



ETHICS COMMITTEE

Report No. 183

Report on a Right of Reply No. 35

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 Geoff Murphy wrote to Mr Speaker on 12 November 2018 to seek a citizen's right of reply to statements made in the House by the Members for Burleigh and Kawana and the Minister for Housing and Public Works.
7. On 13 November 2018, the Speaker referred Mr Murphy's request for a citizen's right of reply to the committee for consideration.

Committee's Inquiry

8. The Ethics Committee of the 56th Parliament met in private session to consider the submission from Mr Murphy 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 Murphy and negotiated a response in the context of the Standing Orders. On 18 December 2018, Mr Murphy responded by agreeing to the proposed response.
10. In accordance with Standing Order 282(5), the Ethics Committee of the 56th Parliament did not consider or judge the truth of any statements made in the words of the Members for Burleigh and Kawana and the Minister for Housing and Public Works, or the truth of the statements made by Mr Murphy in response.
11. The Ethics Committee of the 56th 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

February 2019

Membership — 56th Parliament

Mr Joe Kelly MP, Chair
Member for Greenslopes

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

Ms Melissa McMahon MP¹
Member for Macalister

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¹ The Member for Macalister was appointed to the committee under Standing Order Standing Order 272 as a substitute member of the Committee.

RESPONSE BY MR GEOFF MURPHY TO STATEMENTS MADE IN THE HOUSE BY THE MEMBER FOR BURLEIGH, MR MICHAEL HART MP, THE MEMBER FOR KAWANA, MR JARROD BLEIJIE MP AND THE MINISTER FOR HOUSING AND PUBLIC WORKS, HON MICK DE BRENNI MP ON 30 OCTOBER AND 1 NOVEMBER 2018

On 30 October 2018, the Member for Burleigh made a statement relating to actions and conduct of JM Kelly Builders.

I, Geoff Murphy established and was the General Manager of JM Kelly Builders Pty Ltd and JM Kelly (Project Builders) Pty Ltd (JMK PB) until June 2016. JM Kelly Builders Pty Ltd (JMK) was a separate business within the JM Kelly Group, which commenced trading in 1961 and undertook construction work. JMK PB was a separate entity within the JM Kelly Group which also undertook construction work and which commenced trading in 1981. In June 2016 I was the Director and QBCC licensee of both of these companies.

I reject all aspersions or imputations that I have in anyway acted illegally or improperly in respect of the allegations made by the Member for Burleigh, the Member for Kawana and the Minister for Housing and Public Works.

The reason JMK went into liquidation is because of the pursuit of John Murphy by the Queensland Building and Construction Commission (QBCC) and the Department of Housing and Public Works' Building and Asset Services (BAS). This arose from a dispute with a Sydney based developer in 2005, relating to the construction of a development at Burleigh Heads.

On advice, I decided to liquidate JMK (Project Builders) Pty Ltd in June 2016. At that time JMK Project Builders was undertaking three contracts. The purported debt relating to the development at Burleigh Heads left the companies with liabilities and having just spent significant costs on legal action I decided to protect the remaining businesses, employees, subcontractors and other contracts being constructed by JMK at that time. All employee entitlements and three remaining contracts held by JMK PB were transferred to JMK. Instead of liquidating employee entitlements and subcontractors and suppliers debts, I took the decision to honour those and JMK paid all debts owing on those three contracts. For any other debts owed by JMK PB, I set out to agree on a schedule of payments for JMK to make to subcontractors and suppliers for any other contracts that had reached practical completion before June 2016.

The liquidated companies referred to were not 'phoenixed'.

In addition, for two years prior to June 2016, JMK PB was being propped up by our other companies, meaning that we were investing our profits back into that business.

Arising out of the JMK PB liquidation in 2016, we encountered subcontractors that asserted they had debts owed to them by JMK PB when in fact they did not. Similarly we had subcontractors that asserted that contracts had been novated when they were not. Most of the subcontractors of JMK PB agreed to a schedule of payments from JMK for those contracts that had been completed in June 2016 and JMK made payments accordingly.

Subsequent to the liquidation of JMK PB some of the subcontractors have met with the Minister for Housing and Public Works and lodged complaints against JMK arising out of the liquidation. The Minister for Housing and Public Works has refused to meet with me.

