

Attachment two

Confidential Submission to the Parliamentary and Privileges Committee

I thank the committee for accepting my submission and offer it to help provide information in relation to matters under investigation.

I don't believe I have lied or misled the court.

I have acted in good faith and have sought advice at each step of the process.

I understand an order was granted by the Legislative Council on 15th of June 2022 to allow the PPC access to documents under the control of the 'Select Committee into Cannabis and Hemp'.

On that basis I refer to those documents in my submission.

I submit to the committee that deliberations captured in the minutes of meetings of 'The Select Committee on Cannabis and Hemp' dated February 22nd, March 4th, and 2nd May, will provide some useful insight into the matter.

The minutes of the meeting of February 22nd capture the following under the heading of 'International travel'.

The Committee discussed the ability of Hon James Hayward MLC to participate in Committee travel and his continuing contribution to the Committee as a whole.

The Committee requested staff seek advice from the Clerk in regard to the Member being able to meet his parliamentary responsibilities in accordance with bail conditions placed on him.

It is my recollection of that meeting that several members expressed their views as to what was expected of me as a member of the committee.

They specifically expressed the view that I should be able to travel.

Some members went on to say that if I could not travel then I wasn't pulling my weight and could not adequately fulfil my role as a committee member.

Those members expressed to me the view that I should resign from the committee for various reasons including the fact that my current bail conditions prevented me from traveling outside of Western Australia.

The pressure which I felt being placed on me to resign, came from an expectation from the members themselves, rather than any standing order or procedural requirement.

I understood I was to consider whether I should continue as a member of the committee and should report my decision to the next committee meeting.

I obtained legal advice in relation to the possibility of my bail being varied to allow me to travel interstate.

The minutes of the meeting of March 14th state the following.

3. BUSINESS ARISING FROM MINUTES

Advisory Officer, Stephen Brockway provided the Acting Clerks advice to the committee in regards to questions pertaining to a Member fulfilling their duties whilst under bail conditions. This advice indicated that any restrictions imposed are solely within the discretion of the court.

The Hon James Hayward MLC advised the Committee that he wished to remain on the Committee and had spoken with the President and the Clerks of the Legislative Council in regard to this. The Member has sought legal advice in regards to Committee travel whilst under bail conditions, and advised that an interstate travel exemption was likely to be granted, although international travel may not be possible.

It's my recollection of that meeting that I made a commitment to the members of the committee that I would resign from the committee if I wasn't able to pull my weight which included the need to travel.

My lawyer requested me to ascertain if a letter could be provided to confirm the reason I needed to travel and the particulars to assist with the making of a bail variation application.

I sought advice from the President and Clerks of the Legislative Council.

The Deputy Clerk prepared a proposed letter which the Chair of the Select Committee Hon Brian Walker would sign should he be authorised by the committee.

The Minutes of the meeting of 2nd of June include the following

1. INQUIRY INTO CANNABIS AND HEMP The Hon James Hayward MLC provided some background in regards to the request for a letter for the Chief Magistrate to change bail conditions for travel to the United in Compassion Symposium. The Hon James Hayward MLC advised he would reconsider his position on the Committee if his application to amend his bail conditions is not approved.

By way of explanation of the minute, it's my recollection that Hon Jackie Jarvis asked me specifically, what my intentions were, should a variation to my bail conditions, not be granted.

I reaffirmed the commitment I had made on 14th March that if I could not travel, I would resign from the committee.

I provided the court with my affidavit in support of my application.

The affidavit was carefully worded so as not to reveal the deliberations of the committee.

I believed that if I included anything that was discussed in the committee meetings that I would be in breach of Parliamentary Privilege.

I believed this because I have been told by Parliamentary staff and it is part of our committee training and it's in the Standing Orders.

My affidavit at paragraph 10 stated that if I was not able to travel I would 'have to resign as a Committee member'.

I said this because the committee had told me what was expected of me as a Committee member and I had made an undertaking at the meeting of March 14th and June 2nd that if I couldn't travel I would resign.

I did not include this detail in the affidavit because I was concerned to do so would breach Parliamentary Privilege.

I made this submission in good faith and did not at any point state that I would be 'deemed', required, or forced to resign. I did not say or intend to indicate that I would be sacked or subjected to any procedural sanction.

The affidavit reflects my personal undertaking to the committee that if I were not able to meet the expectations I would need to resign from the Committee.

I note there was no discussion or question asked by the magistrate regarding this point.

The affidavit presented to the court was the subject of specific legal advice and I was advised by my Lawyer that the wording was appropriate.

I appreciate this matter was referred to the PPC based on wording contained in media reports, which were then repeated in Parliament, however I note, the media did not accurately report the proceedings.

Specifically, The West Australian Newspaper's article on May 10th stated that the court had been told I would be 'deemed' unable to fulfill (my) responsibilities.

The transcript of the proceeding of the Perth Magistrates Court on the 9th of May 2022 obtained by the Parliament, makes no reference to the word 'deemed' nor does the Magistrate take issue with any of the contents of my affidavit.

To my knowledge the WA Police have not received any complaint that I have lied to the court or attempted to pervert the course of justice.

In closing I reaffirm that I have acted in good faith.

I sought advice and followed that advice to the best of my ability, and I believe my actions were reasonable based on what I had been told in all the circumstances.

Sincerely

A handwritten signature in black ink, appearing to read 'James Hayward', with a large, sweeping flourish at the end.

Hon James Hayward MLC
Member for South West Region