



Question of privilege concerning a member's conduct toward the chairperson of the Transport and Infrastructure Committee

Report of the Privileges Committee

Fifty-third Parliament
(Hon David Parker, Chairperson)
August 2023

Presented to the House of Representatives

Hon David Parker
Chairperson

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Question of privilege concerning a member's conduct toward the chairperson of the Transport and Infrastructure Committee

Recommendation

The Privileges Committee has considered the question of privilege and recommends that Mr van de Molen be censured by the House for threatening a member on account of their conduct as a presiding officer and impeding them in the discharge of their duties as a member.

1 Referral of the question of privilege

On 1 August 2023, the Speaker ruled that allegations made by Rachel Boyack about Tim van de Molen's conduct toward the chairperson of the Transport and Infrastructure Committee after the conclusion of that committee's meeting on 29 June 2023 gave rise to a question of privilege.

The Speaker ruled that the conduct complained of could amount to threatening or intimidating a member if proven, and that it was for this committee to determine the facts of what occurred and how they should be judged. The Speaker noted in his ruling that there were differing accounts of what had occurred.

The Speaker's ruling is appended to this report in Appendix B.

2 Approach to considering question

Upon referral of the question of privilege, the committee received copies of Ms Boyack's original complaint to the Speaker and Mr van de Molen's response. The letters demonstrated materially differing accounts of the alleged incident. It was clear from the outset that establishing the facts of what occurred would be central to considering this matter.

Due to the need to obtain information from a number of people in attendance when the alleged incident occurred, we resolved to appoint an independent barrister, Ms Wendy Aldred, to carry out a review of the incident and establish the facts of what occurred. There were four Labour Party members present at the time of the alleged incident, one National Party member, and three parliamentary staff. In this context, a review conducted by an independent person, under terms of reference set by the committee, was in our view the most appropriate and fair way to approach the question of what had occurred.

The review was required to establish the facts by the civil law standard of proof (that is, on the balance of probabilities), as is the custom of this committee. The terms of reference also made clear that the purpose of the review did not include passing judgement on the facts, or

inquiring into events beyond the alleged incident. The review was directed to maintain the anonymity of the parliamentary staff present at the time of the incident. The full terms of reference are set out in Appendix C.

Following Ms Aldred's appointment, an audio recording of the alleged incident was recovered. This recording was made by a back-up recording system, which had not been switched off at the conclusion of the hearing as the main recording system had been. We resolved to provide the recording to Ms Aldred without first listening to it, in order to allow her independent review to run its course.

Ms Aldred's full report is included in this report in Appendix D. It sets out the process she followed in paragraphs 7–15. We consider that Ms Aldred followed a fair, impartial, and thorough process that gives integrity to her findings. We have accepted these findings, and summarise them below.

3 Summary of allegations, member's response, and independent review's findings

Ms Boyack's allegations

Ms Boyack alleged that following the conclusion of the Transport and Infrastructure Committee's meeting on 29 June 2023, Mr van de Molen "threatened and physically intimidated" Mr Shanan Halbert, chairperson of the committee, on account of "frustration with the Chairperson...at the number of questions that Opposition MPs had been allocated during the hearing".¹

She alleged that Mr van de Molen stood "directly over" Mr Halbert after the hearing and became "physically and verbally aggressive". After being asked by Mr Halbert to move so that he could leave the room, Mr van de Molen "aggressively asked Mr Halbert to 'Stand up'" in a manner that was suggestive of possible physical violence, she alleged. A short time later, Mr van de Molen left the select committee meeting room "in an aggressive manner".

Ms Boyack alleged that this incident impeded Mr Halbert's ability to discharge his duties as chairperson of the select committee, his ability to move unobstructed and unhindered around Parliament, and his ability to participate in proceedings of the House.

Mr van de Molen's response

Mr van de Molen responded that his recollection of events was "significantly different" from Ms Boyack's.² He said that he told Mr Halbert to "stand up" while still seated in the second Opposition chair (that is, one seat removed from the chairperson's seat), and that he had intended this to mean that Mr Halbert should stand up for "the integrity of the committee & fair process". Mr van de Molen "absolutely reject[ed]" that his comment was "in any way a suggestion that a physical altercation was desired". He said that while the discussion with Mr

1 Ms Boyack's letter of complaint to the Speaker can be found in Appendix 3 of the independent adviser's report.

2 Mr van de Molen's letter to the Speaker responding to Ms Boyack's allegations can be found in Appendix 3 of the independent adviser's report.

Halbert continued, he rose from his chair to return his water glass, and turned to face Mr Halbert after doing so, but denied “standing over him or physically blocking any attempt to leave the room”. Mr van de Molen said there was a chair between himself and Mr Halbert during their interaction.

Mr van de Molen contested—either directly or indirectly—the three claims made by Ms Boyack about Mr Halbert being impeded.

Independent review’s findings

The independent review’s findings are summarised on page 18 of the report at paragraph 105. We have reproduced this summary here, with additional contextual information in square brackets where appropriate:

- Mr van de Molen became frustrated with perceived unfairness of question allocation [during a hearing of evidence with the Minister of Transport for the examination of the 2023/24 Estimates for Vote Transport] and had a verbal exchange with Mr Halbert [after the conclusion of the committee meeting]: early in this exchange he approached Mr Halbert and stood close to him (but did not “stand over” him [as was alleged by Ms Boyack]), being about three-quarters of a metre away from Mr Halbert in the confined space between Mr Halbert’s chair and the members’ exit.
- Mr van de Molen told Mr Halbert “stand up mate”. [The reviewer found] that he said that to Mr Halbert while he was standing within a short distance of Mr Halbert’s chair, facing him, and that it was a challenge to Mr Halbert to rise to his feet. Mr Halbert reasonably took this to be a threat to his safety: objectively viewed there was a threatening element in Mr van de Molen’s conduct.
- Mr van de Molen stood between Mr Halbert and the members’ exit and by not moving when asked to do so on a number of occasions, he effectively prevented Mr Halbert from leaving when he initially wanted to leave. This lasted about 30 seconds, from the second “move on” (when Mr Halbert expressly stated that he wanted to leave) until Mr van de Molen eventually left.
- [The reviewer found] that Mr van de Molen’s conduct as a whole was aggressive in the sense of being hostile, unprofessional and (as stated above³) with an element that was objectively threatening, but not in the sense of physical violence.
- Mr van de Molen’s conduct caused discomfort for all three of the Parliamentary staff who were present at the time and each considered the need to ring for security. None of them described a more enduring impact.
- Mr van de Molen’s conduct after the morning Estimates hearing impeded Mr Halbert’s ability to perform his duties as Whip in the House that morning and to attend a debate outside of Parliament later that day. [The reviewer did not find] it materially affected Mr Halbert’s ability to perform his duties as Chair of the Transport and Infrastructure Committee.

³ Report of the independent adviser at para 84 (page 15).

4 Relevant rules

Standing Order 417 sets out that the House may treat as a contempt any act or omission that obstructs or impedes the House in the performance of its functions, or which obstructs or impedes any of its members or officers in the discharge of their duties, or which has a tendency, directly or indirectly, to produce such a result.⁴

Standing Order 418 contains a non-exhaustive list of examples of acts and omissions that may be treated as contempts.⁵ This list includes “assaulting, threatening, or disadvantaging a member on account of the member’s conduct in Parliament”. This is the ground of contempt we consider most relevant to this case. The list also includes “assaulting, threatening, or intimidating a member or an officer of the House acting in the discharge of the member’s or the officer’s duty”. Given our finding in relation to the previous ground, we have not considered this ground separately.

The Standing Orders do not require that all acts or omissions that meet the criteria above be treated as contempts. The Privileges Committee must consider each case on its own merits, taking into account the seriousness, impact, and level of culpability involved. In doing so, the committee is guided by the precedents established by previous Privileges Committee findings, Speakers’ rulings on matters of privilege, and, where appropriate, examples from relevant overseas jurisdictions.

5 Finding of contempt

We have been tasked with determining whether the allegations made by Ms Boyack against Mr van de Molen are true, whether the conduct complained of amounts to threatening or intimidating a member, and whether the conduct amounts to a contempt of the House.

We find that Mr van de Molen’s conduct towards Mr Halbert amounted to threatening him, that Mr Halbert was impeded in the discharge of his duties as a member, and that in doing so, Mr van de Molen committed a contempt of the House.

Parliament is place of debate. We recognise that this can at times involve conduct that would be unpalatable in other contexts. We considered carefully whether Mr van de Molen’s conduct could be considered to fit within the bounds of acceptable parliamentary behaviour. For example, it is not entirely unusual for a member to challenge a select committee chairperson’s management of a hearing, or for members to exchange views in a hostile tone. There is appropriately a high bar for poor behaviour to attract a contempt finding.

Mr van de Molen’s conduct in this case cannot be condoned as normal or acceptable. We accept that he considers he did not intend to threaten or intimidate Mr Halbert. But the combination of factors in this incident—Mr van de Molen’s physical positioning, his words, tone, and failure to move aside when asked—justify a finding that his conduct was objectively threatening. There was an objectively threatening element to Mr van de Molen’s

⁴ Standing Order 417.

⁵ Standing Order 418.

behaviour in standing near Mr Halbert and telling him to “stand up” and in not moving when asked to, to enable Mr Halbert to leave.⁶

Each case involving allegations of unacceptable conduct by a member must be assessed on its own merits. We do not wish to have a chilling effect on members putting their views across forcefully. But members must also accept that there are limits to what is acceptable in the parliamentary environment, and that the judgement of their actions does not turn solely on how they intended them to come across.

The definition of contempt includes an act that impedes a member of the House in the discharge of the member’s duties, or has a tendency, directly or indirectly, to produce such a result. The fact that Mr Halbert was threatened on account of his conduct as a presiding officer has contributed to our finding of contempt. While threatening behaviour is always a serious matter, it is particularly offensive for a member to be subject to such behaviour because of how they discharge their official parliamentary duties. Select committee chairpersons are not immune from criticism or, in the appropriate manner, challenge—but Mr van de Molen’s conduct in this case was not appropriate.

We have also considered how Mr van de Molen’s conduct would be treated in a regular workplace. While the parliamentary context is a distinctive one, it is worth noting that his behaviour would not be acceptable in other workplaces. We consider that Parliament should be conscious of public expectations and generally accepted standards of behaviour when determining cases such as this one.

