



# Office of Hon Dr Brian Walker MLC

## MEMBER FOR EAST METROPOLITAN REGION

06 July 2022

Hon Alanna Clohesy MLC  
Chair  
Procedure and Privileges Committee  
Parliament House  
Perth WA 6000

### By email

Dear Chair,

### Matter of privilege – Hon James Hayward MLC

I refer to the matter of privilege that was referred to the Procedure and Privileges Committee on 14 June 2022, and to the letter dated 5 July 2022 requesting a written response. In my response I note:

1. Hon James Hayward consulted with the Select Committee following on from his application to seek variation of bail.
  - a. He had sought a draft opinion from the office of the Clerks of Parliament, and I believe a response in written draft form was prepared by Mr Paul Grant.
  - b. In that application the member had made it clear that he was under the impression that he would be required to resign if his bail condition were not varied and as a result permission to travel would not have been granted.
2. In my opinion, with respect to this specific question, the work of the committee has not been **substantially** obstructed by the actions of Hon James Hayward in relation to his bail variation application.
3. I note in the submission to your Committee a number of statements made by Hon James Hayward that need to be addressed.
  - a. Discussions were indeed held on a number of occasions regarding the issues arising as a result of serious charges having been laid. It was the opinion of members of the Committee that such charges were serious enough to consider resigning from the Committee as a matter of honour and principle.
    - i. I raised these concerns with Hon James Hayward at the very outset of charges being laid, and again once the bail variation was applied for, recommending that resignation would be the better approach for the good of the Committee
    - ii. The response was that to accede to that response would give free reign to any accuser, whose vexatious claims against any member would force a resignation irrespective of any truth to the claims.
    - iii. The Standing Orders were noted and members refrained from repeating their feelings on this matter during Committee meetings.

- b. Members of the Committee are concerned that the Committee will be diminished by the character of one member being tarnished in such a public manner, and the negative publicity surrounding this recent episode will further damage the reputation and affect the perception of any report we produce. Comments made by members to Hon James Hayward reflect the concerns expressed for the integrity of the Committee.
- c. At no stage did the Committee ever declare that travel was essential, or that absence from Committee travel should be a disqualifying event for membership of the Committee.
- d. The Committee held a meeting at which the application for variation of bail was discussed.
  - 1. It was resolved that the draft letter was unnecessary as the facts of travel were of public record and
  - 2. That travel was not a requirement for membership of the Committee and therefore
  - 3. No action was taken on the part of the Committee to support or reject the application for bail variation
  - 4. And there were no grounds to seek an alteration of the normal judicial functions.
- e. We were therefore surprised to see the substantial content of the draft letter represented before the court as fact and there was considerable disquiet that members were named in the reported bail variation which implied that the Committee had supported such a bail variation.
- f. There was also considerable disquiet in considering the possibility, as yet unproven, that the draft letter had been sent on to the court despite the Committee resolving not to use that letter. Concerns were raised privately that the Committee had been misled, and that the request for approval was actually a fait accompli with the lawyer using the draft letter without approval. These concerns are completely without proof, but it is fair to say that members were more than a little aggrieved.

One further point needs to be made. Hon James Hayward has on a number of occasions said that he acted in good faith with the belief, however unfounded, that his resignation would be required if he were unable to travel. While I have personal difficulty in reconciling that point of view with established practice, precedent, and Standing Orders, I am inclined to accept the statement as a reflection of his true belief.

Yours sincerely,



**Honourable Dr Brian Walker MLC**  
Chair, Select Committee into Cannabis and Hemp