

Dear Kate,

I refer to your letter, dated 1 November 2024. Further information is needed in regard to the purported allegations which I regard as false, for me to be given a fair opportunity to respond. Nonetheless, I am in a position to provisionally respond which forms the second half of this letter.

Further information needed regarding allegations

Your letter states that you are in receipt of motions requiring you to investigate a Facebook post and an email by myself. Your letter reads as if, but does not explicitly state, that you are conducting this investigation in compliance with clause 3.3 (b) of the QTU Rules.

Could you please clarify that this is the case, or that your investigation has some other status.

More importantly, in order to appropriately respond to the string of purported allegations you make against me (described by you as potential “findings” that you are “considering making”) I require specific information regarding the factual basis on which you are considering making these “findings”.

The lack of this information places me at an extreme disadvantage in responding to these purported allegations against me, some of which are very serious. This raises the question of whether I am being afforded natural justice in responding to these purported allegations. Section 15 of QTU Policy A, all investigations of teachers by the Department should observe the rules of natural justice, including access to the full details of the complaints and information collected by investigators and an impartial investigation. Surely you do not contend that investigations of a member by or on behalf of the Executive should be conducted on a lesser standard? Please advise me in writing within seven days of your position in this regard.

Similarly, the QTU policy also states that “the QTU believes in the presumption of innocence.” Please advise me within seven days, in writing, whether the presumption of innocence applies to me in the conduct of your investigation.

There is no evidence in the motions regarding alleged inaccuracies, and when members requested evidence, none were provided. For example, I refer to the Ferny Grove branch meeting dated 15 October 2024 relating to one of the resolutions (E2024-1674) you rely on. I am informed and believe that the mover of that motion was asked to produce the wording of the purportedly offending post at that meeting, so that members could establish for themselves whether there were any grounds to the motion. The mover of the motion, QTU Executive member and President of the Ferny Grove Branch, Cassie Munro, refused to do so.

Given that I stood in election against the current Acting President, how can I be assured of an impartial investigation? I, and others, have already made several requests for the actual evidence motivating the motions against me, beyond the communications stated in your letter. I received an email from you on 22nd October acknowledging my request for the

arguments and evidence associated with the branch motions in which I was named. You advised that you were collating these arguments, however, when I followed up on 30th October, I received no reply. There are none in your letter dated 1st November, beyond the “communications” which do not demonstrate any of the findings you are considering to find. I also note that on the floor of November State Council, it was declared that these motions for an investigation did not require argumentation.

The Cooke Commission of Inquiry into the Activities of Particular Unions details that in several cases, “Evidence was given of trumped-up charges being laid against opponents, and union rules being manipulated to muzzle criticism” (Commissioner Marshall Cooke, 1990. *Conclusion, First report of the Commissioner appointed to inquire into activities of particular Queensland unions*, p93). Given that my repeated requests for more information have failed to yield any further proof or evidence, I suspect and I believe fairly and reasonably that the purported allegations raised against me, this investigation and these motions are maliciously and politically motivated, in a similar fashion as was revealed by the Cooke Commission of Inquiry. Not only have I not been afforded natural justice in the absence of clear evidence to substantiate allegations, a number of findings you are considering making have no bearing on either the communications I wrote or even on the motions carried in various branches against me.

For example, you state: “You posted inaccurate and misleading information on a Facebook site based on information you obtained in your capacity as observer at State Council.” If I am to meaningfully respond to this assertion, I need to have some idea of which statements you are claiming to be “inaccurate” and/or “misleading”, and in what way. That said, Queensland Teachers Fightback is a private group for those who advocate and organise for a change in orientation within the QTU. My right, as other QTU members, to freely associate with whom we choose is legally protected under the Human Rights Act, as is our right to free speech. As communicated in your correspondence to me, received in or about July 2022, you state that “The work you are undertaking in your groups is encouraged and supported.”

Some of your purported allegations are rather more specific. But without any indication of what you are referring to, I can’t know what to respond to. For instance, you are considering finding that my email and/or Facebook post “Imply that State Council representatives are corrupt”. However, you give no indication of which of my words you are alleging carry this implication. In no way is this offering me natural justice or access to the full details and information.

It is entirely unreasonable to expect me to resort to guesswork to deduce what words you believe may carry an adverse imputation, and then for me to assess whether or not I agree with your characterisation of *each one* of the various words or sentences that I think *might* be the ones you have in mind.

Therefore, please identify by close of business Wednesday 20th November:

- Which of our union’s rules and policy specifically I am alleged to have breached regarding my observation, and subsequent communications, of August State Council?