6 Proposed penalty

Acting in a threatening manner toward a member of Parliament on account of their conduct in Parliament, and particularly for their conduct as a presiding officer, is a serious matter. We therefore recommend that Mr van de Molen be censured by the House for threatening a member on account of their conduct as a presiding officer and impeding them in the discharge of their duties as a member.

⁶ Report of the independent adviser at para 81 (page 14).

Appendix A

Committee procedure

We met between 1 and 24 August 2023 to consider this question of privilege. We received advice from Wendy Aldred, Barrister, as our independent adviser, and from the Office of the Clerk.

We provided Tim van de Molen an opportunity to respond to our findings under Standing Order 250 (Adverse findings).

Committee members

Hon David Parker (Chairperson)
Chris Bishop
Simeon Brown (from 23 August 2023)
Golriz Ghahraman
David Seymour
Tangi Utikere
Hon Dr Duncan Webb
Hon Poto Williams
Hon Michael Woodhouse (until 23 August 2023)

Tangi Utikere was replaced by Camilla Belich for consideration of this question of privilege.

Appendix B—Speaker’s ruling

1 August 2023

Members, I have received a letter from Rachel Boyack raising a matter of privilege: Tim van de Molen’s conduct towards the chairperson of the Transport and Infrastructure Committee on 29 June 2023.

There are differing accounts of what occurred at the conclusion of the committee’s meeting. If the allegations are accurate, the conduct complained of could amount to threatening or intimidating a member acting in the discharge of their duty, or threatening a member on account of their conduct in Parliament.

The Speaker’s role in such matters is to determine whether the facts alleged could, if true, amount to a breach of privilege or contempt of the House. The Speaker does not enquire into the veracity of the evidence presented, or conduct in inquiring into the allegation. That is the role of the Privileges Committee.

I find that a question of privilege arises, and that question stands referred to the Privileges Committee.

Appendix C—Terms of reference for independent review

Purpose of review

1. The purpose of the review is to establish the facts in relation to the allegations made by Rachel Boyack MP against Tim van de Molen MP, in order to enable the Privileges Committee to judge the question of privilege before it.
2. The purpose of the review does not include passing judgment on the facts, or inquiring into events beyond the alleged incident.

Review process

3. The review will establish the facts by conducting interviews with the individuals present at the time that the alleged incident occurred.
4. The reviewer will determine whether interviews are transcribed or only recorded, balancing the need to make sound findings with the need to complete the review within the time required.
5. The identity of any parliamentary staff who participate in the review will remain anonymous.
6. The review will establish the facts by the civil law standard of proof on the balance of probabilities.

Powers

7. The reviewer does not have the power to compel the participation of persons or the provision of information to the review. The participation of relevant persons in the review's work is voluntary.
8. Nothing in the preceding paragraph limits the Privileges Committee's power to send for persons, papers, and records.

Papers

9. The reviewer will be provided a copy of the letter sent by Rachel Boyack MP to the Speaker of the House on Tuesday, 25 July 2023 and the letter sent by Tim van de Molen MP to the Speaker of the House on Wednesday, 26 July 2023 in response.

Principles

10. The review will be conducted in a fair and impartial manner.
11. The reviewer will apply the principles of natural justice to the process of establishing the facts. This means the reviewer will acquaint relevant

persons with information provided by participants in the review, if the reviewer considers it necessary for the relevant persons to have the opportunity to respond on a matter of material importance to the review.

12. In light of the natural justice obligations applying to the Privileges Committee, the reviewer is not required to acquaint relevant persons with the provisional findings of the review, but may do so if they consider it desirable to do so.

Report

13. The review will provide a final report to the Privileges Committee setting out the reviewer's findings concerning the facts of the matter.
14. Except for the matter covered in paragraph 15, the report will include any and all information the reviewer considers necessary to support the report's findings, which may include transcription of interviews but is not required to.
15. The identity of any parliamentary staff who participate in the review will remain anonymous.
16. The report will become a proceeding of the Privileges Committee and will cease to be confidential to the committee when it reports to the House of Representatives, unless the House orders otherwise.

Time for review

17. The review is to be completed no later than 12.00pm, Tuesday, 15 August 2023. This is to enable the Privileges Committee to report to the House of Representatives by Tuesday, 29 August 2023.

Records

18. Any records created in the course of conducting the review remain in the custody of the reviewer at the review's conclusion.

Appendix D—Independent barrister’s report

INDEPENDENT REVIEW FOR PRIVILEGES COMMITTEE

FINAL REPORT

Wendy Aldred

Barrister

15 August 2023

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A. INTRODUCTION

1. Under terms of reference finalised in August 2023, the Privileges Committee of the House of Representatives (Komiti Whiriwhiri Mōtika o te Whare) appointed me to undertake a review to establish the relevant facts in relation to the allegations made by Rachel Boyack MP against Tim van de Molen MP, in order to enable the Privileges Committee to judge the question of privilege before it.
2. In short, the allegations were that Mr van de Molen behaved in a manner that was verbally and physically aggressive towards the Chair of the Transport and Infrastructure Committee (Mr Shanan Halbert MP) in the period immediately following the meeting of that Committee on 29 June 2023. The specific allegations were that Mr van de Molen “stood over” the Chair, told him to “stand up” in a manner that suggested that Mr van de Molen intended to physically assault Mr Halbert, blocked Mr Halbert’s exit from the room by standing between him and the members’ door, and would not move when asked to by Mr Halbert. It was further alleged that Mr de van Molen’s conduct adversely affected Mr Halbert’s ability to discharge his duties as the Select Committee Chair and in the House.
3. The Privileges Committee instructed me to commence this review on Monday 7 August 2023 with a report back date of no later than noon on Tuesday 15 August 2023. A copy of my terms of reference is attached as **Appendix 1** to this report.

B. SCOPE, OBJECTIVES AND LIMITS OF REVIEW

4. My task on review was limited to establishing the facts relevant to Ms Boyack’s allegations as set out in a letter from Ms Boyack to the Speaker dated 25 July 2023.
5. Paragraph 2 of my terms of reference states that my review “does not include passing judgment on the facts, or inquiring into events beyond the alleged incident.”
6. In terms of the conduct of the review I was required to interview those persons present at the time the alleged incident occurred and to make findings on the basis of the civil law standard of proof (that is, on the balance of probabilities).

C. OVERVIEW OF INVESTIGATION PROCESS

7. The review proceeded as required by my terms of reference. I interviewed all persons present in the Select Committee room in which the alleged events took place at the relevant time, in the following order:
 - 7.1. Shanan Halbert MP;
 - 7.2. Helen White MP;
 - 7.3. Rachel Boyack MP;
 - 7.4. Paul Eagle MP;
 - 7.5. All three members of the Parliamentary staff present at the meeting;¹
 - 7.6. Mr van de Molen MP.

¹ I am directed to maintain the anonymity of the Parliamentary staff interviewed – terms of reference, paragraph 5.

8. Due to the time constraints and the fact that most Members of Parliament were not in Wellington during my review (it not being a sitting week) I conducted interviews with all MPs except Mr van de Molen (who I interviewed in person at his electorate office) by Zoom/Teams.
9. I interviewed the Parliamentary staff in person in the relevant Committee room where the incident complained of took place (Select Committee Room 4).
10. I attach as **Appendix 2** three photographs of the room showing (a) its layout generally; (b) a closer shot of the space between the Chair's seat and the members' exit; and (c) a shot showing the same space with the tea trolley positioned there at the relevant time.
11. All interviewees cooperated with the process and were courteous and responsive. All were:
 - 11.1. Provided with a copy of my terms of reference;
 - 11.2. Offered the opportunity to bring support people or representatives to interviews;
 - 11.3. Advised that what they told me would be shared with other witnesses to the extent that was necessary for the conduct of the investigation;
 - 11.4. Advised their interviews would be recorded;
 - 11.5. Advised not to discuss their evidence in review outside of their interviews with me;
 - 11.6. Advised they may be re-interviewed at some point in the review.
12. I audio recorded all interviews and listened to the recordings for the purposes of preparing my report. The timing of the review (7 working days) did not allow time for transcription of the interviews, but in any event I found re-listening to the evidence given as helpful as transcriptions would have been.
13. I circulated a draft of my review report for comment to Ms Boyack, Mr Halbert and Mr van de Molen and adjustments were made to reflect some of these comments. Because I made some substantive changes in relation to the feedback received, I provided Mr van de Molen (as respondent in the review) with a further opportunity for comment, and have made some further adjustments as a result.
14. In relation to the feedback on the drafts of my report provided by participants to whom it was circulated for comment, I have referred to that feedback where I have considered it necessary to do so. If any matters of feedback have not been specifically referred to in my report, that is because I have not considered them to raise matters that are material to my findings.
15. During the course of this investigation I received a large volume of information. For the sake of clarity, I have captured in this report those only those aspects of the evidence that have been relevant to my findings.

D. BACKGROUND

16. I set out below the background to this matter which is intended to provide some un-contentious context to the discussion that follows.