I handed in my QBCC licence in June 2016 as required by law when I liquidated JMK PB. That meant my son, John Murphy, a QBCC licence holder took over my position. Prior to June 2016 I was the sole decision maker in the JMK Group. At that time, QBCC agreed that John Murphy was not regarded as an excluded individual arising out of the liquidation of JMK PB but QBCC altered its position and issued notices of reasons for proposed cancellation of QBCC licences against John Murphy and JMK. JMK filed review applications in QCAT to have those notices set aside, which allowed JMK to continue operating until a decision was made.

In October 2018 it was ruled that John Murphy was not an excluded individual and set aside the QBCC notices.

In relation to the statement made by the Minister for Housing and Public Works, I believe it could be interpreted that the answer to the Question Without Notice would form the view that JMK had failed to meet the QBCC financial standard. At no time have the JMK companies ever failed a QBCC Minimum Financial Requirement. JMK was able to satisfy the standards required by using personal assets and financial resources to back the company.

I believe that the Minister for Housing and Public Works issued an instruction to the Department not to provide JMK with work and that this was a contributing factor to the liquidation.

I have known Robert Schwarten for most of his life. We have been friends. I supported his campaigns but I have never offered him money. I have only ever donated to his campaigns via the Labor party.

I do not consider myself a sole Labor party supporter. I have donated to the Australian Labor party and I have been involved in LNP fundraising activities.

I have never been asked for a favour by Robert Schwarten, nor have I offered one. I was not responsible for painting his residence. I was not reimbursed by way of government funding.

With regard to the claim made by the Member for Kawana that preference has been granted to me in awarding contracts, the company received a fair proportion of work but no more than our competitors. I reject this assertion entirely and have never sought to influence the awarding of any contract.

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.

EXTRACT OF MINUTES

MR GEOFF MURPHY

REQUEST FOR A CITIZEN'S RIGHT OF REPLY



Objective ID: A399170

Ethics Committee

Meeting No. 13A

Thursday 6 December 2018, 12:00PM

Committee Room 1, Parliamentary Annexe and via teleconference

Present

Mr Joe Kelly MP, Chair
Mr Tim Nicholls MP, Deputy Chair
Ms Leanne Linard MP
Mr Mark McArdle MP
Ms Melissa McMahon MP (SO 272)
Mr Ray Stevens MP

Apologies

Ms Nikki Boyd MP

In attendance

Ms Bernice Watson, Committee Secretary
Ms Ciara Furlong, Assistant Committee Secretary

1. Welcome and apologies

The meeting commenced at 12:00pm.

2. Citizens Right of Replies

Discussion ensued.

Resolved

That the committee agree to write to Hon Robert Swarten, Mr Geoff Murphy and Mr John Murphy in the terms of the draft letters provided.

Moved: Mr Kelly Seconded: Mr McArdle

Close **The meeting closed at 12:16PM**

Certified correct on the 14th day of February 2019

A handwritten signature in black ink that reads "Joe Kelly".

Joe Kelly MP

Chair

EXTRACT OF MINUTES

MR GEOFF MURPHY

REQUEST FOR A CITIZEN'S RIGHT OF REPLY



Objective ID: A418808

Ethics Committee

Meeting No. 15A

Thursday, 14 February 2019, 1:12PM

Present

- Mr Joe Kelly MP, Chair
- Mr Tim Nicholls MP, Deputy Chair
- Ms Nikki Boyd MP
- Ms Leanne Linard MP
- Mr Mark McArdle MP
- Mr Ray Stevens MP

Apologies Nil

In attendance

- Ms Bernice Watson, Committee Secretary
- Ms Ciara Furlong, Assistant Committee Secretary

1. Welcome and apologies

The meeting commenced at 1:12pm.

2. Citizen's Right of Reply (Geoff Murphy)

Resolved

That the committee adopts the report as drafted and authorises its tabling.

Moved: Mr Kelly Seconded: Mr Nicholls

Close **The meeting closed at 1:32PM**

Certified correct on the 28th day of February 2019

Handwritten signature of Joe Kelly in black ink.

Joe Kelly MP

Chair