

**IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)**

CASE NO: _____

In the matter between:

DEAN WILLIAM MACPHERSON

Applicant

and

**THE CHAIRPERSONS OF THE JOINT COMMITTEE ON
ETHICS AND MEMBERS' INTERESTS**

First Respondent

**THE ACTING REGISTRAR OF MEMBERS'
INTERESTS**

Second Respondent

THE SPEAKER OF THE NATIONAL ASSEMBLY

Third Respondent

**THE CHAIRPERSON OF THE NATIONAL COUNCIL
OF PROVINCES**

Fourth Respondent

ALAN DAVID BEESLEY MP

Fifth Respondent

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I, the undersigned,

DEAN WILLIAM MACPHERSON

do hereby make oath and say that:

I INTRODUCTION

1. I am an adult male and a Member of Parliament (**MP**) elected as a representative of the Democratic Alliance (**DA**). I am also the Minister of Public Works and Infrastructure. I hold office at the Parliament of the Republic of South Africa, Parliament Street, Cape Town.
2. The facts contained in this affidavit fall within my personal knowledge unless otherwise stated and are true and correct to the best of my knowledge and belief. When I make legal submissions, I do so on the advice of my legal representatives.
3. This is an application to review and set aside a finding that I violated the Code of Ethical Conduct and Disclosure of Members' Interests (**the Code**), and the penalty imposed on me for that supposed violation.
4. The Code was adopted by Parliament as "*a framework of reference for Members when discharging their duties and responsibilities.*" It was adopted as part of Parliament's power to regulate its "*internal arrangements, proceedings and procedures*".

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5. On its terms, the Code governs MPs' behaviour only when they are acting as MPs. It does not govern their behaviour when they engage in political speech as members of their political parties.
6. Despite the limited scope of the Code, on 26 March 2026 the First Respondent (**the Committee**) concluded that I had violated the Code for a word I spoke when I was campaigning for the DA (**the Committee's Finding**). There was nothing wrong with the word I used in the context I used it. But more importantly, it was none of the Committee's business.
7. I was not acting as an MP; I was engaging in core constitutionally protected political speech. I was speaking at a public picket, and in the course of robust political contestation. I was wearing a DA shirt, speaking to DA supporters, outside a court case brought by the DA. Parliament simply has no authority to regulate that speech.
8. Despite my speech falling far outside the scope of the Code, the Committee recommended to the National Assembly (**NA**) that I should be reprimanded and required to apologise (**the Committee's Recommendation**). On 11 June 2026, the NA adopted that finding and imposed the proposed sanction (**the NA's Decision**).
9. The Committee's Finding and Recommendation, and the NA's Decision, punish me for political speech that has nothing at all to do with my position as an MP, or the work or functioning of Parliament.
10. They set a dangerous precedent.

11. Every time any MP engages in political speech, the Committee and the NA can punish that MP – including by docking their pay and suspending them. This allows a majority of members in Parliament to use the Code to punish other MPs for political speech they dislike, or find offensive, or simply disagree with, under the flimsy veil of protecting the integrity of Parliament.
12. That is a direct threat to the constitutional right of MPs to engage in political speech that is lawful, even if it is distasteful or offensive to others.
13. I seek to review and set aside the Committee's Finding and Recommendation, and the NA's Decision, because the Code simply did not apply to my speech that had nothing to do with Parliament, or with my duties as an MP.
14. If the Code does apply to MPs' political speech when they are not acting as MPs and are speaking outside of Parliament, it is unconstitutional.
15. Parliament has no power to regulate that speech through rules and orders, and it would unjustifiably limit MPs' right to freedom of expression if it did.
16. I seek, to the extent necessary, a declaration that the Code is unconstitutional and invalid to the extent that it applies to speech unconnected with Parliament's internal arrangements and business.
17. The Committee's Finding and Recommendation, and the NA's Decision, are also unlawful for a range of other substantive and procedural reasons:

- 17.1. Even if the Code could notionally apply, the Committee and the NA fail to explain why I violated it. There is no reasonable or rational basis to conclude that I did.
- 17.2. The process was procedurally unfair and irrational. I was not provided with all the evidence against me. The dissenting views of members of the Committee were not published. I was unfairly refused an extension to make submissions on penalty. The charges against me were unfairly altered midstream. The Speaker failed to provide relevant information to the NA when it considered the Committee's Finding.
18. The decisions of the Committee and the NA constitute "administrative action" as defined by the Promotion of Administrative Justice Act 3 of 2000 (**PAJA**) and as contemplated in s 33 of the Constitution.
19. They are decisions of an administrative nature, taken by an organ of state exercising a public power and performing a public function in terms of the Code. They adversely affect my rights, and they have a direct, external legal effect. I rely on PAJA to found my grounds of review.
20. However, if that is incorrect, the Committee's Finding and Recommendation and the NA's Decision are the exercise of public power that are governed by the principle of legality. With the exception of the grounds of unreasonableness and procedural fairness, all the other grounds on which I rely are also grounds of review under the principle of legality.
21. The remainder of this affidavit is structured as follows:

- 21.1. **Part II** describes parties;
- 21.2. **Part III** lays out the legal framework within which the Code operates;
- 21.3. **Part IV** sets out the relevant facts;
- 21.4. **Part V** explains why the Code did not apply to my speech;
- 21.5. **Part VI** addresses the remaining grounds of review;
- 21.6. **Part VII** discusses the hearing of this application; and
- 21.7. **Part VIII** concludes.