17. On 29 June 2023 the Transport and Infrastructure Committee met from 8.00am to discuss the 2023/2024 Estimates for Vote Transport. Up to an hour had been allocated for the hearing. The House was due to convene for an extended sitting at 9.00am.
18. Members of the Committee in attendance at the meeting were Shanah Halbert MP (Labour, Chair), Rachel Boyack MP (Labour), Helen White MP (Labour), Paul Eagle MP (Labour), Terisa Ngobi MP (Labour), Chris Bishop MP (National), Simeon Brown MP (National), Tim van de Molen MP (National) and Simon Court MP (Act, by video link).
19. The Minister of Transport (Hon David Parker) attended with officials from the Ministry of Transport and Waka Kotahi. Parliamentary staff were also present.
20. At the end of the meeting, Mr van de Molen raised a concern about wishing to raise a supplementary question. Mr Halbert finished the meeting, advising “our time is up” and thanked the Minister and officials. I note that the bells had sounded at 8.50am to alert Members that the House was due to sit from 9.00am. I understand that the bells commenced at 8.50am and thereafter rang continuously for five minutes from 8.53am to 8.58am.²
21. Following Mr Halbert concluding the meeting, Ms Ngobi, Mr Court and the National members left, except for Mr van de Molen. The other Labour members (including Mr Halbert), Mr van de Molen and Parliamentary staff remained in the committee room and Mr van de Molen continued his exchange with Mr Halbert about his dissatisfaction with the allocation of question time (Mr van de Molen’s conduct in that exchange is the subject of the complaint). After a period of about two minutes, Mr van de Molen left, followed by the remaining MPs in the room.
22. The Select Committee reconvened that afternoon at 1.05pm for the Estimates: Vote Building and Construction hearing.
23. Between the morning select committee meeting and the afternoon meeting of the Transport and Infrastructure Committee, Ms Boyack brought the exchange to the attention of the Labour Chief Whip and correspondence between the Labour and National Chief Whips followed. On 20 July 2023 a private discussion took place between Transport and Infrastructure Committee members at which the concerns that had been raised were discussed. Because of the private nature of that discussion, no record of that meeting is available.
24. No resolution of the matters raised was achieved and Ms Boyack wrote to the Speaker (Hon Adrian Rurawhe) on 25 July 2023. Mr van de Molen wrote to the Speaker with his response to Ms Boyack’s letter on 26 July 2023.
25. On 1 August 2023 the Speaker issued a Ruling noting that the letters he had received contained differing accounts of what occurred at the conclusion of the Select Committee’s meeting, and that if the allegations were accurate the conduct complained of “could amount to threatening or intimidating a member acting [in] the discharge of their duty, or threatening a member on account of their conduct in Parliament.” On that basis, the Speaker found that a question of privilege arose and referred the question to the

² Mr Halbert mentioned that the bells had commenced ringing and in feedback on my draft report Mr van de Molen clarified that “the bells ring for 30 seconds at 10 minutes prior to a sitting, then ring continuously for five minutes from seven to two minutes before the House commences.”

Privileges Committee, which has sought my independent advice in relation to the factual aspects of the allegations made.

E. COMPLAINT BY MS BOYACK AND RESPONSE FROM MR VAN DE MOLEN

26. I set out below the relevant parts of Ms Boyack's letter and Mr van de Molen's response. Full versions of both letters are annexed as **Appendix 3** to this report.

27. Ms Boyack's 25 July letter to the Speaker contained the following points:

- Just prior to the conclusion of the meeting, "Mr van de Molen became frustrated with Mr Halbert about the number of questions Opposition MPs had been allocated during the hearing."
- "Mr Halbert disagreed with Mr van de Molen, stating 'Our time is up, I think you've had a very sufficient number of questions'."
- "At this point, Mr van de Molen stood up and walked around to stand directly over Mr Halbert, who remained seated."
- "Mr van de Molen was standing between Mr Halbert and the exit."
- "Mr van de Molen became physically and verbally aggressive and continued to relitigate the number of questions he had been allowed to ask."
- "Mr Halbert asked Mr van de Molen to leave and [said] that Mr van de Molen was obstructing him."
- "At this point Mr van de Molen aggressively asked Mr Halbert to "stand up". My clear interpretation of this comment was that, if Mr Halbert had stood up, he would have been physically assaulted by Mr van de Molen."
- "I was so concerned that Mr van de Molen was about to assault Mr Halbert, even as he remained seated, that I moved to physically position myself beside Mr Halbert. Helen White MP at this point also moved to stand between Mr Halbert and Mr van de Molen to act as a barrier."
- "Mr Halbert continued to request that Mr van de Molen remove himself from his physical space. He recalled to me afterwards that he had asked Mr van de Molen seven times to do so."
- "I became so concerned about the unfolding situation that I was about to call for Parliamentary Security."
- "Eventually Mr van de Molen departed the Committee Room in an aggressive manner."
- "Mr van de Molen's physical intimidation and threatening behaviour impeded Mr Halbert's ability to discharge his duties as a Member of Parliament" by limiting Mr Halbert's ability to discharge his duties as Select Committee Chair and his ability to move around Parliament; and to participate in the proceedings of the House; "Mr Halbert was shaken by the incident to the point where he was substituted out of an allocated speaking slot in the House that afternoon."

- “I believe Mr van de Molen’s actions also had an impact on the Committee staff present and the right they have to work in a safe environment.”
2. Mr van de Molen’s 26 July letter to the Speaker included the following points in response:
- “I raised my disappointment around the disproportionate allocation of questions as I had only been given one primary question and one supplementary question throughout the hearing. I suggested to Mr Halbert that he needed to give a fair question allocation, an issue that I had suffered from previously, too.”
 - “From my seat in the second Opposition chair, I told Mr Halbert that he should “stand up” in the context of doing what is right by maintaining the integrity of the committee and fair process. I absolutely reject that this was in any way a suggestion that a physical altercation was desired. Indeed I still had one arm in a cast from a recent surgery.”
 - “Our discussion continued and I rose from my Chair to return my water glass to the table near the door, then turned back to Mr Halbert. At this point I was standing near the Members’ doorway, behind the first Opposition chair on the curve of the table. Mr Halbert was still seated in the Chairman’s seat. At no time was I standing over him or physically blocking any attempt to leave the room, nor did he ever claim that I was in his personal space.”
 - “The entire interaction would have only lasted a minute or so as we were all in the process of departing the room.”
 - “At no point did Ms Boyack or Ms White step between Mr Halbert or myself – this was not necessary, nor possible given the placement of the first Opposition seat, which was between us.”
 - “The Select Committee met again at 1.05pm that afternoon, with Mr Halbert as the Chair (disproving Ms Boyack’s claim that he was so shaken that he could not participate in any proceedings of the House after Question Time that day). No Members raised any concerns during this meeting and the business was conducted in a normal, collegial manner.”
28. Ms Boyack and Mr van de Molen both referred in their correspondence to the subsequent interactions between their respective parties’ Chief Whips, and the discussions that took place at the private part of the Select Committee meeting that took place on 20 July. These points are not directly relevant to the fact-finding exercise that I am required to undertake.

F. AUDIO RECORDING AND TRANSCRIPTION

29. As a preliminary point, I note that I was supplied by Privileges Committee staff with an audio recording of the relevant exchange that was located just as the review was scheduled to commence. Subsequently, I received a transcript (produced by Hansard) of that recording. I understand that the audio recording was a “back up” recording of the meeting which had continued to run for longer than the primary recording of the meeting used for formal transcription purposes (which concluded at the time that Mr Halbert formally concluded the meeting).
30. Because the backup recording was run (as I understand it) on a single channel, and because the various participants in the discussion were moving around, the audio is not

clear at all times, and Mr Halbert's voice is able to be heard more clearly than anyone else present due to his positioning in the room. However, the audio and associated transcript have been useful as a record of the spoken conversation, albeit with a significant number of entries noting that parts of the discussion are inaudible.

31. The recording is also useful in establishing that, after the Chair formally closing the meeting by thanking the Minister and officials, the exchange between him and Mr van de Molen lasted for a further one minute and 55 seconds (noting that the discussion about question allocation had been started by Mr van de Molen shortly before the meeting ended).
32. I supplied copies of the audio file and transcript to Mr Halbert, Ms Boyack and Mr van de Molen who confirmed that they were satisfied that the transcript was broadly accurate, with the exception of a minor correction provided by Mr van de Molen. I also listened to the audio file with other persons interviewed as needed. A copy of the transcript is attached to this report as **Appendix 4**. Mr van de Molen expressed the view that the audio file should be considered accurate, rather than the transcript, and I agree with this comment and confirm I have listened to the audio file a number of times, including when reviewing the evidence for the purpose of writing my report.

G. ALLEGATIONS, ANALYSIS OF INFORMATION RECEIVED AND FINDINGS

33. I have extracted from Ms Boyack's complaint to the Speaker a series of factual allegations, which are the matters I consider my terms of reference require me to determine in this review. In relation to each allegation, I summarise the relevant information I have received and my findings.

Allegation 1: Mr van de Molen became frustrated with perceived unfairness of question allocation and had a verbal exchange with Mr Halbert: early in this exchange he approached Mr Halbert and stood over him

Analysis of information gathered

34. It was not in dispute that Mr van de Molen was disappointed by the allocation of questions to him at the Estimates hearing, and he confirmed this on interview, telling me that the issue, as he saw it was that he had been allocated only two questions. By way of background he said that at the previous meeting Mr Halbert had indicated that questions would be allocated by member (rather than by party group) and that he perceived Mr Halbert's approach at the 29 June meeting was inconsistent with this, in referring to allocation per party. He felt he had been disadvantaged in both meetings in terms of his ability to ask questions and had been disappointed on 29 June that he did not get to ask the supplementary question he had indicated that he wished to ask, and which he believed had been acknowledged by Mr Halbert.
35. The last part of the formal transcript of the meeting itself shows that just before Mr Halbert closed the meeting Mr van de Molen said that he had a further supplementary question from earlier that he had not had the opportunity to ask. Mr Halbert responded that "you've had a very sufficient amount of questions" and after several other remarks between the two Mr Halbert closed the meeting.
36. The discussion went on, with Mr Halbert saying he had kept a count of the questions asked by the National Party and that Chris Bishop MP had asked eight questions and Mr van de Molen four.

37. The transcript is clear that Mr van de Molen remained unhappy with the allocation of questions to him, and that he disputed Mr Halbert’s statement that he (personally) had asked four questions. In this regard, while relevant only for context, I note the transcript reflects that he asked two questions. In terms of the actual allocation of questions, my assessment of the transcript is that allocation across the parties was as follows:³

37.1. National: 33 (15 Brown; 16 Bishop; 2 van de Molen);

37.2. Act: 11 (Court); and

37.3. Labour: 11 (5 Halbert; 2 Boyack; 3 White; 1 Ngobi).

38. Mr van de Molen seems then to have questioned the accuracy of Mr Halbert’s count and the transcript from this point reads:⁴

Halbert	Don’t question my integrity.
van de Molen	[<i>Inaudible</i>] integrity [<i>Inaudible</i>]
Halbert	Look at the count. Look at the count.
van de Molen	Stand up, mate.
Boyack	Ooh, oh, that’s pretty aggressive.
van de Molen	Yeah, it is; it’s really disappointing to see—
Boyack	No, it’s—work as a team. If—if—
van de Molen	You treat the Minister as if his defence is being run by the chair.
Boyack	If Chris Bishop—
van de Molen	[<i>Inaudible</i>]
Halbert	Tim, you’ve half of—over half of the questions. Do your maths.