- Which information in my communications may be characterised as “inaccurate and misleading” in your opinion? And in what way are they held to be inaccurate and misleading?
- Which are the allegedly “misleading statements” you claimed to have been corrected, by users who you allege have then been blocked? And where in either my post on 11 August or the email sent on 11 August, could you possibly make the above finding? And under what rule would you be making such a finding?
- Which words in my communications are alleged to have possibly “misled individuals to believe that the decision to undertake interest-based bargaining was imposed upon the membership by executive and senior officers”?
- Which words in my communications are alleged to have “misled individuals to believe that not all State Council members are elected”?
- Which words in my communications are alleged to “imply that State Council representatives do not represent the membership”?
- Which words in my communications are alleged to “imply that State Council representatives are corrupt”?
- Which confidential information is being alleged to have been disclosed in my communications?
- In what way do my communications “misrepresent the debate at State Council”? Specifically, which are the “certain arguments made during debate” which I am alleged to have “falsely increase[d] the significance of”, and which are the “relevant, stronger arguments” which you allege I omitted? And which rule specifies the obligation of observers to provide a thorough and exact exchange, person by person, of the arguments and proceedings of State Council?
- You mention that comments on my communications encourage “unlawful action by members such as protected industrial action”. Which unlawful actions are you saying are encouraged, and by which words? Your use of the words “such as” imply that there are other examples other than protected industrial action – what are these other examples?
- As well as the above, please give detail on any further alleged failure on my part to “comply with the obligation for observers to communicate their observations accurately without misrepresentation”?

In conclusion, your purported allegations are not adequately particularised, let alone substantiated by evidence. I reject your accusations of misrepresentation, inaccuracy, breach of confidentiality, and any other wrong-doing.

To put it simply: if I am to have a fair chance to answer your purported allegations, you need to actually make your case, or at least substantiate these purported allegations, and afford me the time to respond adequately to that evidence. Otherwise, I am not being afforded natural justice.

To that end, should you be able to produce evidence to any of the above points, I request another two weeks, to allow me to respond. Should you be unable to present any clear evidence to the above points, then I call on you to abandon your investigation as you will have no choice but to presume my innocence, if acting reasonably.

I also object to the unilateral refusal to allow additional observers on the floor of State Council in November. When I applied on 8th October, I was notified that 12 observer positions were already filled, and that I was on a waitlist. Then, closer to the day of State Council, I was informed that the waitlist was not being progressed, and on the day of Council only 7 observers were present, with at least 5 vacancies. That my observer status was rejected outright, even before any investigation into my alleged wrong-doing was concluded, is highly problematic and reflects poorly on the democratic traditions of unionism.

Efforts to silence me and other members on genuine issues of concern within our union, and prevent the sharing of information and deeply felt opinions by committed unionists regarding the proceedings of the highest decision-making body of our union, damage our Union's reputation by eroding the commitment to democracy that our Union upholds, as reflected in the QTU's statement of values. Such actions infringe on the rights of Union members. Attempts to stifle these voices not only undermine our Union's democratic principles but also risk alienating members who are invested in our Union's success through honest, open debate. Free expression and open dialogue are essential to a healthy, resilient Union, and I believe it's crucial to protect this right as we navigate our Union's future.

My provisional response

What follows is my provisional response to each of your purported allegations – hampered though I am by the lack of any specifics regarding most of them.

- *You posted inaccurate and misleading information on a Facebook site based on information you obtained in your capacity as observer at State Council.*

This purported allegation in particular is difficult to answer in the absence of any specifics as to what you are alleging is inaccurate and misleading.

My commentary was neither inaccurate nor misleading. My email and Facebook post were a mix of factual reportage and honest and reasonable opinion.

The fact that the elected leadership has different opinions doesn't make the commentary inaccurate or misleading. One of the fundamental premises of union democracy – in fact, of any democracy – is that people are entitled, reasonably, in good faith to express different views and interpretations of a given event. My email and communication following the August State Council did no more than that.

- *You appear to be an administrator on the QTU Fightback Rank and File Facebook page, where you posted your comment. In your capacity as admin, you block users*

who present dissenting views to your own, or who correct your misleading statements.

I presume you are referring to the Queensland Teachers Fightback page.

I absolutely reject the purported allegation that users are blocked merely for presenting dissenting views, or for correcting what you characterise as “misleading statements”. In fact, the comments below the post that you refer to is proof that various views are indeed contested on the page.

