



LEGISLATIVE COUNCIL

PRIVILEGES COMMITTEE

Citizen's Right of Reply (RSPCA NSW)



Report 82

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Privileges Committee

Citizen's Right of Reply

(RSPCA NSW)

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Terms of reference

The inquiry was conducted in accordance with standing orders 202 and 203.

Committee membership

The Hon Peter Primrose MLC	Australian Labor Party	Chair
Revd the Hon Fred Nile MLC	Christian Democratic Party (Fred Nile Group)	Deputy Chair
The Hon Greg Donnelly MLC	Australian Labor Party	
Ms Cate Faehrmann MLC	The Greens	
The Hon Trevor Khan MLC	The Nationals	
The Hon Natasha Maclaren-Jones MLC	Liberal Party	
The Hon Matthew Mason-Cox MLC	Liberal Party	
The Hon Natalie Ward MLC	Liberal Party	

Table of contents

Report

Appendix 1	Reply to comments by the Hon Mark Pearson MLC in the Legislative Council on 12 November 2020	3
Appendix 2	Minutes	5

Report

- 1.1 Standing orders 202 and 203 of the Legislative Council provide a mechanism for a person who has been adversely referred to by a member of the Legislative Council in proceedings of the House to seek a right of reply through the incorporation of a response in *Hansard* or in the *Minutes of Proceedings*.
- 1.2 On 5 February 2021, the President of the Legislative Council, the Hon John Ajaka MLC, received a submission from Ms Kathryn Jurd, General Counsel, Royal Society for the Prevention of Cruelty to Animals New South Wales (RSPCA NSW), requesting the incorporation of a response under standing orders 202 and 203.
- 1.3 The submission referred to comments made by the Hon Mark Pearson MLC during debate in the Council on 12 November 2020.¹ The President, having considered the submission under standing order 202(2), referred it to the Privileges Committee on 8 February 2021.
- 1.4 The committee met in private session on 18 February 2021, and decided, according to standing order 203, to consider the submission. The response, which the committee now recommends for incorporation in *Hansard*, has been agreed to by RSPCA NSW and the committee in accordance with standing order 203(4)(b).
- 1.5 The committee draws attention to standing order 203(3)(b) which requires that, in considering a submission seeking a citizen's right of reply, the committee must not consider or judge the truth of any statements made in the House or in the submission.
- 1.6 The committee recommends:

Recommendation 1

That a response by RSPCA NSW, in the terms specified at Appendix 1, as agreed to by RSPCA NSW and the committee, be incorporated in *Hansard*.

The Hon Peter Primrose MLC
Chair

¹ *Hansard*, Legislative Council, 12 November 2020, p 115.

Appendix 1 **Reply to comments by the Hon Mark Pearson MLC in the Legislative Council on 12 November 2020**

RSPCA NSW contends that our reputation has been adversely affected by allegations made in the House by the Honourable Mark Pearson MLC on 12 November 2020. We refer to the Hansard record for that date at 21:26 at which time Mr Pearson is recorded inter alia as follows:

I advise the House that I have recently seen and heard a video which can be found at <http://www.farmtransparency.org/wally> [sic - <http://www.farmtransparency.org/wally>], password: feedlot, which, in my opinion, even though it is in broken sentences, is prima facie evidence to establish that Wally Perenc engaged in bribery in relation to the withdrawal of the piggery charges. This is a very serious matter and I call on the police to investigate it. What is extraordinary is alongside this evidence of bribery, there is recent audio and vision which records Wally Perenc engaged in even more egregious infliction of suffering. ...

... The recorded conversation certainly implies that Wally Perenc was engaged in bribery in order to have the 53 charges withdrawn. It is a matter of public record that all the piggery charges were dropped just prior to the deadline under the statute of limitations for commencing a prosecution. This led to the fact that no other enforcement agency such as the police [sic - police] could take over carriage of the case.

The 'Wally's Piggery' prosecution has been the subject of ongoing complaints regarding RSPCA NSW conduct by Mr Pearson, who now alleges that 7 minutes of edited video footage of unknown (and possibly unlawful) provenance is evidence of bribery.