39. I asked Mr van de Molen whether he had felt frustrated or angry at the time, and he told me he had not been angry. He also resisted my suggestion that he felt frustrated.

40. Other people I interviewed were clear that Mr van de Molen had appeared angry. No-one said that he shouted but they variously expressed the view that he was angry and frustrated with the Chair. Ms White referred to him having a “sort of buttoned-down anger” and said that he had outwardly appeared to become increasingly angry.

41. I have listened carefully to the audio recording and it is clear to me that Mr van de Molen and Mr Halbert were having a robust debate about the allocation of questions and that as Mr Halbert refused to accept there had been any unfairness and defended his allocation decisions, Mr van de Molen became increasingly frustrated. His tone of voice could

³ This is based on my own count using the formal transcript of the hearing, which included a degree of judgement about what constituted a question (rather than a remark during questioning). Accordingly, it may not be strictly accurate in terms of question numbers, but I have adopted a consistent approach over all of the parties/members and so this should reflect with a reasonable degree of accuracy the proportions of questions allocated to each party/member.

⁴ Mr van de Molen noted that this part of the transcript was not quite accurate at the eight point, stating “I can’t decipher the “You treat the Minister...”, but the second part is “... and defence is being run by the Chair.”

perhaps best be described as mocking, but the tension in it is clearly evident. Mr Halbert was also becoming agitated, or (as Ms White said), “feisty” in his initial reaction to Mr van de Molen in this first part of the conversation.

42. The Committee staff I interviewed all described the situation as escalating in terms of tension and described Mr van de Molen as appearing “angry” or “aggressive in posture and tone.”
43. Mr van de Molen agrees that part way through the exchange he stood up and walked towards the area where the Chair was seated, walking to the corner of the room at first to place his glass on the tea trolley, and then (on his account) walking to the vicinity of the first Opposition chair on the corner of the table. He told me on interview that this happened immediately after he made the comment about the Minister’s defence being run by the Chair (see excerpt at paragraph 38 above) and that until then he had been sitting in his seat (the second Opposition chair). He said that once he had walked to where Mr Halbert was sitting, he then continued the conversation with Mr Halbert from behind the first Opposition chair and that he recalled standing with his hand on the chair. He acknowledged that the space in the members’ exit corner of the room between the table and the door was “pretty tight.”
44. In terms of the distance between Mr van de Molen and Mr Halbert, Mr van de Molen told me that he was “a metre or more away from him”. Mr Halbert told me that Mr van de Molen was standing on the slanted corner of the table, half way between where the Opposition spokesperson sits and the Chair, “so pretty close.”
45. I asked the staff interviewed where they thought Mr van de Molen was standing (I interviewed them in the same Select Committee room) and they each demonstrated where he was standing: these accounts were consistent with Mr Halbert’s, in saying that Mr van de Molen was between the first Opposition seat and the Chair. They estimated that distance was between 70cm – 1m from Mr Halbert, but I consider that their account of the physical positioning is more helpful than their estimates of distance. None of them said that the first opposition chair was physically between Mr van de Molen and Mr Halbert. I asked two of the staff members whether they recalled whether Mr van de Molen was leaning over towards Mr Halbert or standing up straight and they both said that he was standing up straight.
46. Ms Boyack indicated the same position as the staff members and said she felt that Mr van de Molen was standing “too close” and that she thought he was perhaps half a metre from Mr Halbert.

Finding

47. I find that both Mr van de Molen and Mr Halbert were engaged in a robust discussion and that both became annoyed or agitated with the other as it progressed.
48. Mr van de Molen moved forward and there is not a great deal of difference between all of the persons interviewed as to where he was standing. I find that after returning his cup he turned to Mr Halbert and stood on Mr Halbert’s side of the first Opposition chair, being about three-quarters of a metre from Mr Halbert and between Mr Halbert and the member’s exit.⁵

⁵ This is based on my own measurements, taken in the same room which was set up as for the relevant meeting.

49. I do not find that Mr van de Molen was “standing over” Mr Halbert, but he was close to him and the total area between the table, the back of the room and the members’ exit was quite confined.
50. In their response to my draft report, both Mr Halbert and Ms Boyack disagreed with this finding, stating that they both considered Mr van de Molen had been “standing over” Mr Halbert. Mr Halbert wondered whether my finding would have differed if he had been a staff member, or female.
51. I have considered this feedback carefully and have concluded that it is sufficient to find that Mr van de Molen was standing close to Mr Halbert in a confined space. This is based on my view that to be “standing over” Mr Halbert, Mr van de Molen would have needed to be leaning over or towards him, as well as being close, or would have needed to be closer than he was. The (about 75cm) space between them, together with the fact (as I have found it) that Mr van de Molen was standing up rather than leaning over does not amount to “standing over” Mr Halbert, on my interpretation of that term. I would not find, without more, that there was necessarily anything problematic about Mr van de Molen standing where he did.

Allegation 2: Mr van de Molen’s request that Mr Halbert “stand up” was, or could reasonably be interpreted as, a threat to use physical force against Mr Halbert

Analysis of information gathered

52. There is no dispute that Mr van de Molen told Mr Halbert to “stand up mate” – this is recorded on the audio and was acknowledged by Mr van de Molen in his response to the Speaker (prior to the audio recording being known about).
53. The issue for determination is whether this statement was reasonably perceived as threatening behaviour, and specifically whether Mr van de Molen, in saying “stand up mate” was threatening to use physical force against Mr Halbert.
54. Mr van de Molen on interview said that he completely rejected any allegation that it was a threat to use force, and (consistently with his letter to the Speaker) told me that he had said this while still sitting in his meeting chair and that he had meant “stand up for good process, stand up for what’s right”. In response to being asked whether he had any intention to begin a physical altercation he totally rejected that suggestion and said he felt there was never any indication that he wanted to engage in a physical altercation. He acknowledged he had not elaborated on what he meant by “stand up” but was firm on interview that he did not mean that Mr Halbert should physically stand up. He also emphasised that his arm was in a cast at the time following a recent surgery.
55. I put it to Mr van de Molen that others (including Mr Halbert) had said that he had made the “stand up mate” comment when he was already standing near to Mr Halbert and I asked him if he could be sure about where he was when that remark was made. In response, Mr van de Molen told me that he was “pretty confident” that he was still seated at that point and did not begin to move until after he had said it, and (as noted above) after the remark about the Chair running the Minister’s defence.
56. I asked all other interviewees about whether they had heard or recalled hearing the “stand up mate” remark and if so, where Mr van de Molen was located when he said it and what they understood it to mean. Mr Eagle did not recall hearing this comment, and two of the three Parliamentary staff did not hear it. Ms Boyack, Ms White and the third staff member did hear it:

- 56.1. The staff member told me that they recalled hearing the “stand up mate” remark and remembered it well as they were “quite shocked” by it. They said that Mr van de Molen had got up very soon after the meeting formally ended to replace his cup on the tea trolley and after that remained standing for the rest of the discussion within a metre of the Chair. They were “very sure” when challenged by me on the point that Mr van de Molen had been standing up in this area by the time that he said “stand up mate.” They had taken the words as some kind of “dare” or “like a challenge to have something physical” but adding “I didn’t actually think there was a risk of that happening”, explaining that was mostly because Mr Halbert remained seated, which had a de-escalating effect.
- 56.2. Mr Halbert was very clear in his account that Mr van de Molen said “stand up mate” when he was standing near to him, having already moved forward from his second Opposition seat, and that “this meant he wanted an altercation” (clarifying he thought a physical altercation was intended). Mr Halbert told me that this made him whakamā, and feel embarrassed about being in that situation. He told me he attempted to de-escalate the situation by remaining seated and looking ahead of him for the rest of the conversation, rather than looking directly at Mr van de Molen, except when he needed to turn to speak to him. He said “I felt like he would have knocked me” if he had stood up. Mr Halbert did not accept that in saying “stand up mate”, Mr van de Molen had meant that in a figurative sense only.
- 56.3. When I put to Ms Boyack Mr van de Molen’s statement that he had been sitting at his seat at the table when he said “stand up mate” she said “no”, that he had been standing up near the Chair (after he had moved forward), and that she was “very sure about that.” Ms Boyack recalled that he had been looking down and sneering at Mr Halbert “as if he wasn’t man enough to stand up.” When I put to her that Mr van de Molen intended to tell Mr Halbert to stand up for fair process, she did not agree that was a reasonable interpretation of his words. Her interpretation as noted in her letter to the Speaker was that if Mr Halbert stood up, he would have been physically assaulted by Mr van de Molen.
- 56.4. Ms White recalled hearing Mr van de Molen say “stand up” and she was also sure that he was himself standing up near to Mr Halbert when he told him to stand up. She did not, however, regard the words as a direct physical challenge or threat of violence, but her view was that Mr van de Molen was annoyed by Mr Halbert remaining seated and wanted him to stand so that the discussion could continue on a more equal footing: she thought he would have been thinking “don’t just sit there, it’s not like I’ve got you cornered.” When I put to her Mr van de Molen’s account (that he said this while seated and was referring to fair process only) she did not accept that but said she felt it was likely that he had become overwhelmed by the events that had taken place (against the background of a difficult time personally) and may not have recalled the events accurately.

Finding

57. Mr van de Molen told Mr Halbert “stand up mate.” On the balance of probabilities I find that he said that to Mr Halbert while he was standing within a short distance of Mr Halbert’s chair, facing him, and that it was a challenge to Mr Halbert to rise to his feet.
58. In feedback on my draft report, Mr van de Molen said:

I continue to refute this aspect in its entirety. As explained, I can accept it may not have been interpreted this way, given the lack of further context, but I am unequivocal that I was speaking figuratively.