That said, Queensland Teachers Fightback is a private group for those who advocate and organise for a change in orientation within the QTU. My right, as other QTU members, to freely associate with whom we choose is legally protected under the Human Rights Act, as is our right to free speech. As communicated in your correspondence to me in 2022, you state that “The work you are undertaking in your groups is encouraged and supported.” Any Facebook group of this nature will set its own bounds of what is seen as healthy debate, and what is getting in the way of the purpose of the page. One extreme example of this is seen in the fact that, due to comments being disabled, no debate whatsoever is tolerated on many posts on the QTU Facebook page.

In any case, if your investigation is part of a potential disciplinary process under the rules of the QTU, your inclusion of my administrating the Queensland Teachers Fightback Group is entirely spurious. It is a private page which is not run by the QTU, and which you have on multiple occasions acceded to having no jurisdiction over a private Facebook group. As per your request in 2022, the group description of Qld Teachers Fightback states “The QTU has requested that we specify that this page of rank and file members is not affiliated with the union's official structures.”

- *Your communications have misled individuals to believe that the decision to undertake interest-based bargaining was imposed upon the membership by executive and senior officers.*

The report states accurately that Fightback members were outvoted on the question of IBB, and then blocked from adding (as specific claims to be advanced) any of the 1,600 motions from branches regarding bargaining. This argument and course of action was led by the executive and senior officers of the union, which is stated plainly in the proceedings of August State Council, as was accurately stated in my email and Facebook post.

Fightback disagree with these decisions, which is our right. And we say so openly. None of this is misleading as you claim.

- *Your communications have misled individuals to believe that not all State Council members are elected.*

I presume you are referring to this statement: “Only a small minority of the delegates faced an election to serve on State Council - the vast majority were elected unopposed.”

This is not a misleading statement. In fact it plainly states the truth: that a high proportion are “elected unopposed”, and did not “face an election” to be on State Council. It is my honest opinion that this raises issues of the degree of accountability which State Council members have to the union membership as a whole.

- *Your communications imply that State Council representatives do not represent the membership.*

Again, it’s not at all clear what you are referring to here.

I certainly believe that 1,600 motions from branches relating to specific claims gives some accurate and substantial indication of what the majority of members want from the coming EA. And I believe that State Council voting to not adopt a single one of these motions as a claim and instead settle for five amorphous “interest areas” does indicate a failure of representation.

Expressing these views falls within the bounds of a normal exchange of views and debate within a union and is legally protected.

- *Your communications imply that State Council representatives are corrupt.*

Another case where the lack of any specifics in your purported allegation makes it difficult to respond adequately. Perhaps you are referring to this comment:

“- they also don't want to jeopardise their cosy relationship with the department. We saw what the DG thinks of our demands when he emailed us all about the work bans - and within a week our union leadership was signing up to roundtables with him.”

This is a political critique of what is widely and sincerely viewed as a “cosy” relationship between a state bureaucracy, the former Labor government, and union leadership. There is no purported allegation or implication of corruption in the ordinarily understood meaning of the term (ie, taking a particular course of action in return for personal favours).

I should also note that the context for this comment (if indeed this is the comment you are referring to in your purported allegation) makes it clear I am referring to the top leadership of the union, not State Council in general.

- *Your communications disclose confidential information discussed during committee.*

Again, it's very difficult to respond to this purported allegation when you provide no specific information about what the purported "confidential information" is which you allege that I disclosed.

There is no rule of our Union, no policy of our Union, no Standing Order of our Union and no contract which makes matters communicated in committee at a State Council meeting confidential. Nor does anything communicated in such committees have the quality of confidential information. For instance, matters in the public domain do not attract confidentiality.

There is no breach of "confidential information" in my communications. My best guess is that you are referring to political arguments I mention in my email and Facebook post. These were either minuted as part of the proceedings of August State Council, or part of public debate that is also occurring around demands we're making as a profession, or both. The specific arguments made on the floor of Council in favour of interest-based bargaining, and against specific, quantifiable demands are minuted in the Proceedings of State Council, have been shared in the pages of the QTU Journal, and have been made by members in branch meetings around the state, and in other forums such as online. To assert that any reference made in my communication was a breach of confidentiality is a false allegation.

Here are the specific arguments which I refer to, together with an easily-accessible source which mentions this specific argument.

- **more time isn't workload reduction!**

This year there have been discussions about more release time, additional non-contact time, and more professional collaboration time as an imperative in our EB log of claims. Some believe that these are a step toward workload reduction, but I see them more as a mechanism to support workload management.

