



**Legislative Assembly
Parliament of Victoria**

Fact Sheet 11

Right of Reply by Persons Referred to in the House

Freedom of Speech and the Right of Reply

Freedom of speech is seen as one of the most important rights held by members of Parliament. Members of Parliament are free to say whatever they deem appropriate during debate in the House without being held legally accountable to anyone aggrieved by those comments. This right enables them to freely debate issues which they would not otherwise be able to discuss for fear of litigation.

If individuals referred to by members are harmed by remarks made or feel that their privacy has been invaded or that they have been injured as a consequence of the remarks, they may seek the publication of a response in the parliamentary record. This is the citizen's Right of Reply. The procedure for Right of Reply is set out in Standing Order 227.

Overview of the Right of Reply Procedure

- An application in writing is sent to the Speaker.
- If the Speaker is satisfied that the requirements under Standing Order 227 have been met, the submission is referred to the Privileges Committee.
- The Committee initially reviews the submission to determine whether it should be considered.
- If the Committee decides to consider the submission, it then tables a report recommending either that no further action is taken, or that an approved response is published (often as part of the Committee's tabled report) or incorporated into Hansard.
- The House then decides whether or not to accept the recommendations of the Committee.

Submission to the Speaker

- An applicant must be a person who has been named in the House or who has been referred to in such a way as to be readily identified. As it is a right granted to

individuals, submissions cannot be made by or on behalf of corporations, businesses, firms, organisations or institutions.

- Submissions should be addressed to the Speaker of the Legislative Assembly, Parliament House, Spring Street, East Melbourne, Vic 3002.
- The applicant must claim:
 - an adverse impact on their reputation or in their dealings or associations with others; or
 - injury to occupation, trade, office or financial credit; or
 - unreasonable invasion of privacy.
- The applicant must request agreement to incorporate an appropriate response in the parliamentary record.
- Unless exceptional circumstances exist (for example, serious illness or absence abroad) an application must be made within six months of the remarks being made.

Consideration by the Speaker

The Speaker will consider the written evidence received and must be satisfied that:

- The submission is not so trivial, frivolous or vexatious as to make it inappropriate to be considered by the Privileges Committee; and
- It is practical for the Committee to consider the submission.

If the Speaker decides it inappropriate to refer the matter to the Committee, the Speaker will notify the applicant accordingly. No right of appeal exists.

If a submission is referred to the Privileges Committee, the secretary of the Committee will contact the applicant to explain the Committee's procedure.

Initial Consideration by the Privileges Committee

- The Committee meets in private to consider submissions.
- The Committee initially carries out a review to assess whether the subject is sufficiently serious or whether the submission itself is frivolous, vexatious or offensive in character. If, having conducted this initial review, the Committee decides not to consider a submission, it reports that decision to the House.
- Normally the secretary of the Committee will notify an applicant of the outcome of initial considerations. No right of appeal exists against a decision not to consider a submission.

Detailed Consideration by the Privileges Committee

- If the initial review finds the matter is sufficiently serious, the Committee considers the submission in detail and the applicant may be asked to prepare a draft response.
- The Committee does not sit as a tribunal and, as such, does not consider or judge the truth of any statements made either by the applicant or those made by a

member. The intention of the Right of Reply procedure is to put the applicant in the same position as if he or she had participated in debate. In other words, if the applicant been a member present in the debate, he or she could have rebutted the remarks. The publication of a formal response is the equivalent of such a rebuttal.

- The Committee has the discretion to request oral evidence from the applicant or the member who made the statement in the House. In exercising its discretion the Committee will consider whether the written submission establishes the position clearly enough to enable the Committee to progress to the next stage.
- The Committee has the option of taking into account any other information or views provided by the applicant.
- The Committee must report to the House and may attach to the report minutes of evidence and all or part of the applicant's submission. It must not otherwise publish the submission.

Recommendation of the Privileges Committee

In reporting to the House, the Committee can recommend:

- That no further action be taken; or
- That a response, as agreed by the Committee, be published by the House or incorporated in Hansard.

The Committee cannot make any other recommendations. Once the Committee's report has been tabled, the House considers the recommendations and whether to accept them.

Drafting a Response

- The secretary of the Privileges Committee will liaise with the applicant about drafting a response.
- The applicant must comply with guidelines as to the length of a response. Usually 1–3 pages would be appropriate, depending on the complexity of the issues. Appendices should not be attached to a response.
- The draft response must be in moderate and appropriate language. Allowance will be made for applicants unfamiliar with parliamentary language.
- If a response is ordered to be printed or incorporated into Hansard, it can be viewed on Parliament's website or can be found in the relevant Privileges Committee report.

Fact Sheets

The Legislative Assembly Procedure Office has produced a series of Fact Sheets that explain parliamentary procedure and terminology. All Fact Sheets are available on Parliament's website www.parliament.vic.gov.au or through the Procedure Office.

Contact Details

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