59. I have considered this feedback and Mr van de Molen's similar comments on interview but I do not accept his account that he used these words while still seated or his statement that he was only asking Mr Halbert to "stand up for fair process, stand up for what's right". That is not the meaning that "stand up mate" would normally bear, without more. The far more natural construction of "stand up", in view of my conclusion that the words were spoken while Mr van de Molen was standing and Mr Halbert was seated, is that he was telling Mr Halbert to rise to his feet.
60. On the balance of probabilities I find that Mr van de Molen did not intend to physically assault Mr Halbert. However, given that Mr Halbert was hearing those words ("stand up mate") in circumstances when Mr van de Molen was standing close and engaged in a heated argument with him, I find it was reasonable for Mr Halbert to have felt physically threatened.
61. Accordingly, I conclude that this part of the exchange did have a threatening element, when viewed objectively, and I accept that Mr Halbert did in fact feel threatened.

Allegation 3: Mr van de Molen stood between Mr Halbert and the members' exit; obstructed Mr Halbert in his ability to leave; and refused to move when asked to by Mr Halbert

Analysis of information gathered

62. It is not disputed that when Mr van de Molen was standing speaking to Mr Halbert, he was positioned between Mr Halbert and the door (member's exit). The issue is whether he was obstructing Mr Halbert in his ability to leave and continued to do so when asked to move.
63. As noted above, Mr van de Molen stated in his response to the complaint that he had not blocked any attempt to leave "nor did he claim that I was in his personal space."
64. It is clear that Mr Halbert did not make any physical attempt to leave the room while Mr van de Molen was there: Mr Halbert did not rise from his seat but told me he had remained sitting because he believed that would de-escalate the situation and that he felt that if he had stood up "something would have happened".
65. Mr Halbert told me that he did not feel able to get up and leave (as he wished to do) because of the manner in which Mr van de Molen was behaving and because his exit path from his seat to the members' door was effectively blocked by Mr van de Molen. He clarified that there would have physically been room to leave (by going around Mr van de Molen) but that he did not feel able to leave because of the language (particularly "stand up mate") and physical presence of Mr van de Molen between him and the exit door.
66. Mr van de Molen maintained on interview that Mr Halbert could have left if he had wanted to, including by getting up and using the alternative (public) exit at the other end of the room.
67. Having spoken to all present in the room at the relevant time, the picture that has clearly emerged is that Mr Halbert remained seated because he was worried that by rising to his feet that would further escalate the already heated situation. If he had got up to leave, he would have been standing very close to Mr van de Molen, and I accept it was reasonable after the "stand up mate" comment for him to feel that was not an option without Mr van

de Molen moving, which he was showing no signs of doing. I do not think that Mr Halbert should have been expected to go out the other door – his seat being two metres from the members’ exit.

68. The Parliamentary staff who were in the room recalled hearing Mr Halbert ask Mr van de Molen to move. One of them recalled Mr van de Molen “standing on the spot with no intention of moving” and that if Mr Halbert had stood up then “they would have been right in each other’s faces”. Another told me “if I was in Shanana’s position I would have felt blocked. I think Shanana could have pushed past Tim but wouldn’t have been able to without physically brushing past him to get through this door behind the opposition chair, Shanana could have gone all the way round [to the other door] but ... I would have felt blocked if I was in that position, a bit frozen and it probably wouldn’t have occurred to me to go all the way round.” The third staff member also told me that they would have “felt blocked” in Mr Halbert’s position and also would not have felt comfortable about rolling the chair back and using the alternative (public) exit.
69. In terms of the allegation that Mr van de Molen refused to move when asked, it is clear from the audio recording and transcript that this occurred, with Mr Halbert telling Mr van de Molen to “move on” repeatedly:

Halbert	“Stand up, mate.” That’s a threat. Move on.
van de Molen	Hahaha. Wow! You’re a bit—
Eagle	Come on, guys.
Halbert	Here you go.
van de Molen	I’m talking to you.
Halbert	I don’t want to talk to you.
van de Molen	OK, right.
Halbert	Can you move on?
van de Molen	No.
Halbert	So I can leave?
van de Molen	[Well], I’m trying to get [Inaudible]
Halbert	Otherwise, you’re standing over me, so—
van de Molen	Ha, ha, ha.
Halbert	You’d better move on.
van de Molen	Wow, that’s a pretty defensive statement to make.
Eagle	Come on, mate.
Boyack	That’s really inappropriate.
van de Molen	It is really inappropriate. You’re dead right.
Boyack	Your behaviour—no, your behaviour’s inappropriate.
Halbert	Can you move on? I don’t want to—
van de Molen	[Inaudible] right? What I’m asking is to just reflect on your behaviour, Mr Chair, and work—
Halbert	I’ve asked you to move on and get out of my face.

van de Molen [Inaudible] allocated for Opposition members—
Halbert Move on.

70. The above transcribed part of the exchange lasted for approximately 45 seconds.
71. It seems that Mr van de Molen then left (after the last “move on” from Mr Halbert). In relation to the first “move on” I have taken the view that it could have been reasonably interpreted by Mr van de Molen as a request to “move on” in relation to the conversation (ie an indication that Mr Halbert had had enough of the discussion), so I do not necessarily take Mr van de Molen’s “no” in response to that question as an unequivocal refusal to move physically.
72. However, Mr Halbert then clarified the nature of the request by adding “so I can leave?” and then saying “Otherwise, you’re standing over me...”. At that point I think it was – or should have been - clear to Mr van de Molen that Mr Halbert wished him to step aside so that Mr Halbert could exit the room. He did not move, and Mr Halbert had to repeat the request a number of times.
73. Mr van de Molen told me on interview that he did not believe Mr Halbert’s claim that he was being prevented from leaving and said that he had laughed at that suggestion (indicating where the transcript reads “ha, ha, ha”). Throughout this part of the discussion his tone as heard on the audio is mocking and there is a sense of incredulity on his part. His response to this part of the complaint was that he simply did not believe that Mr Halbert could reasonably have felt unable to move while he was standing where he was.
74. It is clear that there is a change in the direction of the conversation in the above excerpt from the transcript – Mr van de Molen is continuing to try to press his case about unfairness in the meeting, but Mr Halbert has by now ceased responding on that matter and is concerned only with finishing the conversation and asking Mr van de Molen to leave or move so that he can exit the meeting room unimpeded.
75. At about this time (near the beginning of this part of the exchange) the other Labour MPs still in the room moved round from their seats for the meeting to stand by Mr Halbert, with Ms White telling me she had packed up her stuff and went and stood between the two men. She clarified that she was not a physical barrier, but she thought it was a good idea to be near. She said she kept her eyes down to try to keep the tension down and “be a quieter force.” Ms White recalled Mr Halbert asking Mr van de Molen to move, and said that she felt Mr van de Molen didn’t seem to understand that it was genuine and that “he had gone too far.” She told me she was by this stage increasingly concerned about his level of anger, while being careful to say that it was not extreme. She described hoping that by standing near she could help diffuse the situation, and that she was doing that to reduce the possibility of further escalation.

Finding

76. I find that Mr van de Molen was positioned in part of the relatively confined area that would have been Mr Halbert’s route out of the room and by continuing to stand in the same position when asked to leave, he did effectively impede Mr Halbert in his ability to exit the meeting room. Part of the reason for this finding is that by this stage Mr Halbert was feeling uncomfortable about Mr van de Molen’s physical presence. In view of my findings about the request made to him to stand up, and the extent to which the discussion had by then become heated, it was reasonable for him to feel uncomfortable and that he

could not comfortably leave without Mr van de Molen moving from where he was standing.

77. I consider Mr van de Molen was being truthful when he told me that he did not believe Mr Halbert genuinely felt he was stuck in his seat. However, while this might initially have been a reasonable reaction, once the request had been repeated by Mr Halbert with a specific reference to Mr van de Molen “standing over” him, it should have been clear to Mr van de Molen that Mr Halbert felt unsafe or uncomfortable about leaving until Mr van de Molen moved.
78. In summary, I find that Mr van de Molen did position himself between Mr Halbert and the members’ exit and that by not moving when asked on a number of occasions, he effectively prevented Mr Halbert from leaving when he initially wanted to. This lasted about 30 seconds, from the time “move on” when Mr Halbert expressly said he wanted to leave until Mr van de Molen eventually left.

Allegation 4: Mr van de Molen’s actions were verbally and physically aggressive

Analysis of information gathered

79. All persons interviewed emphasised that MPs are well-used to having robust exchanges which can become heated.
80. Bearing this in mind, I do not think that there would be anything particularly objectionable about what Mr van de Molen was saying without an added physical element. The exchange in relation to the allocation of questions in the Estimates hearing struck me as initially being fairly evenly balanced in terms of tone, and Ms White noted to me on interview that Mr Halbert’s response to the initial accusation of unfairness was “feisty” (“do your maths” etc). This is borne out by the audio recording. However, it is clear that Mr Halbert’s responses (after the first minute) became focussed on attempting to end the discussion. His account, and that of Ms Boyack, which I accept, was that as the discussion progressed he looked away from Mr van de Molen in an attempt to diffuse the situation. The Committee staff in attendance told me that Mr Halbert appeared “uncomfortable” or “very uncomfortable” and that one said that Mr Halbert seemed to have “frozen”.
81. In terms of physical aggression, there is no suggestion of any physical contact between the parties. I have found (above) that there was a threatening element to Mr van de Molen’s behaviour in standing near Mr Halbert and telling him to “stand up,” and I would add to that, in not moving when asked to, to enable Mr Halbert to leave.
82. Having said that, I think it is important to note that Mr Halbert (unprompted) told me that if he had to rate Mr van de Molen’s conduct on a scale of 1-10 with 1 being unimpeachable and 10 being the most unacceptable standard of conduct he would “give it a 6.” While this kind of rating evidently has limitations, I think that Mr Halbert’s indication that this was not unacceptable conduct at the top end of the scale is useful and reflects my own perception of the incident, noting that the whole exchange lasted for about two minutes and began as a spirited but not unusually heated debate about question allocation, that there was no physical contact, and that Mr van de Molen, while clearly standing too close for Mr Halbert’s comfort and (as I have found) effectively blocking his egress for a short period, did remain about three-quarters of a metre away from him.
83. I consider it is also relevant to note that all of the Labour MPs to whom I spoke expressed concern about the very difficult time Mr van de Molen had had from a personal

perspective, referring to a relatively recent family tragedy and wondered whether that was a potential factor.

Finding

84. In view of the above, I find that Mr van de Molen's conduct as a whole was aggressive in the sense of being hostile, unprofessional and (as stated above) with an element that was objectively threatening, but not in the sense of physical violence.