II THE PARTIES

22. I am the Applicant, cited in my capacity as the MP against whom the Committee's Finding and the NA's Decision were made.
23. I bring this application in my own interest, and in the public interest.
24. The First Respondent is the **CHAIRPERSONS OF THE JOINT COMMITTEE ON ETHICS AND MEMBERS' INTERESTS**. They are cited as the leaders of the Committee, a joint committee of the NA and the National Council of Provinces (**NCOP**) established in terms of the Joint Rules of Parliament, with its seat at Parliament Street, Cape Town. The Committee is the functionary that

made the finding of breach and resolved upon the impugned recommendation as to penalty.

25. The Second Respondent is the **ACTING REGISTRAR OF MEMBERS' INTERESTS (the Registrar)**, cited in her official capacity as the functionary responsible for the administration of the Code, for the processing of complaints under the Code, and for the recommendation report contemplated in item 18 of the Code. No relief is sought against the Registrar and she is cited for any interest she may have. Her office is located at Parliament, Cape Town.
26. The Third Respondent is the **SPEAKER OF THE NATIONAL ASSEMBLY (the Speaker)**, cited in her capacity as the head of the NA and the office responsible, in terms of item 21(4) of the Code, for acting upon any decision of the House adopting the Committee's recommendation. She is also cited because the Code was adopted by the NA and the NCOP, and I also challenge the constitutionality of the Code to the extent necessary. Her office is located at Parliament, Cape Town.
27. The Fourth Respondent is the **CHAIRPERSON OF THE NATIONAL COUNCIL OF PROVINCES**, cited because the Committee is a joint committee of both Houses of Parliament, and the Code was adopted jointly by the NA and the NCOP. Her office is located at er office is located at Parliament, Cape Town.
28. The Fifth Respondent is **ALAN DAVID BEESLEY MP**, an adult male Member of the NA representing ActionSA. He was the complainant who lodged the complaint that gave rise to the Committee's Finding. No relief is sought against Beesley MP save insofar as he may oppose this application, in which event a

costs order is sought against him. He is served care of ActionSA's office located at Parliament, Cape Town.

III LEGAL FRAMEWORK

29. In this Part, I first address the limits on Parliament's power to regulate the speech of its members. That power is regulated in two ways:

29.1. By the provisions that empower it to regulate its internal affairs; and

29.2. By the Bill of Rights.

30. I then discuss the conduct that the Code proscribes and show that it does not extend to speech disconnected from Parliament's internal business and from an MP's duties. Lastly, I explain the process followed under the Code to process a complaint.

Parliament's Limited Power to Regulate its Internal Affairs

31. Parliament is entitled to regulate its internal arrangements. Section 57(1) applies to the NA and reads:

- (1) *The National Assembly may -*
- (a) *determine and control its internal arrangements, proceedings and procedures; and*
 - (b) *make rules and orders concerning its business, with due regard to representative and participatory democracy, accountability, transparency and public involvement.*

32. Section 70(1) provides the same power to the NCOP.

33. Section 45 concerns the establishment of joint committees of the NA and the NCOP. It does not envisage a joint committee for members' ethics.
34. Indeed, nothing in the Constitution affords the NA or the NCOP the power to regulate the ethical behaviour of its members. That stands in stark contrast to the Executive branch where the Constitution not only sets ethical standards (s 96(2)), but also requires a "*code of ethics prescribed by national legislation*" (s 96(1)). There is no such provision in the Constitution for legislators.
35. I accept, for purposes of this application, that Parliament has the power to establish the Committee, and to adopt a code to regulate MPs' behaviour; but only within the limits of the power ss 57(1) and 70(1) confer on the two Houses.
36. Parliament also has plenary legislative power. Subject to the Constitution, it can enact legislation on any topic, including the ethical behaviour of its members. It has done so in the form of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004 (**Privileges Act**). The Privileges Act defines what constitutes "*contempt of Parliament*" (s 13), and creates a disciplinary mechanism for adjudicating allegations of contempt (s 12).
37. But the Privileges Act does not purport to regulate political speech by MPs when they are not participating in Parliament's business, or acting as MPs. The definition of "*contempt of Parliament*" does not include political speech outside of Parliament. It includes, instead, a range of acts that interfere with the functioning of Parliament. That extends to acts which, in terms of the standing rules, constitute contempt of Parliament or "*breach or abuse of parliamentary privilege*".

38. The only possible sources for Parliament's power to adopt the Code are, therefore, ss 57(1) and 70(1) of the Constitution.
39. But those powers are limited. Rules and orders cannot govern any conduct. They can only govern Parliament's "*internal arrangements, proceedings and procedures*" and Parliament's "*business*".
40. Rules and orders cannot be used as a substitute for legislation. If Parliament wishes to govern MPs' speech or conduct outside of Parliament's internal arrangements, it must do so through legislation.
41. There is an important point about the nature of parliamentary discipline.
 - 41.1. Rules and orders are enforced by Parliament's committees. Those committees are made up of MPs.
 - 41.2. If Parliament can use the Code to punish political speech outside of Parliament, then that provides a weapon for the majority to silence the minority's political speech.
 - 41.3. The majority could suspend, or dock the pay of MPs who engaged in speech they disagreed with.
42. That would obviously be inconsistent with democracy. Which is why the Constitution does not afford Parliament that power.

