2013-14 Budgets.

61. The Member for Surfers Paradise also stated that:

... the loose collection of sources on which the Opposition Leader now claims her statement was based does not constitute a sufficiently rigorous foundation for any Member to make a statement to the House and be confident that it was not incorrect. The Opposition Leader's ex post facto provision of a range of fractious sources demonstrates that she knew at the time that statement she was making was incorrect.

⁹ Ethics Committee, Report No. 152 – Matter of privilege referred by the Speaker on 28 August 2014 relating to an alleged deliberate misleading of the House by the Leader of the Opposition, tabled 30 October 2014, p.6.

62. The committee considers that while the understanding the Member for Inala had, at the time she made her statements, may have been based on unproven assumptions, there is insufficient evidence before the committee to support a finding that the Member for Inala knew at the time of making the statement that it was misleading.
63. The committee found that it is arguable that the Member for Inala's statement, being based on unproven assumptions, had an element of recklessness to it. However, as mentioned by David McGee, recklessness, while reprehensible in itself, falls short of the standard required to hold a member responsible for deliberately misleading the House.
64. Accordingly, the committee found that there is insufficient evidence before it to find that element two is established in relation to the Member for Inala's statement about teachers losing their jobs.
65. In relation to the third element, the Member for Inala stated:
- ... my intention in making the statement was to respond to the Treasurer's Budget, and to advise the house, and the people of Queensland, what effect the budget will have on the funding provided for various sectors within the Queensland government, as well as the economy of Queensland more generally.*
- I believed the statements to be true, and had reasonable grounds for so believing. It is my continued assertion that the statements I made were not factually untrue or misleading, and that I did not believe them to be misleading. However, if this is not accepted, I give my assurance to you, Madam Speaker, that it certainly was not my intention to mislead the House.*
66. In his submission to the committee, the Member for Surfers Paradise stated that "it is entirely reasonable to expect that the Opposition Leader understands the importance of ensuring that statements she makes in the House are correct". The Member for Surfers Paradise stated that the "... Opposition Leader deliberately disregarded the imperative to provide accurate information to the House in order to pursue a blatant political strategy of discrediting the Newman Government."
67. As stated in paragraph 63, the committee considers it is arguable that the Member for Inala's statements had an element of recklessness about them. However, on the face of the information before it, the committee finds that there is insufficient evidence to satisfy the third element in relation to a deliberate misleading of the House by the Member for Inala.

Accuracy and clarity of statements

68. The committee considers that the fact that the Member for Inala has, in her submissions, felt the need to explain her statements (i.e. budget "cuts" referred to State contributions and in real terms and teachers refers to teacher/library positions and TAFE teachers) suggests that her statement in the House on 5 June 2014 lacked clarity which, in turn, led to some confusion.
69. In fact, the committee considers that if the statements made by the Member for Inala had been qualified in the above manner, then it is unlikely that this matter would have been referred to the committee.
70. The Members' Ethics and Parliamentary Privileges Committee (MEPPC) commented on the duty of members to ensure that the information they provide to the House is accurate and clear.
71. In its Reports No. 97 and 100, the MEPPC recommended that members correct the parliamentary record by making a statement in the House clarifying their earlier statements. The committee also reminded all members of the duty to ensure that their statements are accurate and clear.

Conclusions

72. On the information before the committee, it finds that:
- without the benefit of the Member for Inala's later contextual statements referred to above, the Member for Inala's statements contained factually and apparently incorrect matter, and in that context a reasonable person may have been misled by her statements on 5 June 2014;
 - while there is evidence that the Member for Inala's statements had an element of recklessness to them, there is insufficient evidence to establish that, at the relevant time, the Member for Inala knew that her statements could have been misleading; and
 - there is insufficient evidence to indicate that the Member for Inala intended to mislead the House.
73. Accordingly, the committee finds that there is no breach of privilege or contempt in this matter.
74. The committee echoes the sentiments of its predecessor committees, specifically the MEPPC in its Report No. 35:
- ... deliberately misleading the House is a very serious contempt. If the Assembly cannot rely on members' statements in the House, the whole system of responsible democracy is at risk. To deliberately mislead the House is akin to perjury in a judicial proceeding. In both cases, the function of the organ of government is undermined.¹⁰*
75. The Ethics Committee, in its Report No. 119 found recklessness in making unqualified statements deeply concerning.
76. Although recklessness falls short of the standard required to hold a member responsible for deliberately misleading the House, the committee considers that recklessness resulting in incorrect or misleading statements to the House is a serious matter.
77. This committee re-iterates the resolve of its predecessor committees to hold members to a high standard of behaviour. The committee considers that the preservation of high standards of behaviour is essential for protecting the institution of Parliament and its members.
78. The committee strongly reminds all members of the privilege afforded to members in making statements in the House. This privilege needs to be balanced with the responsibility of members to ensure the accuracy and clarity of their statements in the House to avoid making potentially misleading statements.
79. Given the potential for the Member for Inala's statements regarding massive cuts to education funding and teachers losing their jobs during the last Parliamentary term to have misled the House, the committee recommends that the Member for Inala make a brief statement in the House, at the next possible opportunity, to re-iterate the clarifying statements that she provided to the former committee.

¹⁰ Members' Ethics and Parliamentary Privileges Committee, *Report No. 35 – Report on a matter of privilege: A member making a deliberately misleading statement in a 'dissenting report'*, tabled 15 September 1999, at paragraph 10.

Conclusion 1

On the information before it, without the benefit of the Member for Inala's later contextual statements referred to in this Report, the committee finds that the Member for Inala's statements contained factually and apparently incorrect matter and in that context a reasonable person may have been misled by her statements on 5 June 2014.

Conclusion 2

On the information before the committee, there is insufficient evidence to indicate that the Member for Inala intended to mislead the House.

Recommendation 1

The committee recommends that the House take no further action in relation to the matter.

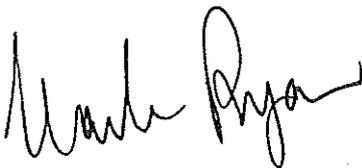
Recommendation 2

The committee recommends that the Member for Inala make a brief statement, at the next possible opportunity, to reiterate the clarifying statements that she made to the former committee.

Committee comments

The committee strongly reminds all members of the privilege afforded to members in making statements in the House. This privilege needs to be balanced with the responsibility of members to refrain from acting recklessly by making unqualified statements.

The committee also reminds all members of their duty to ensure that their statements in the House are accurate and clear.



Mark Ryan MP
Chair

78 May 2015

Membership — 55th Parliament

Mr Mark Ryan MP, Chair
Member for Morayfield

Mr Glen Elmes MP, Deputy Chair
Member for Noosa

Ms Nikki Boyd MP
Member for Pine Rivers

Mr Jim Madden MP
Member for Ipswich West

Mr Matt McEachan MP
Member for Redlands

Dr Mark Robinson MP
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