Allegation 5: Mr van de Molen's actions had an adverse impact on Parliamentary staff

Analysis of information gathered

85. All three of the staff I interviewed were clear that they had felt uncomfortable at the time of the relevant events. All three of them referred to considering the possibility of needing to use the security button and one of them turned around to locate the button if it were needed "if anything were to go wrong."
86. One of them told me they thought that nothing would ultimately happen: "these are MPs" but that they were worried because Mr van de Molen's posture and tone seemed aggressive. The same staff member said "it was pretty confronting." They reiterated it would be unlikely for "fisticuffs to break out" given these were elected officials but that it was not comfortable. That member said it had never previously gone through their mind that there might be physical contact or a need to use the security button, even in relation to submitters. (I note here that Ms Boyack also told me that she had come close to calling for security).
87. All staff remained seated at their table for the whole exchange and one of them described trying not to look directly at the participants in the conversation because of the discomfort they felt about the situation.
88. They all told me they were used to heated verbal exchanges between MPs but had not come across this kind of situation before.
89. One of the staff members thanked Ms Boyack for raising the issue at the 20 July Select Committee private session, as she had expressly acknowledged the impact of this episode on the staff present.

Finding

90. I find that Mr van de Molen's conduct did cause some discomfort for all three of the Parliamentary staff who were present at the time. None of them described a more enduring impact.

Allegation 6: Mr van de Molen's actions had an adverse impact on Mr Halbert's ability to discharge his duties as a Select Committee chair and in the House

Analysis of information gathered

91. Listening to the audio recording of the conversation it is clear that Mr Halbert was feeling increasingly uncomfortable about the situation. At its conclusion when Mr van de Molen departed, Mr Halbert repeated his injunction to "do your maths", returning again to the original subject of the discussion.

92. Mr Halbert told me he felt shaken by the exchange and had noticed that his hands were shaking. In answer to my question whether Mr Halbert had then been able to go on with his day as usual, he said “no.” He said that at first, he had reassured his colleagues he was fine. However, he said he had left the meeting feeling quite confused and confirmed in feedback on my draft report that he had not gone to the House as he was scheduled to do for the extended sitting that was taking place from 9.00am.⁶ He was supposed to be the Labour Whip for the first part of that sitting but recalls that he was late (due to the discussion with Mr van de Molen and its effect on him) and that shortly after leaving the select committee room he received a message asking where he was. He then went into the House, late, at about 9.05am, and stayed there for a few minutes.⁷ Mr Halbert’s Whip duties were undertaken at that session by the Labour Chief Whip, Mr Tangi Utikere MP.
93. After leaving the House, Mr Halbert was then “intercepted” by one of his Labour Whip colleagues Camilla Belich, who told him she had heard about what had happened and asked him if he was okay: he told me “at that point I really knew that I wasn’t”. Ms Belich and he went for a coffee with another colleague, Carmel Sepuloni MP.
94. Ms Boyack in her feedback on my draft report stated:
- Mr Halbert was immediately due to be in the House at 9am and in the Whip’s seat, which is a critical role in the functioning of the House. Instead, he left the meeting in what I would describe as a dazed state and didn’t report to the House (as he should have), nor did he communicate to the other Whips that he couldn’t make his duty. This left Labour without a Whip to cast the Labour votes in the House.⁸ Communications began on various Caucus Signal chat groups looking for Shanan, and once I reported to the Whip’s office what had happened in the meeting another Whip was immediately sent to cover his shift in the House. This cover lasted for the duration of his shift (around 1-2 hours).
95. Mr Halbert confirmed that after it occurred he felt unable to attend a debate in which he was scheduled to participate as he “wasn’t in the right “headspace”. Ms White confirmed that she had attended the debate (which took place in Lower Hutt) in his place.
96. Mr Halbert went on to say that the Labour Chief Whip alerted the National Party Chief Whip (Mr Chris Penk MP) about the incident and that Mr Penk arranged to sit in for the beginning of the Select Committee’s next meeting (Estimates: Vote Building and Construction) which took place that same afternoon after 1pm. Mr Halbert chaired that meeting. He told me it was alright because he did not have to actively interact with Mr van de Molen, and in his feedback on my draft report also said that Mr Penk’s presence assisted to ease the start of the meeting and mitigate the chances of any further conflict (his recollection was that Mr Penk had stayed for the first 10 minutes or so).
97. On interview, Mr van de Molen said from his point of view Mr Halbert had appeared to be fine at the afternoon meeting and that he (Mr van de Molen) had participated in the

⁶ Mr Halbert also told me this in our initial interview but I had incorrectly assumed that he was at that point discussing the debate in Lower Hutt that Ms White attended for him. Following receipt of feedback from Ms Boyack I followed up with Mr Halbert about his absence from the House for the extended sitting and have adjusted my report to incorporate reference to it.

⁷ Mr Halbert’s arrival in the House and his absence a few minutes later is shown on the Parliament TV footage of the Second Reading of the Therapeutic Products Bill: <https://ondemand.parliament.nz/parliament-tv-on-demand/?itemId=234183> (accessed 14/8/23 at 5.20pm) (this was supplied to me by Mr van de Molen in his feedback on my draft report).

⁸ I note here that Mr Utikere, who was in the House at the beginning of the sitting, was able to take over.

meeting and that his interactions with Mr Halbert “were reciprocal, and in a normal, collegial fashion.” In relation to Mr Penk’s attendance, Mr van de Molen told me in his feedback on my draft report that Mr Penk had attended at Mr van de Molen’s request. Mr van de Molen told me he wished to ensure there was a second non-Labour MP in the room, and that Mr Penk had stayed for the whole meeting, leaving with Mr van de Molen.

98. I do not find that Mr Halbert did not need to engage with Mr van de Molen at that meeting, as he indicated on interview. Mr van de Molen is the National Party spokesperson on Building and Construction and it is clear from the transcript of that meeting (which I have reviewed) that he took a major role in that meeting, asking all of the questions from the National Party and most of the questions in total.

Finding

99. I find that Mr van de Molen’s conduct did cause Mr Halbert to feel uncomfortable and shaken up after the exchange. It was reasonable for Mr Halbert to feel this way in view of my above findings in relation to Mr van de Molen’s conduct.
100. Mr Halbert was shaken up to the extent that he did not attend the extended sitting at 9.00am to perform his duties as Labour Whip. He missed the beginning of the session because he was late as a result of the Select Committee meeting and its aftermath and in his words, had been “a bit dazed” on his exit from the Committee room. As a result of his lateness the Chief Labour Whip had taken over Mr Halbert’s scheduled Whip duties in the House. Mr Halbert told me he had been a little embarrassed about this but that Mr Utikere had reassured him; he could not recall the precise details of communications with his colleagues around the time he left the House and made the point that “a lot had happened” during the short period of time between the Select Committee hearing finishing and the time he had left the House (I accept this as a reasonable statement, in view of the material set out above).
101. Mr van de Molen said that Mr Halbert would have been late for the House in any event as the Select Committee meeting only ended formally at 8.58am. However it is clear from the audio recording of that meeting that Mr Halbert was anxious to wrap up the meeting at the time he formally ended it. He told me on interview it was not unusual for MPs to have to rush to the House from Select Committee meetings. Noting the proximity between the select committee room and the entrance to the House I find that he would have been able to get to the House in time to take up his station as Labour Whip, but for the discussion with Mr van de Molen.
102. Mr Halbert also did not feel able to attend the scheduled debate, which Ms White attended in his place.
103. Mr Halbert was evidently able to resume his duties as Chair of the Transport and Infrastructure Select Committee that afternoon, a meeting at which Mr van de Molen would inevitably play a significant part. I accept Mr Halbert’s account that he felt easier about this meeting, given the attendance of the National Party Whip, but I consider that he was not, by that stage, as seriously affected by the events of the morning. This is consistent, in my view, with Mr Halbert’s own assessment of the situation, noted above, as a “6/10.”
104. Accordingly, I find that Mr Halbert was affected by Mr van de Molen’s conduct in the earlier meeting that day and that it impeded his ability to perform his duties as Whip in the House that morning and to attend a debate outside of Parliament later that day. I do not find it materially affected Mr Halbert’s ability to perform his duties as Chair of the

Transport and Infrastructure Committee, as the morning meeting had concluded by the time of the incident complained of, and he was able to undertake his afternoon duties as Chair.

SUMMARY OF FINDINGS

105. I summarise my findings as follows:

- 105.1. Mr van de Molen became frustrated with perceived unfairness of question allocation and had a verbal exchange with Mr Halbert: early in this exchange he approached Mr Halbert and stood close to him (but did not “stand over” him), being about three-quarters of a metre away from Mr Halbert in the confined space between Mr Halbert’s chair and the members’ exit.
- 105.2. Mr van de Molen told Mr Halbert “stand up mate.” I find that he said that to Mr Halbert while he was standing within a short distance of Mr Halbert’s chair, facing him, and that it was a challenge to Mr Halbert to rise to his feet. Mr Halbert reasonably took this to be a threat to his safety: objectively viewed there was a threatening element in Mr van de Molen’s conduct.
- 105.3. Mr van de Molen stood between Mr Halbert and the members’ exit and by not moving when asked to do so on a number of occasions, he effectively prevented Mr Halbert from leaving when he initially wanted to leave. This lasted about 30 seconds, from the second “move on” (when Mr Halbert expressly stated that he wanted to leave) until Mr van de Molen eventually left.
- 105.4. I find that Mr van de Molen’s conduct as a whole was aggressive in the sense of being hostile, unprofessional and (as stated above) with an element that was objectively threatening, but not in the sense of physical violence.
- 105.5. Mr van de Molen’s conduct caused discomfort for all three of the Parliamentary staff who were present at the time and each considered the need to ring for security. None of them described a more enduring impact.
- 105.6. Mr van de Molen’s conduct after the morning Estimates hearing impeded Mr Halbert’s ability to perform his duties as Whip in the House that morning and to attend a debate outside of Parliament later that day. I do not find it materially affected Mr Halbert’s ability to perform his duties as Chair of the Transport and Infrastructure Committee.