The Right to Free Speech

43. Section 16 of the Constitution guarantees everyone “*the right to freedom of expression*”. At the heart of the right is political expression.
44. That includes high-minded rhetoric about political ideals, and also the everyday political debates between political parties. It is not limited to polite speech, but protects speech that may upset or offend.
45. The only restriction on the right to free speech are the exclusions in s 16(2) of the Constitution – propaganda for war, incitement of imminent violence, and hate speech that constitutes incitement to cause harm. My speech did not fall under the exclusions in s 16(2), and so was protected by s 16(1).
46. That right could only be limited, in terms of s 36(1) of the Constitution, by a “*law of general application*”. The Code is not a law of general application. It does not regulate any section of the public, but applies only to MPs. It is about internal regulation, and relies on the power in ss 57 and 70 of the Constitution, not on Parliament’s legislative power.
47. But even if it is, it could only limit my right to free expression if the limitations it imposes are reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom.
48. To assess whether the limitation imposed by the Code meets that standard, a court will consider:
 - 48.1. the nature of the right;



- 48.2. the importance of the purpose of the limitation;
 - 48.3. the nature and extent of the limitation;
 - 48.4. the relation between the limitation and its purpose; and
 - 48.5. less restrictive means to achieve the purpose.
49. Parliament bears the onus to show that any limitation of rights is justifiable.

The Substance of the Code

50. The Code must be interpreted to preserve its constitutionality, and to promote the spirit, purport and objects of the Bill of Rights (s 39(2) of the Constitution). It must, if reasonably possible, be given a meaning that ensures it remains within the powers the Constitution grants to Parliament, and does not limit constitutional rights.
51. Clause 2 sets out the purpose and scope of the Code:
- (1) *The Code provides a framework of reference for Members **when discharging their duties and responsibilities**.*
 - (2) *The Code sets out minimum ethical standards and values.*
 - (3) *The purpose of the Code is to create public trust and confidence in public representatives and to protect the integrity of Parliament.*
 - (4) *The purpose of the Code is to ensure oversight over Members and to hold them accountable **in their duties and functions**.*
52. The Code applies to MPs, in the performance of their “duties and responsibilities”.

53. It does not purport to govern their personal lives or their political speech outside Parliament.
54. It does not purport to govern their behaviour when they are campaigning for their political parties or engaging in political speech disconnected from their role as MPs.
55. Nor could it. Parliament has no constitutional power to regulate Members' conduct in Rules and Orders outside of the internal arrangements of Parliament.
56. That limitation is reflected in the relevant operative provisions of the Code:
- 56.1. Clause 5(1)(d) requires that MPs "*place the public interest above her or his own interests when discharging her or his obligations in terms of the Constitution, to Parliament and the public at large*";
- 56.2. Clause 5(1)(e) – which I supposedly violated – reads: "*A Member must ... maintain public confidence and trust in the integrity of Parliament and thereby engender the respect and confidence that society needs to have in Parliament as a representative institution*". It is concerned with Parliament's internal operations, not with MPs personal or political activities.
- 56.3. I was also held to have violated clause 5(1)(f), which is expressly limited. It provides: "*A Member must ... in the performance of her or*

his duties and responsibilities, be committed to the eradication of all forms of discrimination.”

- 56.4. Clause 6 concerns the receipt of benefits (clause 6(1)(a)), the improper use of influence (clause 6(1)(b)), using information acquired as a public representative (clause 6(1)(c)), declaring private financial interests (clause 6(1)(d)), participating in proceedings that affect their interests (clause 6(1)(e)), making representations to organs of state (clause 6(1)(f)) and lobbying for benefits (clause 6(1)(g)). They all concern the improper use of public position.
- 56.5. Clause 7 prohibits members from entering into tenders, or benefiting from tenders:
- 56.6. Clause 8 concerns remunerated work outside of Parliament.
- 56.7. Clause 10 concerns the abuse of MPs' facilities.
57. All of these provisions address the use of *public power and position*, or the performance of *public power and functions*. They do not concern members' political speech when they, like any other citizen, are fully entitled to exercise.
58. The only provision of the Code that appears to regulate private political speech is clause 9 concerning the use of social media. That provision is irrelevant to my case, as I was disciplined only under clause 5. But I note the following:
- 58.1. The provision should still be interpreted to apply only to social media use when performing duties and responsibilities as an MP;

58.2. The fact that the Code regulates speech on social media and not in any other context shows that it did not intend to regulate ordinary political speech; and

58.3. Clause 9 may also be unconstitutional. I was not found guilty of violating clause 9 and so this Court need not grapple with its meaning or constitutionality.

The Process under the Code

59. Item 16(2) of the Code provides that the procedure under the Code is “*based on and intended to be guided by the principles of natural justice*”.

60. The *audi alteram partem* principle requires that any MP facing a complaint under the Code be afforded a fair and adequate opportunity to be heard, both on the merits and on penalty.

61. I do not intend to detail the entire process under the Code. But it is important to provide an outline and to mention certain elements.

62. The basic process is as follows:

62.1. Any person can lay a complaint with the Registrar (clause 17(1)).

62.2. The Registrar informs the MP of the complaint, and he or she is afforded an opportunity to respond (clause 17(5)).

62.3. After receiving the response, the Registrar collates the information and prepares a **recommendation report** for the Committee (clause 18).

