



## Responding to adverse references



Parliamentary privilege enables Members of Parliament the freedom to speak their minds without fear of legal action for what they say. This freedom is essential for any democratic legislature to operate effectively, and has been assured by Article 9 of the *Bill of Rights 1689* and the *Western Australian Parliamentary Privileges Act 1891*.

From time to time, people may feel that they have been adversely affected by statements made in, or reports presented to, the Legislative Assembly. In such cases, the Legislative Assembly's Standing Orders allow for a person to have their response published in *Hansard*.

This does not mean that aggrieved people will automatically have their responses published. Nor does it limit a member's freedom of speech in any way. Members of Parliament still retain absolute parliamentary privilege for whatever they say in the House.

## How it works

If a person or corporation is referred to in the House by name or in such a way that they can be readily identified, and if the person considers that they have been adversely affected by that reference, that person may write to the Speaker requesting that their response be published. If the request appears to be appropriate, the Speaker will refer the matter to the Procedure and Privileges Committee. The Committee will then consider the request in detail and report to the House whether or not a response should be published.

The Speaker and the Committee scrutinise the request to ensure that the matter is not trivial, frivolous, vexatious or offensive and does not further adversely affect a person nor unreasonably invade their privacy. Usually the Committee will contact the person who made the request and may also confer with the member who referred to the person or corporation in the Legislative Assembly. When the Committee and the person requesting the response have agreed on the response, the Committee reports that to the Assembly, and the Assembly usually agrees that the response be incorporated in *Hansard*, which is the public record of debates in Parliament.

The Committee endeavours to deal quickly with each request, and will suggest changes if that is necessary to comply with the Standing Orders. *It is not the role of either the Speaker or the Committee to determine whether the original allegations made by the member or the contents of the proposed response are truthful.*

## How you make a request

Clear, concise requests should be made in writing and include:

- your name and contact details;
- a brief summary stating why you believe that you have been adversely referred to;
- the name of the Member of Parliament who adversely referred to you; and
- the date on which the adverse reference occurred.

**Proposed responses must be succinct, strictly relevant to the questions in issue and not contain anything offensive in character.**

Submissions should be sent to ***The Speaker of the Legislative Assembly of the Parliament of Western Australia.***

## Standing Order

The relevant Standing Order is as follows:

### Responses from persons adversely referred to in the Assembly

114 (1) Where a submission is made in writing to the Speaker by a person or corporation who has been referred to in the Assembly by name, or in such a way as to be readily identified —

- (a) claiming that the person or corporation 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*,

and the Speaker is satisfied —

- (c) 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 Procedure and Privileges Committee ("the committee"); and
- (d) that it is practicable for the committee to consider the submission under this Standing Order,

the Speaker will refer the submission to that committee.

- (2) The committee may decide not to consider a submission referred to it under this Standing Order 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 will be reported to the Assembly.
- (3) If the committee decides to consider a submission under this Standing Order, the committee may confer with the person who made the submission and any member who referred in the Assembly to that person or corporation.
- (4) In considering a submission under this Standing Order, the committee will meet in private session.
- (5) The committee will not publish a submission referred to it under this Standing Order 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 Assembly.
- (6) In considering a submission under this Standing Order and reporting to the Assembly the committee will not consider or judge the truth of any statements made in the Assembly or the submission.



- (7) In its report to the Assembly on a submission under this Standing Order, the committee may make either of the following recommendations —
- (a) that no further action be taken by the committee or the Assembly 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 committee, be incorporated in *Hansard*,

and will not make any other recommendations.

- (8) A document presented to the Assembly under paragraph (5) or (7) —
- (a) in the case of a response by a person or corporation who made a submission, will be succinct and strictly relevant to the questions in issue and will not contain anything offensive in character; and

- (b) will not contain any matter the publication of which would have the effect of —
    - (i) unreasonably adversely affecting or injuring a person or corporation, or unreasonably invading a person's privacy, in the manner referred to in paragraph (1); or
    - (ii) unreasonably adding to or aggravating any such adverse effect, injury or invasion of privacy suffered by a person.
- (9) A corporation making a submission under this Standing Order is required to make it under its common seal.

## More information

If you require any advice regarding a proposed request, please contact one of the Legislative Assembly Clerks-at-the-Table on **(08) 9222 7215**.



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