Wendy Aldred, Barrister

15 August 2023



**PRIVILEGES COMMITTEE
KOMITI WHIRIWHIRI MŌTIKA O TE WHARE**

Terms of reference for independent adviser's review

Question of privilege concerning a member's conduct toward the chairperson of the Transport and Infrastructure Committee

Purpose of review

1. The purpose of the review is to establish the facts in relation to the allegations made by Rachel Boyack MP against Tim van de Molen MP, in order to enable the Privileges Committee to judge the question of privilege before it.
2. The purpose of the review does not include passing judgment on the facts, or inquiring into events beyond the alleged incident.

Review process

3. The review will establish the facts by conducting interviews with the individuals present at the time that the alleged incident occurred.
4. The reviewer will determine whether interviews are transcribed or only recorded, balancing the need to make sound findings with the need to complete the review within the time required.
5. The identity of any parliamentary staff who participate in the review will remain anonymous.
6. The review will establish the facts by the civil law standard of proof on the balance of probabilities.

Powers

7. The reviewer does not have the power to compel the participation of persons or the provision of information to the review. The participation of relevant persons in the review's work is voluntary.
8. Nothing in the preceding paragraph limits the Privileges Committee's power to send for persons, papers, and records.

Papers

9. The reviewer will be provided a copy of the letter sent by Rachel Boyack MP to the Speaker of the House on Tuesday, 25 July 2023 and the letter sent by Tim van de Molen MP to the Speaker of the House on Wednesday, 26 July 2023 in response.



PRIVILEGES COMMITTEE KOMITI WHIRIWHIRI MŌTIKA O TE WHARE

Principles

10. The review will be conducted in a fair and impartial manner.
11. The reviewer will apply the principles of natural justice to the process of establishing the facts. This means the reviewer will acquaint relevant persons with information provided by participants in the review, if the reviewer considers it necessary for the relevant persons to have the opportunity to respond on a matter of material importance to the review.
12. In light of the natural justice obligations applying to the Privileges Committee, the reviewer is not required to acquaint relevant persons with the provisional findings of the review, but may do so if they consider it desirable to do so.

Report

13. The review will provide a final report to the Privileges Committee setting out the reviewer's findings concerning the facts of the matter.
14. Except for the matter covered in paragraph 15, the report will include any and all information the reviewer considers necessary to support the report's findings, which may include transcription of interviews but is not required to.
15. The identity of any parliamentary staff who participate in the review will remain anonymous.
16. The report will become a proceeding of the Privileges Committee and will cease to be confidential to the committee when it reports to the House of Representatives, unless the House orders otherwise.

Time for review

17. The review is to be completed no later than 12.00pm, Tuesday, 15 August 2023. This is to enable the Privileges Committee to report to the House of Representatives by Tuesday, 29 August 2023.

Records

18. Any records created in the course of conducting the review remain in the custody of the reviewer at the review's conclusion.

Appendix 2

(a) Select Committee Room 4 layout



(b) Corner of room showing members' exit



(c) Corner of room showing members' exit (drinks trolley)



Appendix 3

Rt Hon Adrian Rurawhe

Speaker of the House of Representatives

25 July 2023

Dear Mr Speaker,

I would like to raise with you a serious matter in which Tim van de Molen MP threatened and physically intimidated Shanan Halbert MP while Mr Halbert was acting in the capacity as Chairperson of the Transport and Infrastructure Select Committee.

I believe that this incident amounted to a contempt of the House, a breach of privilege, and a serious affront to the integrity and authority of Parliament.

I am a Member of the Transport and Infrastructure Committee and witnessed the incident first hand. The below is my recollection of the incident, based on a record I made immediately after the incident, and checked against the recollections of other MPs present, including Helen White MP and Paul Eagle MP. Members of the Committee Clerk team were present during the incident.

- On 29 June 2023, just prior to the conclusion of an in-person Estimates hearing at the Transport and Infrastructure Select Committee, Mr van de Molen became frustrated with the Chairperson (Mr Halbert) about the number of questions that Opposition MPs had been allocated during the hearing. The start of this interaction is recorded on the transcript of the Committee meeting.
- Mr Halbert disagreed with Mr van de Molen's assertion, stating "Our time is up, I think you've had very sufficient amount of questions.". Mr Halbert confirmed to me later that he had kept count of questions and that Opposition members had asked 16 questions during the session, many more than Government members.
- At this point, Mr van de Molen stood up and walked around to stand directly over Mr Halbert, who remained seated. Mr van de Molen was standing between Mr Halbert and the exit.
- Mr van de Molen became physically and verbally aggressive and continued to relitigate the number of questions he had been allowed to ask.
- Mr Halbert asked Mr van de Molen to cease and that he wished to leave and that Mr van de Molen was obstructing him.
- At this point, Mr van de Molen aggressively asked Mr Halbert to "Stand up". My clear interpretation of this comment was that, if Mr Halbert had stood up, he would have been physically assaulted by Mr van de Molen.
- I was so concerned that Mr van de Molen was about to physically assault Mr Halbert, even as he remained seated, that I moved to physically position myself beside Mr Halbert. Helen White MP at this point also moved to stand between Mr Halbert and Mr van de Molen to act as a barrier.
- Mr Halbert continued to request that Mr van de Molen remove himself from his physical space. He recalled to me afterwards that he asked Mr van de Molen seven times to do so.
- I became so concerned about the unfolding situation that I was about to call for Parliamentary Security.
- Eventually, Mr van de Molen departed the Committee Room in an aggressive manner.

Mr van de Molen's physical intimidation and threatening behaviour directly impeded and obstructed the ability of Mr Halbert to discharge his duties as a Member of Parliament, and therefore the House, in three ways:

1. The ability of Mr Halbert to discharge his duties as Chairperson of the Select Committee;
2. The ability of Mr Halbert to move unobstructed and unhindered around Parliament;

3. The ability of Mr Halbert to participate in proceedings of the House. Mr Halbert was shaken by the incident to the point where he was substituted out of an allocated speaking slot in the House that afternoon.

I believe Mr van de Molen's actions also had an impact on the Committee staff present and the right they have to work in a safe environment.

I understand that following the incident, the Government Chief Whip wrote to the National Party Chief Whip informing him of the unacceptable nature of the behaviour. The National Party Chief Whip responded on 10 July, stating that Mr van de Molen's "...recollection of what took place, including the characterisation of parties' actions, differs in some key respects."

In addition to contesting the facts of the incident, the response offered no apology to Mr Halbert.

I raised the issue at the next meeting of the Select Committee on 20 July. Mr van de Molen did not offer an apology to Mr Halbert and became agitated that I was raising the matter. I asked Mr van de Molen to further reflect on the incident and to consider apologising to Mr Halbert, to the Committee, and to the Clerk and Committee staff.

On Friday 21 July I followed this up in writing, encouraging Mr van de Molen to respond to this request promptly, and by Monday morning (yesterday, 24 July). As at the time of writing, no response or acknowledgement has been received.

Mr Speaker, as the Select Committee was not able to satisfactorily resolve the matter, I now raise this serious matter of privilege with you. I believe this matter falls within the definition of contempt and thus warrants an investigation by the Privileges Committee to vindicate the authority of the House:

- Standing Order 418, Examples of Contempt
"assaulting, threatening or intimidating a member or an officer of the House acting in discharge of the member's or the officer's duty".
- McGee: Parliamentary Practice in New Zealand
"The House regards as most serious any attempt to prevent, dissuade or inhibit any person (a member, officer, witness or petitioner) from participating fully in its proceedings. The House will punish such conduct to the extent necessary to preserve its effective functioning. An attempt to prevent participation may also be a crime (for example, an assault or threat of assault) punishable in the criminal courts.
- "Interferences or obstructions of members or officers may be overt or covert. Such interference or obstruction may consist of an assault, molestation, or a threat or other form of intimidation. Such action will be treated as a serious contempt if it occurs in the discharge of the member's or officer's duties."
- "Anyone who assaults, threatens or disadvantages a member or a person (for example, a witness) on account of his or her conduct in Parliament commits a contempt."

This letter has also been sent to Mr van de Molen.

Yours sincerely,



Rachel Boyack MP

Rt Hon Adrian Rurawhe

Speaker of the House of Representatives

26 July 2023

RE: Letter from Rachel Boyack alleging breach of privilege

Dear Mr Speaker,

I write in response to the letter sent to you by Rachel Boyack on 25th July 2023 (attached).

The characterisation of events as outlined by Ms Boyack is significantly different from my recollection of the discussion between myself & Mr Halbert. I outline my recollection as follows:

- The Estimates Hearing with the Minister of Transport was conducted by the Transport & Infrastructure Select Committee on 29 June 2023. Near the conclusion of this hearing, I sought a supplementary question from the Chair, following a question from Mr Simeon Brown, which the Chairman acknowledged with a nod of his head. Following the completion of Mr Brown's question, the Chair then asked two questions himself & promptly closed the hearing. The transcript concludes with me seeking my supplementary question, followed by Mr Halbert's response (attached).
- Mr Halbert then closed the Select Committee meeting.
- I raised my disappointment around the disproportionate allocation of questions as I had only been given one primary question and one supplementary question throughout the hearing. I suggested to Mr Halbert that he needed to give a fair question allocation, an issue that had I had suffered from previously, too.
- From my seat in the second Opposition chair, I told Mr Halbert that he should "stand up" in the context of doing what is right by maintaining the integrity of the committee & fair process. I absolutely reject that this was in any way a suggestion that a physical altercation was desired. Indeed, I still had one arm in a cast from a recent surgery.
- Our discussion continued & I rose from my chair to return my water glass to the table near the door, then turned back to Mr Halbert. At this point, I was standing near the Members' doorway, behind the first Opposition chair on the curve of the table. Mr Halbert was still seated in the Chairman's seat. At no time was I standing over him or physically blocking any attempt to leave the room, nor did he ever claim that I was in his personal space.
- The entire interaction would have only lasted a minute or so as we were all in the process of departing the room. The other Labour MPs present were moving around the top of the table towards the exit, at which point the discussion ended & we all left. At no point did Ms Boyack or Ms White step between Mr Halbert & myself – this was not necessary, nor possible given the placement of the first Opposition seat, which was between us.
- Following the incident the Labour Whip wrote a letter to the National Whip expressing the view of Ms Boyack. The National Whip responded noting that I disputed their characterisation of the discussion, but could have dealt with my concerns better.
- I accept that it would have been more appropriate to have sought a meeting with Mr Halbert to raise my concerns about the manner in which the allocation of questions was conducted.