- 62.4. The Committee then meets in closed session to consider the Registrar's recommendation report. The Committee must "*discuss the matter and deliberate on the recommendation by the Registrar*" (clauses 19(1) and (2)).
- 62.5. The Committee can decide to adopt the recommendation report, with or without amendments (clause 19(3)(a)).
- 62.6. If the Committee finds that the MP breached the Code, "*the Registrar must inform the Member of the breach and invite the Member to provide written representations to the Committee on the penalty to be recommended to the House*" (clause 19(5)).
- 62.7. The Member is afforded seven days to provide written representations (clause 19(6)). Clause 19(7) then provides: "*If a Member fails to provide written representations to the Committee without good cause, the Committee will continue to finalize the recommendation on penalty in the absence of the written representations by the Member.*" The Committee can, therefore, permit representations after seven days with good cause.
- 62.8. The Committee must then recommend a penalty which, in the case of a breach of Clause 5, as read with clause 16(1)(c), can include a reprimand and an apology in the House (clause 20(4)). It can also include harsher penalties, including the reduction of salary for up to 30 days, suspension from the right to a seat in Parliament, demotion of rank, and a fine.

62.9. The Committee's report "*which contains the finding and the recommended penalty must published to the appropriate House or Houses via the Announcements, Tablings and Committee Reports for consideration by the House*" (clause 21(2)).

62.10. Clause 21(3) and (4) then deal with the role of the relevant House – in this case the NA:

- (3) *If the Committee recommends a penalty, the House must either-*
 - (a) *accept the recommendation; or*
 - (b) *reject the recommendation.*
- (4) *If the House has accepted the Committee's recommendation, the findings become final and the Speaker or the Chairperson of the Council must act on such decision promptly.*

63. In light of that basic process, I emphasise the following.

64. First, a finding of the Committee is not final unless and until it is accepted by the House. If the House rejects the recommendation to impose a penalty, it also rejects the finding. It was not open to me to challenge the Committee's Recommendation unless and until it was adopted by the NA. The NA may have rejected the Committee's Recommendation, in which case the Committee's Finding would not be final, and no action would have been taken against me.

65. Second, the requirement to make written representations within seven days is not absolute. The Committee has the power, on good cause, to accept representations made after seven days.

66. Third, the proceedings of the Committee are confidential up until the point that it is required to publish its findings and recommendations in the ATC. The reason, presumably, is to avoid publication of complaints that may have no merit. But there is no requirement for, or justification for, any confidentiality after the requirement to publish is triggered. That applies equally to dissenting views in the Committee.

IV FACTUAL BACKGROUND

67. In this Part, I describe the relevant facts under the following headings:

67.1. My speech on 24 July 2025;

67.2. The complaint and the Committee's Finding; and

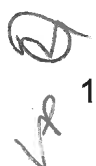
67.3. The NA's Decision.

My Speech on 24 July 2025

68. On 24 July 2025, the DA was engaged in litigation to challenge eThekweni Metropolitan Municipality's failures in relation to basic service delivery, including fixing critical sewerage infrastructure.

69. The DA was the main applicant in the important challenge that seeks to hold the municipal government to account and to improve basic service delivery urgently for the city of Durban. ActionSA brought separate litigation seeking similar relief.

70. ActionSA did not contribute to the prospects of success of the application – their legal team was unprepared and performed poorly. ActionSA was attempting to piggyback on the DA’s litigation to take or share political credit.
71. I attended the hearing, and the DA organized a protest outside the Pietermaritzburg High Court in support of the litigation. As I explain below, ActionSA had also attempted to assemble “supporters” outside the High Court in support of the litigation.
72. At the picket, I addressed those present. I was wearing a DA jacket and a DA shirt. I attach a photograph of the event marked **DM1**. I was speaking in my capacity as Provincial Chairperson of the DA in KwaZulu-Natal. I was speaking about the litigation which had been brought by the DA. I was not speaking as an MP. That would have been obvious to any person seeing or hearing me speak.
73. The thrust of my address concerned the Municipality’s failure to perform its statutory obligations, the relief sought in the litigation, and the consequences of non-compliance with court orders.
74. A transcript, from the ATC report, of the video footage of my address is annexed hereto, marked **DM2**. I pause to note that I was never provided with the video, despite request. I still have not seen the video on which the transcript was based. I have not been able to confirm that the transcript is accurate. However, based on my recollection, it is an accurate recordal of what I said on the day.
75. The context for my speech is the following:



- 75.1. When I arrived at or about 08:30, a taxi arrived carrying a number of people in plain clothes. One individual was so intoxicated that he fell out of the taxi and began rolling on the pavement, screaming and shouting.
- 75.2. When I enquired what was happening, I was told by some of the individuals that they had each been promised R50 and a meal, and that they would be given shirts if they attended the protest.
76. In that context, I said the following as stated in the transcript (with some minor typographical corrections):
- Now let's be clear, here is another small'anyana party, that wants to come. In fact, there was...they just brought up some people, we don't even know who they are, I think they are amapharas. They've just been given some green shirts now. You ask them which party they say "angazi, we just her for one meal and one drink, we not sure but they will just come, they will sing and dance."*
77. The word "amaphara" was directed at the conduct I had witnessed and at the political stratagem of paying people to swell a protest that was already seeking to take credit for the DA's actions. It is a word that refers to people who are addicted to drugs, are disheveled, and may seek to do menial work to feed their habit. It accurately described the people I saw supposedly supporting ActionSA.
78. It is a word that even the eThekweni Municipality has used on its social media:



eThekweni Municipality @eThekweniM · Jan 23, 2020



Noted.