– Kate Ruttiman, August QTU Journal

- **- 10% will mean more students in classes**

While I agree a large pay increase should be a plank of the EBA I'm concerned with the way this has been handled in other public sectors in other states. Victoria and NSW immediately started eliminating programs and support staff in education

and hospitals to balance the budget instead of increasing funding. The EBA will need to be clear about not going backwards on that front or it will just be a hidden workload increase.

– Michael Adams, comment in Qld Teachers Facebook page, 17 July

- we have to think of other government departments - if we win high demands, other departments would raise similar demands

L Mertens stated that teaching was not the only industry trying to recruit and retain workers.

– Minuted proceedings of August Council, 2024 (Leah Mertens spoke at length on this topic. The notes of proceedings of state council are quite abbreviated. The fact that this brief report appeared in the Proceedings shows it did not happen in committee)

- 10% would be a "maximum" and if we get it, we'd be outstripped

– QTU Centenary Branch meeting Term 3, 10th July, comments made by Rachel North. This can be independently verified by members present at that meeting.

- we don't know who the government will be, so we can't list everything we're for yet

L Mertens reminded Council that the QTU did not know who would be in government next year until 26 October 2024. L Mertens encouraged Council to adopt the five interest areas without a percentage pay increase attached, without anymore detail as there were further claims as the QTU was not yet in bargaining.

– Minuted proceedings of August State Council, 2024.

- *Your communications misrepresent the debate at State Council, falsely increase the significance of certain arguments made during debate, while omitting relevant, stronger arguments.*

I assume you are referring to the arguments stated above, which have been widespread in the public realm before, during and after the August meeting of State Council.

It is my honest and reasonable opinion that, as I state, the arguments advanced against adopting clear, quantifiable demands “ranged from pro-government to the outright bizarre”. Evidently, you have a different view. If there are indeed more compelling arguments for IBB, the leadership has every opportunity to put these arguments in front of the membership.

It is a normal part of democracy and debate to summarise the arguments made by participants in a debate, and to comment on them. This is all that I have done.

- *Comments on your communications encourage unlawful action by members such as unprotected industrial action, about which you have taken no action.*

Again, it's hard to answer this purported allegation without specifics as to what you are referring to. There is no reference to unprotected industrial action in my email or Facebook post, or in the comments on the post.

Perhaps you are referring to this comment from Cameron Smeal, in response to Kev McMahon on the Facebook post: "You can't see that NSW Teachers Federation walk the talk where we don't?"

NSW teachers struck three times in two years against the restrictive pay cap of the former NSW government. There was then a major public backlash in 2023 after the new Labor government reneged on a pay deal. This included heated public protests by teachers, the heckling of the Labor Premier in public, and threats of further industrial action from the NSW Teachers Federation.

My assessment that this generally more combative approach is what the comment refers to as "walk[ing] the talk". You advance no evidence to contradict this assessment.

This purported allegation is also contradicted by the practice of the QTU leadership this year. You assert that I could be disciplined for taking no action against comments "encouraging unlawful action by members such as unprotected industrial action", yet QTU members were balloted to take unprotected industrial action in the form of work bans in May this year. We have also been balloted to ban NAPLAN implementation in 2021, another unprotected industrial action. These actions are welcome, and the ballots were right to have been carried out. Likewise, I should not be facing any disciplinary measure.

- *You have failed to comply with the obligation for observers to communicate their observations accurately without misrepresentation.*

Again, without specifics this is very hard to even begin to attempt to address.

I reject your purported allegation that I have engaged in misrepresentation. I would note that there is no obligation on observers to refrain from expressing their views on what is decided at our highest governing body. This is and should be a basic democratic right.

In conclusion, your purported allegations are not substantiated. I reject your accusations of misrepresentation and inaccuracy.

Additionally, the absence of any evidence against me raised in the motions is very problematic. The people who raised these motions without any supporting evidence for branches would potentially be in breach of rule 3.3(a)(vi) for making false, frivolous or malicious accusations against me, a member of the union. That these motions were raised and carried across a number of branches with shared and similar wording, makes it likely that these members, and any others who aided or encouraged members to raise these motions in branches and area councils, would also be in contravention of rule 3.3(a)(ix). To that end, I require the full names of the movers and seconders of motions E2024-1510, 1549, 1550, 1618, 1623, 1649, 1654, 1658, 1660, 1673, 1687, 1685.

Your allegations seem intended to have a chilling effect on free debate and therefore on democracy around the crucial topic of how we can take our union, our members conditions, and the learning conditions of our students forward. I request that you withdraw these purported allegations and give assurances of my, and all members', right to participate and engage in debates in our Union without fear of censure and malicious accusations.

Regards,

Tim Arnot