- The Select Committee met again at 1:05pm that afternoon, with Mr Halbert as the Chair (disproving Ms Boyack's claim that he was so shaken that he could not participate in proceedings of the House after Question Time that day). No Members raised any concerns during this meeting & the business was conducted in a normal, collegial manner.
- The Select Committee also met again last week, on July 20th. Ms Boyack raised a Point of Order near the conclusion of the meeting seeking the Leave of the committee to discuss what she perceived as an issue. After some debate seeking to clarify what she was wanting to discuss, I was happy to grant Leave for that purpose.
- A discussion ensued with differing perspectives raised. At the conclusion of this, the acting Chair, Ms Genter, asked if I would be prepared to accept that my concerns could have been handled better. I reiterated my acknowledgement that a better way to raise my concerns about Mr Halbert's chairmanship would have been to seek a separate meeting to discuss it. Ms Genter accepted my response & this brought the matter to a close. No further action was requested by the committee.
- On 25 July 2023, following the receipt of Ms Boyack's letter alleging a breach of privilege, I subsequently sought to phone Mr Halbert via our respective Whips to discuss the matter & resolve it. Mr Utikere declined to provide me with Mr Halbert's phone number, stating that their preference was for the Privilege letter process to take precedence.
- I remain open to meeting with Mr Halbert to resolve any lingering concerns.

Mr Speaker, I am proud of the collaborative nature of the relationships I have established with MPs from across the House. I am saddened by this mis-characterisation of events that would cause damage to my reputation & that of the National Party. The discussion was robust (on both sides), but at no time was physical violence or intimidation ever involved or even suggested.

I trust that this letter provides a balanced perspective of the discussion between Mr Halbert & myself. Should you have any queries, I would be happy to provide clarification.

Kind regards,

A handwritten signature in black ink, appearing to be 'Tim van de Molen', written in a cursive style.

Tim van de Molen MP

Appendix 4 - transcript of recording 29 June 2023

Start time: 08:51:20

Parker If the member had been here at the start of this hearing, he would have heard me explain, but I'm happy to run through it again because these are very important issues. The most important thing is that we do not cut off the future options that are needed by Auckland, rapid transit being a part of that as well as additional road capacity across the Waitematā. I am expecting advice soon on the likely preferred route of a second harbour crossing, and the point that I made was I think that future planning around Auckland needs some certainty as to where the landing point is and the intersection of other connections from south of the bridge, so that we can give ourselves certainty that we're not going to close off options for the future.

Halbert Thank you.

Brown In relation to the Auckland rapid transit network, is it still the Government's intention to start construction on Auckland light rail in 2025?

Parker Yes, that's the stated intention of the Government.

Brown Is that likely to change?

Parker We've got no plan to change that. I did make the point earlier today that whatever's done has to be staged. And I also made the point that the busways are very important. I noted that the last busway to be finished in Auckland was the Northern Busway, in 2006, I think it was—2005 or 2006. I know that because I was Minister of Transport at the time, and that it's a shame that it's taken until now for any Government to build the Eastern Busway and that we need to pay attention to the north-western route as well.

Halbert Minister, you've made—or the Government's made—a commitment to permanent half-price and fees-free public transport. I just wondered if you could run the committee through what processes are in place to ensure that that happens.

Sonerson So the Government has provided funding, as you said, for half-price for under-25s and free for under-13s. These are implemented regionally—so through each of the public transport authorities. So they all have slightly different arrangements on how they do it. They have different ticketing systems and all those kind of issues. They're working through the implementation of that. And, obviously, 1 July is Saturday.

Brown Supplementary on that?

Halbert OK. Supplementary—Simeon Brown.

Brown So this was obviously announced as part of the Budget, but I understand not all regions will be offering that on 1 July. Why is that?

Parker There's very good progress being made on that, and I'll pass to officials as to where that is—stands in respect of Auckland, Wellington, and Christchurch, for example.

Sonerson So pretty much—all regions will have a plan for the transition, and we're just finalising a couple of issues with Wellington and Canterbury, but, at the moment, we have no indication that they won't be able to provide at least what the Government has promised.

Brown So, to clarify that—so they won't be able to not offer what the Government promised on 1 July?

Sonerson I would have to—we would need—we are in the process of confirming with those councils their arrangements for Saturday and how they're going to transition to the new system. Some of them have got short-term measures that are not their long-term solutions. So, for example, some where they have—so Auckland has, you know, the AT card. At the moment, you put your date of birth in, so they're able to tell, on their system, age. Others don't, and they will need to work their way through that, but they will have interim arrangements.

Brown So the issue here is the Government announced in the Budget a package which they promised would be available on 1 July and two of our biggest regions will not be able to offer that.

Parker That's not what was said.

Brown Well—

Parker You always misrepresent people.

Brown Wellington and Canterbury won't be offering the free fares for under-12s on the first.

Parker That's not what the Secretary for Transport said.

Brown That's exactly what was said.

Parker Well, you've got bigger ears than me, then.

White No, it wasn't said—it's fantasy.

Brown So will they be offering—will Wellington and Canterbury be offering that on Saturday?

Ngobi He just makes up whatever suits his narrative.

Sonerson My understanding is that they will—that we are confirming the final details with them. I can get back to the committee if that's—later today if you'd like, and confirm the exact arrangements we have, but they—

Unidentified Time for one more?

Halbert No; I've got a question.

Sonerson —where they have the arrangements in place, they would be interim; they won't be the full—the final solution that they will want to offer.

Brown So what's the difference between interim and final solution?

Unidentified We're at time.

Unidentified One's short; one's long.

Sonerson That'll be about how they implement the solution and therefore—so customers might be—might not have their date of birth loaded on their card. They will need to do that.

Halbert What other measures are you putting in place in the year ahead to make public transport more accessible?

Sonerson So there's lots of initiatives to make public transport more accessible. So we obviously continue the SuperGold card scheme, where we have twice as many SuperGold card holders as we did have ten years ago. And we also have done quite a lot on the Total Mobility scheme, where 89,000 Total Mobility users made 1.6 million trips, where they are able to access the equivalent of a subsidised scheme for their transport needs.

Halbert Thank you, and does that include improved access to payment methods?

Sonerson I'd have to get back to you on that, sorry, Mr Chair.

Rosie So, Shanan, you might be referring to the national ticketing system, which is still absolutely in progress. So, just to confirm to the committee, the national ticketing system will be an open-loop system, which means you can use your credit card anywhere in the country, too. And Christchurch is currently still on track to deliver that by the middle of next year.

Halbert Excellent. OK, well, can I thank everyone? Our time—

van de Molen [*Inaudible*] had another supp, from earlier, that you haven't given me the opportunity [*Inaudible*]

Halbert Our time is up. I think you've had very sufficient amount of questions. Can I thank—

van de Molen [*Inaudible*]

Halbert I can give you a count, like I said to you last week.

van de Molen Yeah, I'd appreciate [*Inaudible*]

Halbert Minister, I will thank you and Nicole and the team for your presentation today. I appreciate your time.

Unidentified Thank you.

Parker Thanks very much.

van de Molen Goodness me [*Inaudible*]

Halbert Here you go, Tim. Chris: one, two, three, four, five, six, seven, eight—eight questions to Bish. Four questions to you.

van de Molen [*Inaudible*] and then you clearly ignore that [*Inaudible*]

Halbert And six questions—six questions—

van de Molen It's quite clear—

Halbert Hang on—the chair's allowed to have some questions.

van de Molen Yeah, so am I, Mr Chair.

Halbert And your team did.

van de Molen [*Inaudible*] good try.

Halbert There's a fair distribution, mate.

Unidentified [*Inaudible*]

van de Molen [*Inaudible*] believe what you say [*Inaudible*]

Halbert There's three of you.

Unidentified Think you guys had better sort it out amongst yourselves.

Court Hey, are we going to share a taxi? Are we gonna carpool?

Halbert Don't question my integrity.

van de Molen [*Inaudible*] integrity [*Inaudible*]

Halbert Look at the count. Look at the count.

van de Molen Stand up, mate.

Boyack Ooh, oh, that's pretty aggressive.

van de Molen Yeah, it is; it's really disappointing to see—

Boyack No, it's—work as a team. If—if—

van de Molen You treat the Minister as if his defence is being run by the chair.

Boyack If Chris Bishop—

van de Molen [*Inaudible*]

Halbert Tim, you've half of—over half of the questions. Do your maths.

van de Molen [*Inaudible*] Shanan.

Unidentified No, no, no.

Boyack Talk to your colleague.

Halbert [*Inaudible*] you threaten me.

van de Molen [*Inaudible*]

Unidentified [*Inaudible*] “look out” as a statement

Halbert “Stand up, mate.” That’s a threat. Move on.

van de Molen Hahaha. Wow! You’re a bit—

Eagle Come on, guys.

Halbert Here you go.

van de Molen I’m talking to you.

Halbert I don’t want to talk to you.

van de Molen OK, right.

Halbert Can you move on?

van de Molen No.

Halbert So I can leave?

van de Molen Paul, I’m trying to get [*Inaudible*]

Halbert Otherwise, you’re standing over me, so—

van de Molen Ha, ha, ha.

Halbert You’d better move on.

van de Molen Wow, that’s a pretty defensive statement to make.

Eagle Come on, mate.

Boyack That’s really inappropriate.

van de Molen It is really inappropriate. You’re dead right.

Boyack Your behaviour—no, your behaviour’s inappropriate.

Halbert Can you move on? I don’t want to—

van de Molen [*Inaudible*] right? What I’m asking is to just reflect on your behaviour, Mr Chair, and work—

Halbert I’ve asked you to move on and get out of my face.

van de Molen [*Inaudible*] allocated for Opposition members—

Halbert Move on.

van de Molen —of the committee to be able to ask—

Halbert And I've already explained to you: you had over 60 percent of the questions. Do your maths.

Boyack You all right?

Eagle All right? You were fine. You were absolutely—

Boyack You were perfect, and [*Inaudible*]

Eagle [*Inaudible*] they just did not distribute the times between their calls. [*Inaudible*]

End time: 09:00:50