We collectively need to stop encouraging amaphara to do this by giving them money/food.

Let us report all faulty traffic lights with 📍 via WhatsApp 073 148 3477

~sm



79. The link is: <https://x.com/eThekweniM/status/1220291135396032512>.
80. My statement, and my use of the word amaphara was not directed at a racial group. It was directed at ActionSA's rent-a-crowd, one of which had literally fallen out of a taxi, and who were there only to receive food and a shirt, not because they actually wished to support ActionSA or protest about *e coli* levels in eThekweni. There is nothing inherently offensive in calling someone in that political context an *iphara*: singular for amaphara. It certainly had no racial or other discriminatory meaning.
81. But, as I explain below, even if the term was offensive, it would not breach the Code. I was speaking to DA supporters, and was entitled to attack the supporters of other parties who were seeking to piggyback on the DA's efforts in the litigation.

The Complaint and the Committee's Finding

82. On 28 July 2025, Zwakele Mncwango – ActionSA's KwaZulu-Natal Provincial Chairperson – wrote a letter to me (DM3). It referred to an article published in


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IOL that claimed that I had referred to ActionSA's supporters as "hobos". He claimed this was offensive. The letter did **not** mention that I had used the term "amaphara" to refer to some of ActionSA's supporters. Mr Mncwango asked that I issue a public apology.

83. I did not respond to the letter. As I explain below, the claim that I had used the word "hobos" is false.

84. On 30 July 2025, Beesley MP lodged a complaint against me under the Code in the form of a sworn affidavit (**the Complaint**). A copy of the complaint affidavit, together with two of its three annexures, is annexed hereto marked **DM4**.

85. In his complaint, Beesley MP alleged that I had:

85.1. Referred to ActionSA supporters as "*amaphara*" at the picket on 24 July 2025; and

85.2. Referred to the same group as "*hobos*" during an interview with *IOL* journalist Mr Bongani Hans.

86. He alleged that these remarks were directed at predominantly black South Africans, were racially charged and dehumanising, and breached items 5(1)(e) and (f) of the Code.

87. There were, supposedly, three annexures:

- 87.1. A “widely circulated video” of my remarks (annexure **A**). I have never received this video, although apparently the Committee has.
- 87.2. The *IOL* article (annexure **B**); and
- 87.3. Mr Mncwango’s letter (annexure **C**).
88. It is appropriate to deal with the second allegation immediately.
- 88.1. The allegation that I called anyone “hobos” was, and is, false. I never used that word.
- 88.2. The *IOL* article relied upon by Beesley MP (annexure **B** to the complaint) does not record me using the word “hobos”. On the contrary, it records that I *denied* calling the police to disperse “hobos”. The word was the journalist’s, not mine.
- 88.3. Beesley MP nonetheless deposed under oath that I had used it, as a fact within his personal knowledge. As appears below, the Committee itself rejected his false allegation.
89. On the same day that the Complaint was laid, the Registrar notified me of the complaint and afforded me seven working days to respond (**DM5**).
90. On 22 August 2025, I delivered a response to the complaint in the form of a sworn affidavit (**DM6**). In my response I made the following points.

- 90.1. I never used the word “hobos” and that the complaint mis-stated the IOL article.
- 90.2. The expression “amaphara” was used in the specific political context described above and was not racial.
- 90.3. My remarks were core political speech protected by section 16 of the Constitution. I argued that the Code “*was not intended to, and cannot lawfully be used to, stifle MPs from engaging in protected political speech about matters of public interest.*”
- 90.4. Attacking the conduct of political opponents is a normal and protected feature of democratic contestation and does not undermine public confidence in Parliament. As I explained: “*I accept that an ActionSA member or politician may not like or enjoy a comment regarding his or her party. Indeed, they may even feel offended by the comment, but that’s the price they pay for living in a constitutional democracy.*”
- 90.5. I emphasized that the Constitutional Court has held that political life in South Africa “*has always been loud, rowdy and fractious. That is no bad thing.*” I explained that the Code “*is not an invitation for the Committee to police Members’ speech. Nor is it a mechanism to settle political scores, or demand apologies whenever one party disagrees with how another political party has characterised it or its supporters.*”
- 90.6. I argued that the complaint was frivolous and vexatious.

- 90.7. I also requested an opportunity to address the Committee orally, if necessary, with the assistance of a legal representative, in the event that the Committee were minded to find against me. I was never afforded that opportunity.
91. On 28 November 2025, the Registrar sent me a letter informing me that the Committee was still considering the complaint against me (**DM7**).
92. By letter dated 26 March 2026, the Registrar conveyed to me the finding that, at its meeting of 13 March 2026, the Committee had considered the complaint and had found that I breached items 5(1)(e) and (f) of the Code as contemplated in item 16(1)(c). A copy of that letter is attached marked **DM8**.
93. In relation to the “amaphara” remark:
- 93.1. The Committee recorded that it rejected my view that the word is not inherently offensive.
- 93.2. It held that the word is “*derogatory and disrespectful to the dignity of a human being*”, being associated with persons who are impoverished and drug users and used to depict “*societal ills, criminals and societal parasites*”.
94. The Committee failed to address my arguments about the right to free speech, the importance of robust political engagement, and the limited role of the Code. It also provided no explanation at all for why my speech was connected to my

"duties and responsibilities" as required by clause 5(1)(e), nor how the word was discriminatory as contemplated in clause 5(1)(f).

