

*The privilege of freedom of speech has been described as a 'privilege of necessity'. It enables Members to raise in the House matters they would not otherwise be able to bring forward (at least not without fear of the legal consequences). The privilege is thus a very great one, and it is recognised that it carries with it a corresponding obligation that it should always be used responsibly.*

## People criticised in parliamentary debate

Sometimes individuals are offended by remarks Members of the House have made about them during parliamentary debate. The right of reply procedure, established by resolution of the House on 27 August 1997 (as amended 13 February 2008), gives people the opportunity to respond to such remarks and to ask for their responses to be published in the parliamentary record.

The procedure is intended for use by individuals, not by or on behalf of corporations or other organisations.

## Submitting a complaint

The procedure may be used by a person named in the House or referred to in such a way as to be readily identified.

A person who feels aggrieved by something that has been said about him or her in the House may make a written submission to the Speaker:

claiming that he or she 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 his or her privacy has been unreasonably invaded by that reference; and asking to be able to incorporate an appropriate response in the parliamentary record.

(Submissions should be addressed to the Speaker of the House of Representatives, Parliament House, Canberra, ACT 2600).

## Role of the Speaker

The Speaker must refer a submission to the Committee of Privileges and Members' Interests if he or she is satisfied that:

- the subject is not obviously trivial or that the submission is not frivolous, vexatious or offensive;
- it is practicable for the Committee of Privileges and Members' Interests to consider it.



## Role of the Committee of Privileges and Members' Interests

The Committee of Privileges and Members' Interests is a committee of the House of Representatives.

Government and non-government Members form the Committee's membership of 11. The committee investigates alleged breaches of parliamentary privilege, considers complaints from people who claim to have been unfairly criticised in debate in the House and oversees the register of Members' interests (amongst other things). In considering a submission relating to a citizen's complaint, the Committee:

- must meet in private;
- may confer with
  - the person who has made the submission; and/or
  - the Member who made the statement in the House;
- may not consider or judge the truth of the statements in the submission or in the House;
- may not itself publish either the submission or its proceedings, but may present minutes, and all or part of the submission, to the House.

If it believes the submission is frivolous, vexatious or offensive, or not sufficiently serious, the committee must report its opinion to the House.

## Report from Committee of Privileges and Members' Interests

The Committee of Privileges and Members' Interests can make a recommendation:

- that a response by the person, in terms specified in the report and agreed by the person and the committee, be published by the House or incorporated in Hansard; or
- that no further action be taken by the House.

No other recommendation can be made.

### Terms of response

Responses must:

- be succinct and strictly relevant to the questions in issue, and must not contain anything offensive in character;
- not contain any matter the publication of which would have the effect of unreasonably adversely affecting or injuring a person or unreasonably invading a person's privacy, or unreasonably adding to or aggravating such an adverse effect.

### Committee's guidelines for the consideration of submissions

The resolution of the House establishing the right of reply procedure allows the Committee of Privileges and Members' Interests to agree to guidelines and procedures to apply to the committee's consideration of submissions. The following guidelines, presented by the committee, are supplementary to the resolutions of the House and spell out how the committee applies the procedure:

- (1) an application must be received within 3 months of the making of the statement to which the person wishes to respond unless, because of exceptional circumstances, the committee agrees to consider an application received later;
- (2) applications should only be considered from natural persons, they should not be considered if lodged by or on behalf of corporations, businesses, firms, organisations or institutions;
- (3) applications should only be considered from persons who are Australian citizens or residents;
- (4) an application must demonstrate that a person, who is named, or readily identified, has been subject to clear, direct and personal attack or criticism;
- (5) applications must be concise, must be confined to showing the statement complained of and the person's response and must not contain any offensive material;
- (6) applications concerning statements made in the Federation Chamber may be considered;

(7) applications should not be considered from persons who wish to respond to a statement or remarks made in connection with the proceedings of a standing or select committee—such persons should contact the committee direct on the matter; and

(8) in considering applications, the committee will have regard to the existence of other remedies that may be available to a person referred to in the House—for example, a Member of any Parliament in Australia would be considered to have a forum within which he or she could respond to remarks; media personnel similarly have means by which to make a response to any remarks about them.



### For more information

*House of Representatives Practice*, 6th edn, Department of the House of Representatives, Canberra, 2012, pp. 774–6.

House of Representatives Committee of Privileges and Members' Interests webpage: [www.aph.gov.au/pmi](http://www.aph.gov.au/pmi).

Inquiries regarding the right of reply procedure can be directed to the Secretary, House of Representatives Committee of Privileges and Members' Interests, PO Box 6021, Parliament House, Canberra ACT 2600.

Images courtesy of AUSPIC.