

## **BROADCASTING RESOLUTION FOR THE LEGISLATIVE ASSEMBLY**

**Organisation:** House of Assembly, Parliament of Tasmania

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HOUSE OF ASSEMBLY

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SPEAKER'S OFFICE

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*Speaker's Rooms  
Hobart*

10 November 2020

Hon. Jonathan O'Dea MP  
Speaker of the Legislative Assembly  
Parliament House  
Macquarie Street  
**SYDNEY NSW 2000**

Dear Mr Speaker,

Thank you for your letter of 16 October last relating to the issue of broadcasting.

By way of background, the House of Assembly (the House) has a number of authorities, both prescriptive and advisory, relating to the wider issue of broadcasting, these are as follows:

Standing Order 354 of the House of Assembly provides as follows:-

*The Speaker and the Clerk of the House are authorised to broadcast the proceedings of the House and its Committees over the internet.*

A similar Standing Order, 353, makes similar provisions for the publication of tabled documents and the Hansard of proceedings of the House and any Committee.

Both such prescriptions were recommended by the Standing Orders Committee in its Report (Paper No. 13 of 2017 -

<https://www.parliament.tas.gov.au/ctee/House/Reports/Report%20on%20Revised%20SOs%20-%20Final.pdf>) in order to address the absence of any formal expression of authority for the actions of broadcasting and publishing, and consequently, the removal of any doubt as to the attachment of Parliamentary privilege to such media.

Other than these Standing Orders, the issues your inquiry is interested in are addressed in documents provided to two 'client' groups: Members; and media.

The *Members' Handbook* (the Handbook), authored by the Clerk of the House, and provided to Members, provides the following advice:-

*... whilst the publication of Hansard and broadcast of proceedings is made with the authority of the House and is accordingly, absolutely privileged, the republication or rebroadcast of an extract of a speech; or an individual contribution; or a link to a part of a larger debate, are clearly separate acts of publication which are not 'proceedings in Parliament' and as such attract only 'qualified' privilege. Qualified privilege is said to exist "where a person is not liable to a successful action for*



defamation if certain conditions are fulfilled, for example, if the statement is not made with malicious intention" (House of Representatives Practice, 6<sup>th</sup> Ed. P. 736) so, the privilege would be lost on proof of malice or other improper motive in making the publication.

Accordingly, it is very strongly advised that a cautious approach be taken to the republication or rebroadcast of privileged material to ensure fair and accurate reproduction of the subject material; that the context of such material is apparent to the reader; and clearly, that such material is published in the knowledge that it has the benefit only of qualified privilege.

The Media Guidelines for the House of Assembly and its Precinct (the Guidelines), issued by me, provide the following conditions for filming and the taking of still photography:-

- (a) Cameras must not be used to inspect or take photographs of members' documents or computer screens.
- (b) Images cannot be cloned and truth must be maintained in any images reproduced.
- (c) Photographs of persons or disturbances in the galleries is not permitted.

The issue of Members' use of social media and particularly, rebroadcasting of extracts of proceedings, has not been a matter raised with me, either formally or informally. One might draw the conclusion then, that the advice provided in the Handbook, is understood and followed.

Similarly, the Guidelines were confirmed after a consultative process with major media organisations, and given the positive communication relationship that exists between journalists, myself and the Sergeant-at-Arms (who manages this area), the Guidelines appear to be well understood, and compliance with them has not been an issue.

Section 27 of the *Tasmanian Defamation Act 2005* provides a defence to the publication of defamatory matter only if published on an occasion of absolute privilege, which includes matter published in the course of proceedings of a parliamentary body. To my knowledge, no defamation proceedings have been initiated in respect of comments made on social media.

The House has no guidelines in place for moderating comments made on social media, however, the Code of Conduct (the Code) provided for in Standing Order 2, prescribes, *inter alia*, that:-

*A Member must only make statements in Parliament and in public that are, to the best of their knowledge, accurate and honest. A member must not mislead Parliament or the public in statements that they may make. Whether any misleading was intentional or unintentional a Member is obliged to correct the Parliamentary record or the public record, at the earliest opportunity in a manner that is appropriate to the circumstances.*

Conduct on social media is public conduct, and accordingly, allegations of breaches of the Code may be referred by the House to the Standing Committee on Privileges and Conduct for investigation and report to the House. There have been no precedents here for any such reference.

So far as the broadcast of proceedings is concerned, the following statement is displayed beneath the broadcast screen:-

*The broadcast of proceedings is in the public domain and is protected by Parliamentary privilege. As with all reports of proceedings of the House by any form of media, e.g. press, radio or television, the report must be accurate and fair. The*



meaning of what a member said must be retained and not altered or misconstrued in any way. Failure to adhere to these requirements may be a contempt of Parliament.

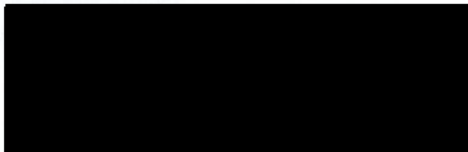
The broadcast of proceedings has been available as a downloadable product on the Parliament's website for the last three years, and based on current data storage capability will be available for the remainder of this Parliament and the next. Once storage capacity is reached, it will be periodically transferred to the archive server and available on request.

The following charges apply to the provision of media supplied from the Parliament: clips up to 30 minutes length - \$30.00 plus GST; clips over 30 minutes and up to 600mb of data - \$40.00 plus GST; full day's proceedings - \$50.00 plus GST. The storage device of any such footage is accompanied by written advice of the statement abovementioned.

There are no precedents for any allegations of non-compliance with these conditions in respect either of downloaded media, or media provided by the Parliament.

I wish you well with your inquiry.

Yours sincerely,



**Hon. Sue Hickey MP**

**SPEAKER**