95. The Committee provided conclusions, not reasons.
96. In relation to the "hobos" allegation, the Committee found that the word in the *IOL* article was the journalist's and not mine, and that *"there can therefore be no breach attributed to [me] in this regard"*. The "hobos" leg of the complaint accordingly fell away entirely.
97. I pause to note that I have been reliably informed that the conclusion of the Committee was not unanimous. Some members of the Committee disagreed with the conclusion and would have found that I did not violate the Code. The letter to me does not record that fact. Nor does it record the reasons of the dissenting members.
98. I was afforded seven working days to make written representations on penalty in terms of clause 19(6) of the Code.
99. On 27 March 2026, I requested an extension of the period to 17 April 2026, approximately fourteen working days (**DM9**). My reasons were:
 - 99.1. The notice had reached me immediately before a weekend and the short Easter week;
 - 99.2. The people whom I needed to consult would be away over the Easter weekend and the constituency recess;

99.3. Parliament was on recess, and the Committee was not sitting, so that no prejudice would be occasioned to the Committee;

99.4. The Easter period is a particularly spiritual and holy period for my family and me; and

99.5. The Committee had previously granted extensions of this nature.

100. On the same day, the Registrar refused the request (**DM10**). The refusal advanced no reasons. It merely recited item 19(6) and drew my attention to item 19(7) of the Code.

101. It is not clear whether the Registrar was conveying her own decision, or that of the Committee. As I have explained above, it is the Committee – not the Registrar – that has the power to accept representations after seven days if there is good cause.

102. On 7 April 2026, I addressed a further letter to the Committee (**DM11**). In that letter I:

102.1. Argued that the refusal to grant me an extension was entirely unreasonable.

102.2. Explained that the Committee's Finding did not provide adequate reasons for its conclusions. I requested the Committee to furnish "*confirmation as to the substantive basis and reasons for the Committee's findings against me.*"



- 102.3. Asked for those substantiated reasons within ten days, and recorded that I required those reasons in order to respond meaningfully.
103. The Committee did not furnish adequate reasons, did not reconsider the refusal of the extension, and did not consider any representations from me on penalty.
104. Instead, purporting to act under item 19(7) of the Code, which applies where a Member fails to make representations “*without good cause*”, it proceeded to finalise the penalty in my absence and without considering my representations at its meeting of 8 May 2026.
105. By letter dated 12 May 2025 (*sic*) (**DM12**), the Acting Registrar informed me that the Committee would recommend to the House, as a first offence, a reprimand in the House (item 20(4)(a)), and that I enter an apology in the House for referring to ActionSA supporters as “amaphara” (item 20(4)(b)).
106. The Committee’s report was included in the ATC No 81–2026 on 12 May 2026. A copy of the relevant extract from the ATC (the Committee’s report concerning me, at pages 14 to 19 thereof) is already annexed marked DM2. Other than, for the first time, disclosing the transcript of the video on which the Committee relied, it does no more than repeat the Committee’s Finding.
107. With regard to penalty, it records that I asked for an extension and that this was refused. It also records that I did not provide representations about the penalty.
108. The report does not record that:

108.1. I made submissions recording that the Committee's reasons were inadequate and asking for fuller reasons so that I could respond meaningfully; and

108.2. The Committee was not unanimous, and that some members concluded that I did not violate the Code.

109. On 18 May 2026, I addressed a letter (**DM13**) to the Committee and the Registrar recording my view that the findings are unlawful and unconstitutional, that they violate my rights under sections 10, 16 and 33 of the Constitution read with PAJA, and requesting the full record of all evidence, information, documentation, transcripts and reports that served before the Committee, so as to enable me to make meaningful representations to the House.

110. On 26 May 2026, the Registrar responded (**DM14**). She stated that the documents and letters were already in my possession. She stated that, in addition to the documents that were tabled, "*the Committee considered the transcript of the video recording of the incident*" which was part of the ATC Reports.

The NA's Decision

111. Publication in the ATCs enables an issue to be placed on the NA's agenda.

112. However, it is still a decision of the Programming Committee to decide which issues will be considered on which day. This is referred to as bringing an issue "above the line".

113. On 31 May 2026, my attorneys wrote a letter to the Speaker (**DM15**), attaching written submissions prepared by my counsel (**DM16**) explaining why the Committee's conclusions were substantively and procedurally flawed.

113.1. The letter informed the Speaker that, if the NA adopted the Committee's findings, I intended to take those decisions on review. It requested that, if the NA accepted the Committee's Finding, that the Speaker would be held over pending the outcome of the review.

113.2. My counsel's submissions explained why the Code does not apply when an MP is speaking as a member of a political party. It also pointed out the unfairness of finding me guilty without ever providing me with the video or transcript on which the finding was based.

114. The Speaker responded on 10 June 2026 (**DM17**) as follows:

114.1. The Committee is *functus officio*;

114.2. The Committee's recommendations were scheduled for consideration on 11 June 2026; and

114.3. She is obliged to promptly action the decision of the NA, and therefore could not agree not to implement the penalty.

115. The Speaker did not place my counsel's submissions before the NA.

116. The NA met to consider the Committee's Finding and Recommendation on 11 June 2026, together with reports concerning several other MPs. It adopted all

the findings, including the Finding and Recommendation against me. I was reprimanded in the House.

117. I was not present in the NA on that day. But I am informed that there was no debate or deliberation about the Committee's Finding. The issue was simply put to a vote. It was adopted over the objection of the DA.

