



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

SELECT COMMITTEE ON PRIVILEGES 2022

Mr Jeremy Hanson CSC MLA (Chair), Ms Jo Clay MLA (Deputy Chair),
Mr Michael Petterson MLA

Submission Cover Sheet

Inquiry into possible contempt of the Assembly:
Imposition of prohibition notice by WorkSafe ACT

Submission Number: 2.1

Date Authorised for Publication: 10 October 2022



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

SELECT COMMITTEE ON ESTIMATES 2022-2023

Mr James Milligan MLA (Chair), Mr Andrew Braddock MLA (Deputy Chair),
Dr Marisa Paterson MLA

Mr Jeremy Hanson MLA
Chair
Privileges Committee
Legislative Assembly for the ACT
196 London Circuit
CANBERRA ACT 2600

Dear Mr Hanson

Privilege matters –alleged interference with the work of a committee by a minister

Thank you for your letter of 23 September 2022 seeking further information regarding the alleged breach of privilege by Minister Gentleman regarding the work of the Estimates Committee 2022-2023 (the Estimates Committee). The specific breach of privilege relates to the conduct of Minister Gentleman on 16 August 2022 following a meeting with the Estimates Committee when he falsely reported he had reached an agreement with the Estimates Committee on a hybrid model.

Background

The entire matter arose from an initial email from Minister Gentleman's Chief of Staff on 29 July 2022 stating 'Additionally in the interest of COVID safety our office also request that Minister Gentleman and appropriate officials appear via Webex for the hearing'.

This led to multiple email correspondence between Minister Gentleman and the Estimates Committee (this is evidenced in the original submission). The Committee considers the letters escalated the situation rather than help the Committee work in good faith to get the hearings started in a COVID safe manner.

The objective of the Estimates Committee was to conduct the Estimates Hearings on time to meet the Government's budget timeframes and enable sufficient interrogation of the budget. To enable this, the Committee was of the view that it was reasonable to expect that Ministers and senior officials at least attend the hearings in person, which would provide the optimum hearing experience, and that it was possible to do so in a COVID safe manner.

The Estimates Committee spent extensive time liaising with Minister Gentleman and his office in an attempt to

work with him to establish a suitable hybrid model for the hearings. However, the actions of Minister Gentleman led to the Estimates Committee believing that he was not engaging with the Committee with the same interests and there was already a process underway which led to the prohibition notice from WorkSafe ACT. This meant the Estimates Committee could not proceed with the public hearings while it addressed the requirements of WorkSafe ACT, even though the Committee was of the view that the prohibition notice was legally invalid as it was inconsistent with Standing Order 277.

Nature of Interference

Following several exchanges of correspondence, including a letter received from Minister Gentleman on Friday 12 August 2022 ([Attachment A](#)), the Committee sought to resolve the issue and avoid further delays to the Estimates Hearings by inviting Minister Gentleman to a meeting with the Committee on at 2pm on 16 August 2022. This was with a view to coming to a mutually acceptable arrangement on the hybrid model in relation to witnesses attendance at the public hearings.

Minister Gentleman joined the meeting at about 2.30pm following several inquiries from his office about the nature of the meeting ([Attachment B](#) contains an email exchange which was in addition to verbal communications), whether he could appear online and who could attend. Dr Damien West, Deputy Director-General of the Chief Minister, Treasury and Economic Development Directorate also attended this meeting.

At this meeting, Minister Gentleman and Dr West proposed that the Estimates Committee could meet the requirements of the Prohibition Notice by consulting with officials through the Minister. Dr West could then consult with Directors-General who could then propose a small number of their staff to attend who would also be consulted on the Estimates Committee's risk assessment for hearings. Minister Gentleman would also manage the consultation with Ministers. Once the Speaker and Committee believed they had met the requirements of the Prohibition Notice, then the Speaker could apply to WorkSafe ACT for the notice to be lifted.

The Estimates Committee then thanked the Minister and Dr West and stated that they would consider the proposal. (The Estimates Committee has now resolved to provide the Privileges Committee with the minutes from that meeting – see [Attachment C](#)). The minutes also provide further clarity on events described in the timeline included as part of the Estimates Committee's original submission).

The Estimates Committee also resolved at the meeting on 16 August 2022 that each member would informally advise party leaders of its proposed arrangements for hearings.

However, before the Estimates Committee was able to formally respond to the proposal, or liaise with party leaders, Minister Gentleman sent a letter ([Attachment D](#)) to the Estimates Committee incorrectly stating that the proposed arrangement was agreed to and that the model was that only Ministers, Directors-General, and Deputy Directors-General (as needed) would appear in person. The Estimates Committee notes that this was circulated to some staff of members of the Assembly ([Attachment F](#)). The Minister pre-empted the decision by the Committee by suggesting the proposed hybrid model was agreed to, disregarded the Estimates Committee's efforts to negotiate in good faith, provided factually incorrect and misleading information, and divulged confidential committee proceedings.

As advised in the original submission, the Estimates Committee viewed Minister Gentleman as acting with contempt towards the Estimates Committee in issuing the letter on 16 August 2022 containing false statements that there was an agreement when in fact there wasn't.

The Estimates Committee then had to conduct a further private meeting that day to discuss Minister

Gentleman's letter and issue another public statement correcting the record ([Attachment E](#)).

On 17 August 2022, Minister Gentleman made misleading statements in the media (details provided already provided to the Privileges Committee in the Committee's submission) that 40 witnesses would be in one room for the hearings. The Estimates Committee had previously provided information on room limits to Mr Gentleman making it clear that this would not be the case. Also, during the interview Mr Gentleman misrepresented the COVID situation in the ACT by stating record cases when in fact cases were rapidly declining.

Impact of the interference

Minister Gentleman's interference undermines the Legislative Assembly's proper process and the ability of Committees to make decisions/exercise their rights. No Minister should speak on behalf of a committee. This is also especially problematic if the advice is at odds with the Committee's actual decisions.

The Estimates Committee is concerned about the impact that this has had on community confidence in parliamentary process and the ability for a committee to run effective hearings. As evidenced above, Minister Gentleman misled Ministers and misled the public by misrepresenting the Estimates Committee.

It has also impacted on workloads of the committee support staff and Estimates Committee members who have had to work extended hours due to the need to meet numerous times, consult with witnesses to respond to the prohibition notice requirements and correspond extensively with Minister Gentleman while preparing for the Estimates hearings and liaise with the WorkSafe ACT.

We have previously provided all relevant materials to you with the exception of the email sent from Minister Gentleman's office to third parties on 16 August 2022. This is now attached ([Attachment F](#)).

Yours sincerely



James Milligan MLA
Chair
10 October 2022