



ETHICS COMMITTEE

Report No. 177

Report on a Right of Reply No. 32

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. Dr Ross Cartmill originally wrote to the Speaker on 26 June 2015 (55th Parliament) to seek a citizen's right of reply on behalf of visiting medical officers (VMOs) to a statement made by the Member for Bundamba, Mrs Jo-Ann Miller MP (Member for Bundamba) on 20 August 2013 (54th Parliament).

7. Dr Cartmill was advised that as the comments were made during the previous Parliament, the Standing Orders did not provide an opportunity for a citizen's right of reply.
8. Following the amendment to Standing Order 280(3) to the time period in which a person can seek a citizen's right of reply to within four years of the statement being made, Dr Cartmill wrote again to Mr Speaker on 4 July 2017 seeking a citizen's right of reply to the same statement.
9. On 10 July 2017, the Speaker referred Dr Cartmill's request for a citizen's right of reply to the committee for consideration.

Committee's consideration of the meaning of 'corporation'

10. Standing Order 279 provides that a reference to a "person" in Chapter 46 of the Standing Orders includes a corporation. The term "corporation" in Standing Order 279 is not defined. The Macquarie Dictionary online's definition of "corporation" includes:
 - a) a type of organisation, created by law, having a continuous existence irrespective of that of its members, and powers and liabilities distinct from those of its members; and
 - b) any group of persons united, or regarded as united, in one body.¹
11. The committee considered whether VMOs as a collective could be considered to be 'united, or regarded as united, as one body'
12. The committee noted a precedent for the committee to allow bodies such as the Queensland Community Housing Coalition (in 2008) and the Gold Coast Hospital and Health Board (in 2014) to be granted a Citizen's Right of Reply.
13. In keeping with the precedent of taking a broad interpretation of the term 'corporation', the committee considered that VMOs as a group could be regarded as united as one body, and therefore fit within the meaning of corporation under Standing Order 279. The committee also considered that Dr Cartmill was in a position to represent that group as he was a signatory (on behalf of VMOs) to the non-certified industrial agreement under which they worked as a distinct group of employees, and was therefore eligible to make a submission, on behalf of VMOs, for a citizen's right of reply.

Committee's Inquiry

14. The committee met in private session to consider 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.
15. The committee corresponded with Dr Cartmill and negotiated a response in the context of the Standing Orders. On 21 September 2017, Dr Cartmill responded by agreeing to the proposed response.

¹ Macquarie Dictionary Online, Corporation, accessed on 20 March 2014 from http://www.macquariedictionary.com.au/features/word/search/?word=corporation&search_word_type=Dictionary

16. In accordance with Standing Order 282(5), the committee did not consider or judge the truth of any statements made by the Member for Bundamba, or the truth of the statements made by Dr Cartmill on behalf of VMOs in response.
17. The committee 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.



Mr Don Brown MP
Chair

October 2017

Membership — 55th 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

Secretariat

Mr Michael Ries, *Committee Secretary*
Ms Melissa Salisbury, *Assistant Committee Secretary*
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**RESPONSE BY DR ROSS CARTMILL, ON BEHALF OF VISITING MEDICAL OFFICERS,
TO A STATEMENT MADE BY THE MEMBER FOR BUNDAMBA, MRS JO-ANN MILLER
MP, ON 20 AUGUST 2013**

On 20 August 2013, the Member for Bundamba, Mrs Jo-Ann Miller MP, made the following statement in the Queensland Parliament:

I take that interjection by the Minister for Health in relation to Tahitian princes. What the minister has is Tahitian doctors ripping off the system in the form of VMOs. We have a situation whereby VMOs have been ripping the guts out of the health system to the tune of hundreds of millions of dollars and the minister is going to let them off the hook. What we have here is white-collar crime. If the VMOs have been ripping off the system, which we understand they have— to the tune of I think \$840 million— because some of these VMOs just happen to be members of the Liberal National Party they will get a get-out-of-jail-free card.

The Hansard record offers no evidence to support this attack on the integrity and professionalism of Visiting Medical Officers (VMOs). A subsequent report from the Auditor General offered no criticism of VMOs. Despite the lack of substance in the criticism, no parliamentary apology to VMOs has ever been offered.

As well as the lack of supportive facts, the severity of the criticism needs to be addressed. I consider any reasonable person would agree the offending criticism of VMOs constitutes a very severe, unjust and unwarranted assessment of the professionalism and loyalty of a group of public hospital medical employees.

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.

EXTRACT OF MINUTES

DR ROSS CARTMILL REQUEST FOR A
CITIZEN'S RIGHT OF REPLY

Objective ID: A141775

Ethics Committee

Meeting No. 16

Thursday, 10 August 2017, 1:00 PM

Committee Room 1, Parliamentary Annexe

Present	Mr Don Brown MP Mr Craig Crawford MP Mr Linus Power MP Mr Jeff Seeney MP Ms Fiona Simpson MP (arrived 1:03 PM) Mr Trevor Watts MP (arrived 1.05 PM)
Apologies	Nil
In attendance	Mr Michael Ries, Committee Secretary Ms Melissa Salisbury, Assistant Committee Secretary

1. Welcome and apologies

The meeting commenced at 1:00 PM, there were no apologies.

2. Citizen's Right of Replies

2.1 Briefing Paper No. 74

Mr Seeney submitted that Dr Cartmill be given the opportunity to make a Citizen's Right of Reply on behalf of Visiting Medical Officers (VMOs). Mr Seeney stated that Ethics Committees of the past have taken a broad view of granting rights of reply, and referred to Dr Cartmill's previous advocacy around the right to make a reply and his approaches to Mr Speaker and the CLA on these issues.

The Committee Secretary advised that previous Ethics Committees have tended towards the broadest interpretation of 'corporation' in order to be as inclusive as possible in granting rights of reply. However, VMOs being a somewhat loose association of people, was potentially extending this interpretation to its limits.

Resolved

That the committee:

- a) consider the submission from Dr Cartmill in relation to Standing Order 280, citizen's right of reply; and;

- b) endorse a letter be prepared setting out the criteria for a citizen's right of reply and suggesting the wording of a response to be incorporated into the Record of Proceedings, to be settled by the Chair and Deputy Chair.

Moved: Ms Simpson

Seconded: Mr Power

Close The meeting closed at 1:17PM

Certified correct on the 24th day of August 2017



Don Brown MP

Chair