118. As there was no deliberation, the NA cannot provide any reasons different from those provided by the Committee. The only explanation for its decision is that it accepted and adopted the reasoning of the Committee *in toto*.

119. The Hansard of the proceedings of 11 June 2026 is not yet available. I will provide a copy to the Court when it becomes available.

120. This application will be launched within a week after the NA's decision.

V PARLIAMENT CANNOT REGULATE EXTERNAL SPEECH

121. The decisions of the Committee and the NA must be reviewed and set aside because I did not violate the Code.

122. The Code only applies to speech or conduct connected to MPs' official responsibilities, or that concerns the internal arrangements or business of Parliament. The Code does not, and cannot, regulate political speech by MPs outside of Parliament and unconnected to their position as MPs.

123. If the Code extends beyond that, it is unconstitutional both because Parliament has no power to regulate that speech through rules and orders, and because it would unjustifiably limit the right to free expression.

The Code Does not Apply

124. I have already explained that the Code only applies to speech connected to MPs duties and responsibilities as MPs.

125. It is not intended to, and cannot be interpreted to, apply to political speech unconnected with an MPs duties and responsibilities. The Code is an instrument of internal regulation. It may regulate the conduct of Members in, and in relation to, the internal functioning and proceedings of Parliament. It cannot regulate speech outside and unconnected to Parliament.

126. My speech on 24 July 2025 was entirely disconnected from the internal arrangements of Parliament and from my duties and responsibilities as an MP:

126.1. I was speaking as a member of the DA, not as an MP. I was speaking at a DA event, to DA supporters, wearing DA regalia. No person who heard the speech would think I was exercising the duties and responsibilities of an MP.

126.2. The content of my speech had nothing to do with my official responsibilities. It concerned litigation that the DA had launched, and on which ActionSA sought to piggyback. It concerned the behaviour of people whom ActionSA had paid to support it.

127. My remarks constitute core political speech protected by section 16(1) of the Constitution.
128. Freedom of expression lies at the heart of our constitutional democracy, and protection is at its most robust in the domain of political speech.
129. The Code must be interpreted through the prism of the Bill of Rights under section 39(2) of the Constitution, and so interpreted, it cannot lawfully be used to punish protected political speech.
130. It does not matter whether the Committee thinks my speech was rude or offensive.
131. Freedom of expression extends to offensive speech. It extends to attacking political opponents.
132. Robust criticism of, and contestation between, political parties and their adherents is the lifeblood of a free democracy.
133. It does not undermine the integrity of Parliament; it vindicates the openness and vigorous debate that the Constitution protects.
134. To construe the Code to penalise such speech would be to invert the very value that section 16 of the Constitution exists to protect.
135. Considering the specific provisions I was held to have violated, the Committee's error is obvious:

135.1. Clause 5(1)(e) requires MPs to “*maintain public confidence and trust in the integrity of Parliament and thereby engender the respect and confidence that society needs to have in Parliament as a representative institution*”. That can only apply to conduct of MPs in their official capacities. Otherwise it would permit Parliament to punish MPs for any personal behaviour which a majority of MPs in the Committee and the NA disapprove of. Parliament has no power, in rules and orders, to regulate MPs conduct or speech unrelated to its internal arrangements. And clause 5(1)(e) must be interpreted to promote free speech, not hinder it.

135.2. Clause 5(1)(f) is explicit. It applies to MPs only “*in the performance of her or his duties and responsibilities*”. I was not performing duties or responsibilities as an MP, and so clause 5(1)(f) cannot apply.

136. The Committee and the NA therefore erred in finding that I violated the Code. The Committee exercised a power it does not possess. It acted *ultra vires* the empowering provision and beyond the jurisdiction conferred on Parliament by sections 57(1) and 70(1) of the Constitution. It impermissibly sought to convert an internal ethical code into a general instrument for the regulation of political discourse conducted in the public square.

137. That constitutes a reviewable error under both the principle of legality and PAJA:

137.1. They were materially influenced by an error of law, contrary to s 6(2)(d) of PAJA as the Committee and the NA misinterpreted the Code. If they

had correctly interpreted the Code, they would not have concluded that I had violated it.

137.2. The Committees Finding and the NA's Decision were not authorised by the empowering provisions, contrary to s 6(2)(f)(i) of PAJA.

137.3. The decisions were not rationally connected to the purpose of the provision (to regulate internal conduct), or the information before the Committee and the NA (that I was not acting in an official capacity). The decisions were therefore contrary to s 6(2)(f)(ii)(bb) and (cc) of PAJA.

137.4. The decisions are otherwise unconstitutional and unlawful because they violate my freedom of expression and constitute an unauthorized exercise of power (PAJA s 6(2)(i)).

Alternatively, the Code is Unconstitutional

138. If – contrary to the argument advanced above – the Code does prohibit my speech, then it is unconstitutional for two reasons.

139. First, Parliament had no constitutional authority to regulate the external conduct of MPs through rules and orders.

140. The Constitution simply does not grant it the power to do so. It could notionally pass legislation governing the external conduct of MPs. And it can pass rules and orders regulating internal arrangements. But it cannot pass rules and orders regulating external conduct or speech.

