



# Legislative Assembly Privileges Committee

## Person referred to in the Legislative Assembly— Theo Theophanous

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### Report

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# Committee membership



**CHAIR**  
**Hon Lily D'Ambrosio**  
Mill Park



**DEPUTY CHAIR**  
**Hon Kim Wells**  
Rowville



**Hon Melissa Horne**  
Williamstown



**James Newbury**  
Brighton



**Hon Danny Pearson**  
Essendon



**Hon Mary-Anne Thomas**  
Macedon



**Hon Peter Walsh**  
Murray Plains

# About the Committee

## Functions

Extract from the Votes and Proceedings of the Legislative Assembly, No 8 — Thursday 23 February 2023.

**3 Committee Membership** — Motion made, by leave, and question That:

...

- (8) A select committee be appointed to inquire into and report upon complaints of breach of privilege referred to it by the House, right of reply applications referred under SO 227 and any other matter referred to it by the House; and Lily D’Ambrosio, Melissa Horne, James Newbury, Danny Pearson, Mary-Anne Thomas, Peter Walsh and Kim Wells be members of the Privileges Committee

...

put and agreed to.

## Secretariat

Joel Hallinan, Assistant Clerk—Committees, Legislative Assembly  
(until 30 October 2023)

Matt Newington, Assistant Clerk—Committees, Legislative Assembly  
(from 30 October 2023)

Liam Moran, Manager, Procedure Office, Legislative Assembly

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# Recommendation

**RECOMMENDATION:** That the response by Theo Theophanous in Appendix A be published with this report.

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# Person referred to in the Legislative Assembly— Theo Theophanous

On 26 July 2023 Theo Theophanous made a submission to the Speaker of the Legislative Assembly seeking redress under Standing Order 227 relating to the protection of persons referred to in the Legislative Assembly.

The submission referred to a statement made by the Member for Brunswick, Dr Tim Read MP, during debate on the Public Administration and Planning Legislation Amendment (Control of Lobbyists) Bill 2023 on 22 June 2023. The Speaker accepted the submission and referred it to the Committee on 8 September 2023.

The Committee met in a private session on 4 October 2023 and resolved to consider Mr Theophanous' submission and write to him requesting he prepare a draft response in consultation with the Committee secretariat.

On 13 October 2023 Mr Theophanous submitted a draft response for the Committee's consideration. The Committee met again in a private session on 1 November 2023 and resolved to accept his response. The Committee met in a subsequent private session on 15 November 2023 and resolved to publish his response with this report.

The Committee draws attention to Standing Order 227(9) which requires that, in considering a submission under this Standing Order and reporting to the House, the Committee shall not consider or judge the truth of any statements made in the House or in the response.

**RECOMMENDATION:** That the response by Theo Theophanous in Appendix A be published with this report.

**Adopted by the Legislative Assembly Privileges Committee  
Parliament of Victoria, East Melbourne  
15 November 2023**



# Appendix A

## Response by Theo Theophanous under SO 227

In a speech by the Member for Brunswick, Tim Read, on 22/06/2023 in the debate on the Public Administration and Planning Legislation Amendment (Control Of Lobbyists) Bill 2023, Dr Read states that:

IBAC found a shocking level of political corruption by the former Labor minister Theo Theophanous while he was a board member of what is now called the Victorian Planning Authority.

This statement is factually incorrect. IBAC's actual finding is that:

Theo Theophanous, improperly lobbied in favour of the proposal on behalf of AEC.

Dr Read makes no reference to the contestability of even this finding as contained in multiple submissions in the report.

But even if IBAC's finding is accepted there is no sense in which it can be interpreted as 'a shocking level of political corruption'.

IBAC's own definition of corruption contained in the report is that it 'requires that the conduct would constitute a relevant criminal offence.'

There is no accusation or finding of criminality or illegality or corruption in the IBAC report in relation to me — because there was none.

Further, in an appendix to IBAC's report I strongly argued that my broad ranging interactions as a Labor Party elder with senior members of government did not constitute 'improper lobbying' — let alone corruption. IBAC was criticised for refusing to seek verification from these senior members as to whether they thought that I was lobbying them as IBAC is required to do under the Briginshaw test.

Dr Read did not mention counterarguments that were available to him to provide some balance and instead made untrue adverse comments that paint me in the worst possible light, including that:

Debating and then passing this bill also would prevent more serious corruption of the sort identified by IBAC...

Again, IBAC never uses the term 'serious corruption' in relation to me.

Dr Read's untrue assertions are not supported by IBAC's report or by the facts and have been made under Parliamentary privilege thus providing me with no legal recourse through defamation proceedings. This, I suggest, is in part why the procedure

under Standing Order 227 was put in place by the Legislative Assembly which applies in this case and allows me to provide an appropriately worded counter through a right of reply.

Dr Read's comments have influenced Members of Parliament as well as senior members of government, business and the media and adversely impacted my capacity to work and do business in Victoria.

# Appendix B

## Extract from Standing Orders

### 227 Citizen's right of reply procedure

1. Where a person (the applicant) has been referred to in the House by name, or in such a way as to be readily identified, he or she can send a written submission (the submission) to the Speaker asking for an appropriate response to be incorporated into the parliamentary record.
2. The submission must include a claim that, as a result of the reference:
  - a. the applicant has been adversely affected:
    - i. in reputation; or
    - ii. in relation to dealings or associations with others; or
  - b. the applicant has been injured in connection with his or her occupation, trade, office or financial credit; or
  - c. the applicant's privacy has been unreasonably invaded.
3. The Speaker will refer the submission to the Privileges Committee (the Committee) if the Speaker is satisfied that:
  - a. 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
  - b. be considered by the Committee; and
  - c. that it is practicable for the Committee to consider the submission under this Standing Order.
4. When a submission is referred, the secretary of the Committee will contact the applicant to draw his or her attention to the Committee's guidelines for preparing a brief draft statement in a correct form for incorporation.
5. The Committee may decide not to consider a submission referred to it if:
  - a. it considers that the subject of the submission is not sufficiently serious; or
  - b. it considers that the submission is frivolous, vexatious or offensive in character; or
  - c. the submission was received more than six months after the relevant comments were made in the House and the applicant has not shown exceptional circumstances to explain the delay—and will report any such decision to the House.

6. If the Committee decides to consider a submission, it may hold discussions with the applicant and any member who referred to the applicant in the House.
7. The Committee will meet privately when considering a submission.
8. The Committee will not publicly release a submission, or its proceedings in relation to a submission, but may present to the House minutes of its proceedings and all or part of a submission.
9. In considering a submission and reporting to the House, the Committee will not consider or judge the truth of:
  - a. any statements made in the House; or
  - b. the submission.
10. In its report to the House, the Committee may make either of the following recommendations:
  - a. that no further action should be taken by the House in relation to the submission; or
  - b. that a response by the applicant, set out in the report and agreed to by the applicant and the Committee, should be published by the House or incorporated in Hansard.
11. The Committee will not make any other recommendations.
12. A document presented to the House under paragraphs (8) or (10):
  - a. in the case of a response by an applicant, 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 unreasonably:
    - i. adversely affecting or injuring a person; or
    - ii. invading a person's privacy, in the manner referred to in paragraph (2); or
    - iii. adding to or aggravating any such adverse effect, injury or invasion of privacy.
13. The Committee may agree to guidelines and procedures relating to its consideration of submissions, providing they are consistent with this Standing Order.



