

**ETHICS COMMITTEE****REPORT NO. 188****REPORT ON A RIGHT OF REPLY NO. 37*****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. Hon Robert Swarten wrote to Mr Speaker on 12 November 2018 to seek a citizen's right of reply to statements made in the House by the Member for Burleigh and the Member for Kawana.
7. On 13 November 2018, the Speaker referred Hon Swarten'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 Hon Swarten 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 Hon Swarten and negotiated a response in the context of the Standing Orders. On 28 April 2019, Hon Swarten 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 Member for Burleigh or the Member for Kawana, or the truth of the statements made by Hon Swarten 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

May 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

Mrs Melissa McMahon MP¹
Member for Macalister

Mr Tim Nicholls MP
Member for Clayfield

Mr Ray Stevens MP
Member for Mermaid Beach

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¹ The Member for Macalister was appointed to the committee under Standing Order Standing Order 202 as a substitute member of the Committee.

**RESPONSE BY HON ROBERT SCHWARTEN, TO STATEMENTS MADE IN THE HOUSE BY THE MEMBER FOR BURLEIGH,
MR MICHAEL HART MP AND THE MEMBER FOR KAWANA, MR JARROD BLEIJIE 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. On 1 November 2018 the Member for Burleigh made a further statement during Private Members' statements. Also on 1 November 2018, the Member for Kawana made further reference to me in asking a Question Without Notice to the Minister for Innovation.

The statement made by the Member for Burleigh makes claims that I had major renovations done to my properties in Rockhampton and Kinka Beach by JM Kelly. I reject any accusation that JM Kelly carried out any work on those properties or that I received any kind of commission or financial benefit for such work.

The painting work on the Kinka Beach property was carried out by painting contractors, who have sworn a statutory declaration stating that they carried out the work and were duly paid by the builder.

In addition, the residence the Member for Burleigh made reference to, is not known locally as the 'hospital house'.

No health contract was corrupted.

In relation to the statement made by the Member for Kawana, during my 13 years as Minister for Public Works I did not intervene or intrude into 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
REQUEST FOR A CITIZEN'S RIGHT OF REPLY –
HON ROBERT SCHWARTEN



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 (substitute for Ms Nikki Boyd MP under SO 202)
Mr Ray Stevens MP

Apologies

Ms Nikki Boyd MP

In attendance

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

Citizens Right of Replies

Discussion ensued.

Resolved

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

Moved: Mr Kelly Seconded: Mr McArdle

EXTRACT OF MINUTES
REQUEST FOR A CITIZEN'S RIGHT OF REPLY –
HON ROBERT SCHWARTEN



Ethics Committee

Meeting No. 19A

Friday, 26 April 2019, 10:03AM

Room 5.30, Parliamentary Annexe

Present

Mr Joe Kelly MP, Chair

Mr Tim Nicholls MP, Deputy Chair

Mr John-Paul Langbroek MP (substitute for Mr Mark McArdle MP under SO 202)

Ms Leanne Linard MP

Ms Melissa McMahon MP (substitute for Ms Nikki Boyd MP under SO 272)

Mr Ray Stevens MP

Apologies

Mr Mark McArdle MP

In attendance

Ms Bernice Watson, Committee Secretary

Ms Natasha Mitchenson, Assistant Committee Secretary

Other Business – Citizens' Rights of Reply requests

Schwarten, Robert

Resolved

That the committee write to Hon Robert Schwarten enclosing the proposed right of reply for his consideration.

Moved: Mr Kelly Seconded: Mr Nicholls

EXTRACT OF MINUTES
REQUEST FOR A CITIZEN'S RIGHT OF REPLY –
HON ROBERT SCHWARTEN



Ethics Committee

Meeting No. 20A

Thursday, 2 May 2019, 1:05PM

Committee Room 1, Parliamentary Annexe

Present

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

Apologies Nil

In attendance

Ms Bernice Watson, Committee Secretary
Ms Natasha Mitchenson, Assistant Committee Secretary

Other Business – Citizens' Rights of Reply requests

Schwarten, Robert

Resolved

That the committee adopts the report on the Citizen's Right of Reply (Hon Robert Schwarten) and authorises its tabling, together with the relevant minutes.

Moved: Mr Kelly Seconded: Ms McMahon

Extracts certified correct on 7 June 2019

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

Joe Kelly MP
Chair