

Report concerning an
application from
Mr Calum Thwaites for the
publication of a response to a
reference made in the House
of Representatives

House of Representatives
Committee of Privileges and Members' Interests



Membership of the committee

Chair	Mr Russell Broadbent MP
Deputy Chair	Mr Pat Conroy MP
Members	Hon Kevin Andrews MP
	Hon Joel Fitzgibbon MP
	Mr Andrew Giles MP
	Mr Ian Goodenough MP
	Mr Steve Irons MP (nominee of the Leader of the House)
	Ms Michelle Landry MP
	Mr Tony Pasin MP
	Hon Warren Snowdon MP (nominee of the Deputy Leader of the Opposition)
	Hon Wayne Swan MP

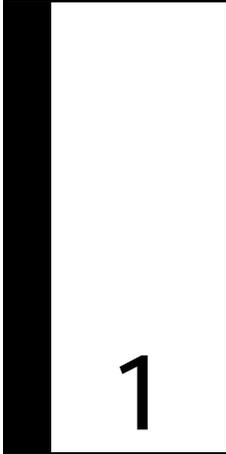
Committee secretariat

Secretary	Ms Claressa Surtees
Research Officer	Mr Stuart Woodley
Administrative Officers	Ms Laura Gillies
	Ms Gillian Drew

- 1.1 Mr Calum Thwaites has made an application, through his legal representative, under the procedure adopted by the House on 27 August 1997, for the publication of a response to references made in relation to him by the Member for Griffith, Ms Terri Butler MP, on 23 November 2016 in the Federation Chamber of the House.
- 1.2 Mr Thwaites advised that he had brought a defamation action against the Member for Griffith in the Queensland courts. The material which was the subject of the defamation proceedings covered much the same ground as the Member's comments in the House on 23 November 2016. The committee notes that the defamation action has since been discontinued.
- 1.3 The committee has been provided with a copy of a letter addressing this matter from the Member for Griffith to the Speaker of the House, the Hon Tony Smith MP, dated 29 November 2016. The letter draws the Speaker's attention to a further statement made by the Member for Griffith in the Federation Chamber on 28 November 2016. The Member, having been advised of Mr Thwaites's objections to her original statement to the House, briefly summarised Mr Thwaites's position and informed the Federation Chamber that she had 'provided a written apology' to him.
- 1.4 In considering the submission from Mr Thwaites, the committee has had regard to the terms of the House's resolution of 27 August 1997 (reproduced at Appendix 1) and the guidelines which the committee has developed under paragraph 9 of the resolution (reproduced at appendix 2).
- 1.5 The committee notes that the Member for Griffith did not refer to Mr Thwaites by name in either of her statements in the House, and further notes that the matters in issue between Mr Thwaites and the Member for Griffith have been reported in considerable detail in the various forms of media.

- 1.6 The committee finds that a response from Mr Thwaites is not warranted in light of all the circumstances of the matter, including the airing of Mr Thwaites's views in the media and the Member for Griffith's further statement in the Federation Chamber on 28 November 2016.
- 1.7 It should be noted that, in coming to these conclusions, the committee makes no judgment as to the truth of the Member for Griffith's statements on 23 and 28 November 2016 or of Mr Thwaites's submission to the Speaker. Nor does the committee express any view as to the merits of other related actions. Under paragraph (6) of the House's resolution of 27 August 1997, the committee is prevented from judging the truth of any statements made in the House or responses to such statements.
- 1.8 The committee recommends that no further action be taken by the House or the committee in respect of Mr Thwaites's submission.

MR RUSSELL BROADBENT MP
Chair
February 2017



Appendix 1

Right of Reply of persons referred to in the House

Resolution adopted 27 August 1997

That:

(1) Where a person who has been referred to by name, or in such a way as to be readily identified, in the House, makes a submission in writing to the Speaker:

(a) claiming that the person 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; and

(b) requesting that the person be able to incorporate an appropriate response in the parliamentary record;

and if 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 Committee of Privileges and Members' Interests; and

(d) that it is practicable for the Committee of Privileges and Members' Interests to consider the submission under this resolution,

the Speaker shall refer the submission to that Committee.

(2) The Committee may decide not to consider a submission referred to it under this resolution 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 shall be reported to the House.

(3) If the Committee decides to consider a submission under this resolution, the Committee may confer with the person who made the submission and any Member who referred in the House to that person.

(4) In considering a submission under this resolution, the Committee shall meet in private session.

(5) The Committee shall not publish a submission referred to it under this resolution 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 House.

(6) In considering a submission under this resolution and reporting to the House the Committee shall not consider or judge the truth of any statements made in the House or of the submission.

(7) In its report to the House on a submission under this resolution, the Committee may make either of the following recommendations:

(a) that no further action be taken by the House or by the Committee 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 and the Committee, be published by the House or incorporated in *Hansard*,

and shall not make any other recommendations.

(8) A document presented to the House under paragraph (5) or (7):

(a) in the case of a response by a person who made a submission, shall be succinct and strictly relevant to the questions in issue and shall not contain anything offensive in character; and

(b) shall not contain any matter the publication of which would have the effect of:

(i) unreasonably adversely affecting or injuring a person, 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) The Committee may agree to guidelines and procedures, not inconsistent with this resolution, to apply to the consideration by it of submissions.

(10) This resolution shall continue in force unless and until amended or rescinded by the House in this or a subsequent Parliament.

Appendix 2

Protection of persons referred to in the House

Guidelines made under clause 9 of the resolution of the House of 27 August 1997,
amended 13 February 2008 am
Supplementary to the provisions of the resolution

The Committee of Privileges and Members Interests will consider each application for the publication of a response on its merits, but proposes that the following guidelines apply to 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;

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- (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, and has been damaged as a result;
 - (5) applications must be concise, be in the character of a refutation or explanation only and 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 and whether they have been exercised.