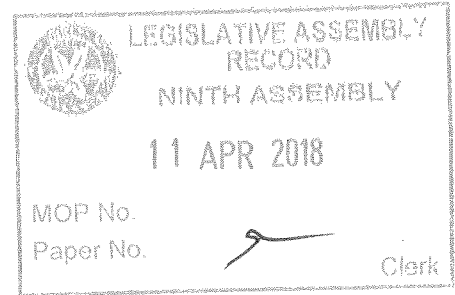




Speaker



Mrs Vicki Dunne MLA
Chair
Standing Committee on Public Accounts
Legislative Assembly for the Australian Capital Territory
Civic Square, London Circuit
CANBERRA ACT 2601

Dear Mrs Dunne

I am writing concerning a letter I have received from Ms Cody in which she raises a matter of privilege (see attached letter). As can be seen from the letter, Ms Cody has alleged that a letter written by Miss C Burch and Ms Lee is misleading in relation to the Standing Committee on Public Accounts (PAC) current inquiry into methodology for determining rates and land tax for strata residences as submissions may be made via the haveyoursay website which is operated by the Liberal Party of Australia. Ms Cody further notes that the processes of the committee may have been interfered with, and that there has been a conspiracy between Mr Coe, Ms Lee, Miss C Burch and possibly others to control the process and possibly the outcome of the committee's inquiry. Ms Cody also alleges that the formulation and distribution of the letter by Miss C Burch and Ms Lee, along with the design of the website, amounts to an improper interference with the free exercise by the PAC of its functions.

Under standing order 276 I must make a determination as soon as practicable whether or not the matter raised by Ms Cody merits precedence over other business.

The Assembly has not yet made a law in relation to its privileges. The Assembly has, however, declared as a matter of general guidance that breaches of certain prohibitions and attempts or conspiracies to do certain prohibited acts, may be treated by the Assembly as a contempt.

Standing order 277 sets out the matters constituting contempt, and includes:

(a) Interference with the Assembly

A person shall not improperly interfere with the free exercise by the Assembly or a committee of its authority, or with the free performance by a Member of the Member's duties as a member:

and...

(j) Interference with witnesses

A person shall not, by fraud, intimidation, force or threat of any kind, by the offer or promise of any inducement or benefit of any kind, or by other improper means, influence another person in respect of any evidence given or to be given before the Assembly or a committee, or induce another person to refrain from giving such evidence.

To encourage individuals to engage with the Assembly by making a submission to a committee and referring them to a committee's website may be a common practice for MLAs, and would not tend to interfere with a committee.

However, to encourage individuals to make a submission to a committee through a non-Assembly and unauthorised website (in this case a website administered by a political party) could amount to substantial interference with the proceedings of that committee, especially if not all submissions were to be passed on.

This is because it could allow those administering the party website to filter submissions before passing them on to the committee, and to obtain knowledge of the content of those submissions before the committee. If the committee was happy for this to occur then there would appear to be no issue, but some might argue that submissions are properly the property of the committee and that by allowing an outside body to see submissions first may be seen to circumvent the committee's role in gathering information for its use in the conduct of its inquiry.

Standing orders 239 to 243 are relevant in considering the authority that committee has to call for, receive, and publish evidence. In particular -

Standing order 239:

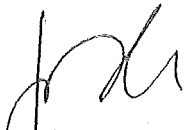
A committee shall have power to send for persons, papers and records.

It is clear from these standing orders that committees possess a particular authority to deal with evidence, and which is not transferrable to other parties.

Under standing order 242, where a committee is affected by any unauthorised disclosure of proceedings the committee shall seek to discover the source of the disclosure, including by the chair of the committee ascertaining from all members of that committee and its staff if they can explain the disclosure. The standing order also asks the committee to come to a conclusion as to whether the disclosure had a tendency substantially to interfere with the work of the committee or actually caused substantial interference. I believe that this standing order could also be applied to the current matter of privilege raised.

Accordingly, I would be grateful if you could advise the Assembly of the committee's view on whether the matter raised by Ms Cody (a) has caused or has the potential to cause substantial interference with its work on the relevant inquiry it is undertaking, and (b) whether the letter from Miss C Burch and Ms Lee which states "If you are an owner or a tenant or just think this is plain unfair, we encourage you to make a submission to the Inquiry at: <https://www.haveyoursay.net.au/strata/>" would have a tendency to encourage submissions from only one side of the argument and thus interfere with the inquiry process.

Yours sincerely



Joy Burch MLA
Speaker

29 March 2018