



LEGISLATIVE COUNCIL

PRIVILEGES COMMITTEE



Legislative Council
Parliament House
Macquarie Street
SYDNEY NSW 2000

privilege@parliament.nsw.gov.au
www.parliament.nsw.gov.au/lcprivilege

Citizen's right of reply

Responding to Members'
statements in the House



PROCEDURES FOR A CITIZEN'S RIGHT OF REPLY

The right of reply procedure

Standing order 202(1) of the Legislative Council provides that any person (including a corporation, body corporate or unincorporated association) referred to in the House by name, or in such a way as to be readily identified, may make a submission in writing to the President of the Legislative Council on any of the following grounds:

- that they have been adversely affected in reputation or in respect of dealings or associations with others;
- that they have been injured in occupation, trade, office or financial credit; or
- that their privacy has been unreasonably invaded.

The submission to the President should include a request that the response be included in the parliamentary record (*Hansard*). Submissions seeking a right of reply should be received within 12 months of the relevant comments being made in the House, unless the applicant can show exceptional circumstances to explain the delay.

Under standing order 202(2), the President must consider the submission as soon as practicable and decide whether it should be referred to the Legislative Council's Privileges Committee for further consideration. A submission may not be appropriate for referral to the Committee if its subject matter is trivial, frivolous, vexatious or offensive in character.

Where a submission is referred to the Privileges Committee, the role of the Committee is to consider whether the submission should be published in *Hansard*. Under standing order 203(5), a submission which is to be published in *Hansard*:

- (a) must be succinct and strictly relevant to the questions in issue,
- (b) must not contain anything offensive in character,
- (c) must not contain any matter where publication would have the effect of:
 - (i) unreasonably adversely affecting or injuring a person, or unreasonably invading a person's privacy, or
 - (ii) unreasonably adding to or aggravating any adverse effect, injury or invasion of privacy suffered by a person.

The Privileges Committee will edit as necessary any submission seeking a right of reply which does not comply strictly with these requirements.

In most circumstances, persons referred to in the House who are seeking a right of reply should identify explicitly the particular comment or comments by the member to which they object, and then provide a succinct and relevant response to each comment. They should not seek to engage in a wider-ranging debate concerning the subject matter of the member's comments, the member's motives and past actions, or the motives and conduct of others.

The reason for this is that under standing order 203(3), the Committee is specifically prohibited from considering the truth of the statement made by a person referred to in the House, or of the original comments by the member to which the person objects. The role of the Committee is not to inquire into and decide whether the member's statements were correct, but simply to let a person referred to in the House to respond.

If the Privileges Committee needs to edit a submission, the Committee will contact the person concerned to seek his or her approval in writing. The Committee then reports back to the House and recommends whether or not a response should be published in *Hansard*.

Publication of submissions

If the Privileges Committee recommends in its report to the House that a submission should be published in *Hansard*, the recommendation only takes effect if the House agrees to the Committee's report. Usually, the House does not decide on this issue until several days after the report has been tabled. This gives members of the House an opportunity to read and consider the report and the recommended reply.

If the House resolves to adopt the report, the reply is published in the *Hansard* on the day on which the resolution is passed. The reply attracts parliamentary privilege. A copy of the report is also made available on the Parliamentary website, and copies are sent to the person concerned and the member.

Where to send submissions

Persons seeking a citizen's right of reply should send their submission to:

The President
Legislative Council
Parliament House
Macquarie Street
SYDNEY NSW 2000

For further information, or clarification of any aspect of the right of reply procedure, contact:

Ms Madeleine Foley
Clerk to the Legislative Council Privileges Committee
Legislative Council
Tel: 9230 3019
E: privilege@parliament.nsw.gov.au

Previous reports of the Privileges Committee dealing with citizen's rights of reply are available on Committee's website at www.parliament.nsw.gov.au/lcprivilege.