

# PARLIAMENT OF THE PROVINCE OF THE WESTERN CAPE

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## ANNOUNCEMENTS, TABLINGS AND COMMITTEE REPORTS

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FRIDAY, 27 AUGUST 2021

### **Report of the Conduct Committee on a complaint laid against Honourable Member Smith**

Report of the Conduct Committee on a complaint against an Honourable Member of the Western Cape Provincial Parliament in accordance with the Code of Conduct for Members of the Western Cape Provincial Parliament, dated 7 May 2021, as follows:

The following Members were in attendance, namely Members D G Mitchell, M M Wenger, L J Botha, P Z Lekker and G Brinkhuis.

After the Registrar had presented his report, the Committee deliberated on the matter and resolved that no further action needed to be taken against the Honourable Member.

In brief the complainant, a member of the public, complained that certain remarks made by Honourable Member Smith during the debate on the State of the Province Address at the hybrid parliamentary sitting held on 18 February 2021 at Genadendal were defamatory of the complainant.

The hybrid sitting at Genadendal satisfies the definition of parliamentary precincts contained in sections 2(1) and 2(2) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004 (Act 4 of 2004).

Section 117(1) of the Constitution of the Republic of South Africa provides that members of the provincial legislatures enjoy freedom of speech and immunity from civil or criminal prosecution or damages for anything said in the legislature, that is during a formal sitting of the House.

The remarks made by Mr Smith took place during an official sitting of the House and are therefore covered by parliamentary privilege as set out in section 117 of the Constitution.

Nonetheless the Complainant enjoys a right of reply in terms of section 25 of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004 (Act 4 of 2004).

The Committee therefore recommends that:

- a) no further action be taken against Honourable Member Smith as no breach of the Code has occurred;
- b) the Secretary to Parliament be instructed to write to the complainant to draw his attention to his right of reply and to enquire if the complainant wished to make a written reply.

Report to be considered.