



Standing Orders and Procedure Committee

REPORT 4/56 – SEPTEMBER 2016

CITIZEN'S RIGHT OF REPLY - EASTERN SUBURBS FOOTBALL ASSOCIATION

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LEGISLATIVE ASSEMBLY
NEW SOUTH WALES



LEGISLATIVE ASSEMBLY

STANDING ORDERS AND PROCEDURE COMMITTEE

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The motto of the coat of arms for the state of New South Wales is “Orta recens quam pura nites”. It is written in Latin and means “newly risen, how brightly you shine”.

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Membership

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Terms of reference

The Standing Orders and Procedure Committee has been appointed to inquire into, and report on any matter relating to the Standing Orders or the procedures of the House and its committees.

Speaker's foreword

At a meeting of the Standing Orders and Procedure Committee held on 24 August 2016 the Committee resolved that Eastern Suburbs Football Association (ESFA) should be given a Citizen's Right of Reply in response to comments made about the Association by Mr Ron Hoenig MP, Member for Heffron, in the Legislative Assembly on 17 February 2016.

It should be noted that, in accordance with Clause 6 of the Citizens' Right of Reply procedure adopted by the Legislative Assembly on 15 September 2015, the Committee has not judged the truth of any statements made in the Legislative Assembly or ESFA's submission.

I commend the report to the House.



The Hon. Shelley Hancock MP

Chair

Chapter One – Eastern Suburbs Football Association's request for a Right of Reply

- 1.1 In a letter to the Speaker, dated 15 June 2016, Mr Sean Fenton, President, Eastern Suburbs Football Association (ESFA), requested a Citizen's Right of Reply on behalf of the Association and its General Manager, Mr Aaron Dibdin, in response to comments made by Mr Ron Hoenig MP, Member for Heffron, in the Legislative Assembly on 17 February 2016.
- 1.2 The Standing Orders and Procedure Committee (the Committee) concludes that ESFA should be given a Reply and that it be published by the Legislative Assembly. ESFA's Reply can be found at Appendix One of this report.
- 1.3 In agreeing that a Reply should be given to ESFA it should be noted that, in accordance with Clause 6 of the Citizens' Right of Reply procedure adopted by the Legislative Assembly on 15 September 2015, the Committee has not judged the truth of any statements made in the Legislative Assembly or ESFA's submission.

Appendix One – Reply from Eastern Suburbs Football Association to comments made by Mr Ron Hoenig MP, Member for Heffron

Eastern Suburbs Football Association (ESFA) wishes to respond to comments made by Mr. R Hoenig, Member for Heffron, in the Legislative Assembly on 17 February 2016.

Mr Hoenig was speaking in support of the Associations Incorporation Amendment (Review) Bill 2016. In doing so, he noted that the Bill did not change one aspect of the Act that he thought required change, namely, the provisions dealing with disputes within incorporated associations.

Mr Hoenig purported to illustrate his point by referring to his experience as an office-holder of Pagewood Botany Football Club, and to the experience of a fellow office holder in disciplinary proceedings before ESFA.

In making his observations, Mr Hoenig asserted that:

- ESFA had acted unlawfully and in breach of its constitution in disciplining his fellow office holder.
- ESFA had acted with "belligerence and stupidity."
- The ESFA general manager, Aaron Dibdin, was stupid, belligerent and incompetent.

ESFA wishes it to be known that:

- The disciplinary proceedings that were instituted against Mr Hoenig's fellow office holder were carried out in accordance with a procedure set out in a regulation properly made under the ESFA Constitution.
- The accused appeared before a Judiciary Committee comprising three experienced and impartial members of the Sydney football community. Two were practising barristers.
- The accused appealed the decision of the Judiciary Committee and provided written submissions to the Appeals Committee but chose not to appear in person before the Committee. The Appeals Committee comprised two experienced members of the Sydney football community, one being a barrister and the other an official from another metropolitan football association.
- The Appeals Committee dismissed the appeal, including the submission that ESFA's conduct had been "unconstitutional."
- Throughout the entire process Mr Dibdin followed the procedure laid out in the relevant regulation. His handling of the matter was entirely competent and professional.

ESFA is responsible for providing football competitions and programs at a community level in the eastern suburbs of Sydney and it currently caters for approximately 8,000 players.

Like its superior body, Football New South Wales, and its counterparts in other regions, it has a sophisticated disciplinary procedure in place for dealing with players, officials and spectators who are alleged to have breached the Association's rules.

In 2015 the Committee issued 230 suspension notices arising from a review of incident reports. These notices advise of a period of suspension and if the suspended party is not satisfied they can, on payment of a small fee, appear before the Committee.

In 2015, only 15 suspended parties chose to have such a hearing. In more serious or complicated cases, the Committee does not issue a suspension notice but, instead, cites suspected offenders to appear before a panel of 2 or 3 experienced members of the football community.

In 2015, 20 people or clubs were cited and of those, only 2 chose to appeal the Committee's decision.

ESFA refutes absolutely the suggestion by Mr Hoenig that its disciplinary procedure is unconstitutional or that its handling of the particular matter referred to was illegal, belligerent or incompetent.

Appendix Two – Citizens' Right of Reply procedure

(Adopted 15 September 2015, *Votes and Proceedings*, pp. 325-7)

That, during the current Parliament, unless otherwise ordered, the following Citizens' Right of Reply be adopted:

- (1) That where a submission is made in writing by a person who has been referred to in the Legislative Assembly by name, or in such a way as to be readily identified:
 - (a) claiming that the person or corporation 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 or corporation; and
 - (b) requesting that the person be able to have consideration given to an appropriate response being published by the Legislative Assembly or incorporated into Hansard,

and 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 Standing Orders and Procedure Committee;
 - (d) the submission was received within 6 months after the relevant comments were made in the House unless the applicant can show exceptional circumstances to explain the delay; and
 - (e) that it is practicable for the Committee to consider the submission under this resolution, the Speaker shall refer the submission to that Committee.
- (2) That 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 Legislative Assembly.
- (3) That 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 Legislative Assembly to that person or corporation.
- (4) That in considering a submission under this resolution, the Committee shall meet in private session.
- (5) That the Committee shall not publish a submission referred to it under this resolution of its proceedings in relation to such a submission, but may present minutes of its proceedings and all or part of such submission to the Legislative Assembly.

- (6) In considering a submission under this resolution and reporting to the Legislative Assembly the Committee shall not consider or judge the truth of any statements made in the Legislative Assembly or the submission.
- (7) That in its report to the Legislative Assembly on a submission under this resolution, the Committee may make either of the following conclusions:
 - (a) that no further action be taken by the Committee or the Legislative Assembly 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 or corporation and the Committee, be published by the Legislative Assembly or incorporated in Hansard by the Speaker.
- (8) That a document presented to the Legislative Assembly under paragraph (5) or (7):
 - (a) in the case of a response by a person or corporation 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 corporation, 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) That a corporation making a submission under this resolution is required to make it under their common seal.
- (10) The provisions of Standing Order 306 do not apply to any report made by the Committee to the Legislative Assembly under this resolution.