We understand that in accordance with Standing Order 203(3)(b) the Committee will not judge the truth of statements made either in the House or in this submission.

RSPCA NSW asks to have recorded in Hansard the following reply in respect of the allegations made by Mr Pearson:

1. The video referred to by Mr Pearson does not provide prima facie evidence that RSPCA NSW accepted a bribe from Wally Perenc to withdraw charges before the NSW Local Court.
2. With the protection of parliamentary privilege, Mr Pearson made allegations which damage RSPCA NSW's reputation and are defamatory.
3. RSPCA NSW takes allegations of animal cruelty very seriously and prosecutes hundreds of charges of animal cruelty every year in accordance with the Prevention of Cruelty to Animals Act 1979 (NSW).
4. RSPCA NSW would never commence or terminate a prosecution, except in accordance with available evidence, and cognisant of appropriate prosecutorial obligations.
5. This issue has been raised in Parliament on a number of occasions. RSPCA NSW has always maintained (including in response to supplementary questions received in a parliamentary inquiry

chaired by Mr Pearson in March 2020)² that appropriate prosecutorial conduct of this matter required the withdrawal of charges before the Court.

6. There were three named defendants the subject of the 'Wally's Piggery' complaint, Mr Perenc, a corporation and another natural person.
7. The charges before the Court related to offences that occurred on or prior to 3 August 2012. The limitation period therefore expired on 2 August 2013. The charges were withdrawn on 17 November 2014, which post-dates the expiration of the limitation period by some 14 months. Even were that not the case, there is no capacity for NSW Police to take up charges initiated by another law enforcement authority.

RSPCA NSW's reputation has been unfairly damaged because of the assertions made by Mr Pearson in the Hansard excerpts above.

² RSPCA NSW, *RSPCA NSW response to supplementary questions and questions on notice*, Legislative Council Select Committee on Animal Cruelty Laws in NSW, 12 March 2020, <https://www.parliament.nsw.gov.au/committees>, p 23.

Appendix 2 Minutes

Draft Minutes no. 15

Thursday 18 February 2021

Privileges Committee

Room 1136, Parliament House, Sydney, 1.37 pm

1. Members present

Mr Primrose (*Chair*)

Revd Mr Nile (*Deputy Chair*)

Mr Donnelly

Ms Faehrmann

Mr Khan

Mrs Maclaren-Jones

Mrs Ward.

In attendance: Steven Reynolds, Jenelle Moore, Laura Ismay and Noora Hijazi.

2. Apologies

Mr Mason-Cox.

3. Draft minutes

Resolved, on the motion of Mr Donnelly: That draft minutes no. 14 be confirmed.

4. Correspondence

The committee noted the following items of correspondence:

Received:

● ***

● ***

● ***

● ***

● 8 February 2021 – Letter from the President to the Chair, forwarding a request for a citizen's right of reply from Ms Kathryn Jurd, General Counsel, RSPCA.

Sent:

● ***

● ***

5. ***

6. ***

7. Request for a citizen's right of reply

The committee considered a request for a citizen's right of reply forwarded by the President from the RSPCA.

Resolved, on the motion of Ms Faehrmann:

- (a) That the Chair prepare and submit a draft report on the request for a citizen's right of reply by Ms Kathryn Jurd, General Counsel, RSPCA, recommending that a response by the RSPCA in a form of words agreed to by the RSPCA and the Committee be incorporated in Hansard.
- (b) That the report be adopted.
- (c) That the report be signed by the Chair and presented to the House.
- (d) That the Clerk advise the RSPCA and Mr Pearson of the proposed tabling of the report.

8. New app-based ethics resources

The committee considered electronic content developed by EdApp for the purposes of an e-learning resource for members on the new Members' Code of Conduct.

The committee endorsed the content, and undertook to provide any additional comments to the clerk to the committee as a matter of priority.

9. Adjournment

The committee adjourned at 2.00 pm *sine die*.

Steven Reynolds
Committee Clerk

