

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 carries with it a corresponding obligation that it should always be used responsibly.

Sometimes people 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 (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.



House of Representatives Chamber

Submitting a complaint

The right of reply procedure may be used by a person named in the House or referred to in such a way as to be readily identified. The procedure is intended for use by individuals, not by or on behalf of corporations or other organisations.

A person who feels aggrieved by something that has been said about them in the Chamber or Federation Chamber may make a written submission to the Speaker claiming that:

- they have been adversely affected in reputation, in respect to dealings with others, or in associations with others;

- they have been injured in occupation, trade, office or financial credit; or
- their privacy has been unreasonably invaded by that reference.

In their written submission, the person may ask for an appropriate response to be incorporated in the parliamentary record.

Written submissions should also take into account the following¹:

- (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 of Privileges and Members' Interests agrees to consider an application received later;
- (2) applications should only be from individuals. They should not be lodged by or on behalf of corporations, businesses, firms, organisations or institutions;
- (3) applications should only be from Australian citizens or residents;
- (4) an application must demonstrate that a person, who is named or readily identified in debate in the House, has been subject to clear, direct and personal attack or criticism, and has been damaged as a result;
- (5) applications must be concise, must be in the character of a refutation or explanation only, must be confined to showing the statement complained of and the person's response and must not contain any offensive material;
- (6) applications should not be made by people who wish to respond to a statement or remarks made in connection with the proceedings of a standing or select committee—such people should contact the committee directly on the matter.

¹ Based on guidelines (set out by the Committee of Privileges and Members' Interests) which supplement the resolutions of the House with regards to the right of reply procedure (available at www.aph.gov.au/pmi).

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

Role of the Speaker

The Speaker of the House reviews all written submissions under the right of reply procedure.

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

- the subject is not obviously trivial;
- that the submission is not frivolous, vexatious (that is, intended to frustrate or waste time) or offensive; and
- it is feasible for the committee to consider the submission.

Role of the Committee of Privileges and Members' Interests

The Committee of Privileges and Members' Interests is a committee of the House of Representatives. Its membership is made up of 13 government and non-government members. Alongside considering complaints from people who claim to have been unfairly criticised in debate in the House, the work of the committee includes investigating alleged breaches of parliamentary privilege and overseeing the register of members' interests.

The committee considers submissions relating to a citizen's complaint in line with its guidelines (see above). In considering a submission, 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; and
- may not itself publish either the submission or its proceedings, but may present minutes, and all or part of the submission, to the House.

The committee will take into account the existence of other remedies that may be available to a person referred to in the House and whether they have been exercised.

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.

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

Terms of response

Where recommended by the committee, the person may provide a written response to be included in Hansard or published by the House. This response is agreed upon during the committee review stage by the person and the committee.

Responses must:

- be succinct and strictly relevant to the questions in issue, and must not contain anything offensive in character; and
- not contain any matter where its publication 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.

For more information

House of Representatives Practice, 7th edn, Department of the House of Representatives, Canberra, 2018, pp. 777-9.

House of Representatives Committee of Privileges and Members' Interests website: 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, Parliament House, Canberra ACT 2600.

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