141. That is not a *lacuna* in the Constitution, it is an important protection of political speech. If Parliament could regulate the speech of its members through rules and orders, the majority could stifle the speech of the minority. There is no reason the Constitution would grant Parliament that power.
142. Second, the Code would limit my freedom of expression. It subjects MPs to a sanction for speech that is otherwise lawful. MPs can be fined, lose part of their salary, be suspended from the house, or be demoted. That sanction for constitutionally protected speech obviously limits s 16(1).
143. That limitation cannot be justified under s 36(1) for two reasons:
- 143.1. The Code is not a “law of general application” as it only governs MPs behaviour and, by definition, applies only to the internal regulation and business of Parliament.
- 143.2. Even if it is a law of general application, the limitation is not reasonable and justifiable. The onus is on Parliament to demonstrate that any limitation is justifiable. It is not necessary for me to plead why the limitation is not justifiable. I will answer whatever argument Parliament may make to justify the limitation, if it chooses to do so.

The Just and Equitable Remedy

144. If the Court concludes that **the Code does not apply**, then the just and equitable remedy in terms of s 8 of PAJA or s 172(1)(b) of the Constitution is to:

- 144.1. Declare that the decisions of the Committee and the NA were unconstitutional and unlawful;
- 144.2. Review and set aside those decisions;
- 144.3. Replace the decision of the Committee with a decision dismissing the complaint against me; and
- 144.4. If I have been required to apologise by the time judgment is given:
 - 144.4.1. Setting aside any further sanction imposed if I refused to apologise;
 - 144.4.2. If I do apologise, directing the Speaker to strike the apology from the parliamentary record; and
 - 144.4.3. Directing the Speaker to schedule time for this Court's order to be read into the parliamentary record.
145. First, the declaration of invalidity is mandatory in terms of s 172(1)(a) of the Constitution.
146. Second, reviewing and setting aside follows naturally, and there is no reason not to grant it.
147. Third, substituting the decisions with a decision dismissing the complaint is just and equitable because:

- 147.1. This Court is in as good a position as the Committee to take the decision. The facts are common cause. It is a question of legal interpretation of the Code, which this Court must conduct in order to determine the review ground.
- 147.2. The outcome is a foregone conclusion. If the Code does not apply to my speech, dismissal is the only possible outcome.
- 147.3. It would waste resources and cause me further prejudice to require the Committee to reconsider the complaint when there is only one possible result.
148. Fourth, I have not yet apologised. However, if I am present in Parliament, the Speaker may demand that I apologise. If I do not, I may be guilty of contempt of Parliament. I have not decided what I will do in those circumstances. However, if I am required to make an apology when I did not breach the Code, then the consequences should be undone. That will require either:
- 148.1. If I apologise, striking the apology from the Parliamentary record; or
- 148.2. If I do not apologise and am punished for refusing to do so, setting aside any subsequent punishment; and
- 148.3. Requiring that the record is corrected by scheduling time to note this Court's decision.
149. That will be the only way to undo the injustice caused by the Committee's and the NA's unlawful conduct.

150. If this Court concludes that the Code is unconstitutional, then the just and equitable remedy in terms of s 172(1)(b) of the Constitution is:
- 150.1. Declaring that the Code is unconstitutional and invalid to the extent that it applies to MPs' speech outside of Parliament and unconnected to the internal arrangements of Parliament, or MPs' duties and responsibilities as MPs;
- 150.2. That will constitute an order of notional severance declaring that the Code does not apply in those situations; and
- 150.3. In addition, the orders concerning the decisions of the Committee and the NA that I seek if the Code does not apply.
151. The first order flows automatically from the finding of invalidity in terms of s 172(1)(a). The precise terms will depend on this Court's finding – whether it upholds the *ultra vires* attack, the free expression attack, or both. The declaration must declare the Code invalid "*to the extent of its inconsistency*".
152. Second, the best way to cure the invalidity is not by deleting or adding words to the Code, but by specifying its ambit. The device to achieve that is notional severance. The Court declares that the Code does not apply outside its permissible constitutional scope as it defines it. That will mean the Code can only apply to speech related to the "*internal arrangements, proceedings, procedures or business of Parliament*".

153. The Court could craft an alternative remedy of reading-in and severance to achieve the same end. However, the changes would be extensive. It seems more appropriate to apply notional severance.

VI ADDITIONAL GROUNDS OF REVIEW

154. If the Code cannot apply to my speech, then the Court need not consider the further reviewable errors committed by the Committee and the NA.

155. But if it finds that the Code could apply, and the Code is constitutional, then I advance the following additional grounds of review:

155.1. The Committee's reasons do not justify its conclusions, so there is no basis to conclude I violated the Code; and

155.2. The process followed by the Committee and the NA was procedurally unfair and procedurally irrational.

The Failure to Provide Reasons

156. The Committee failed to provide rational reasons for its conclusions. The Committee's only reasons appear in these passages of its finding:

The word "amaphara" is associated with people who are impoverished and drug users. It is also a word that is used to depict societal ills, criminals and societal parasites. The word is highly derogatory and should not be used to refer to a group of supporters/ protestors in any context. ... your comment about the ActionSA supporters is equally offensive to them. That, your derogatory comment has no place in South Africa's constitutional democracy.

157. Even if the comment is derogatory and offensive, it does not explain the conclusions that I violated either clause 5(1)(e) or 5(1)(f).
158. With regard to clause 5(1)(e), the Committee does not explain why, when an MP engaged in speech as a member of a political party, uses a derogatory word, that affects “*public confidence and trust in the integrity of Parliament*”. Even people who may have been offended by my remarks would not conclude that my speech reflected on “*Parliament as a representative institution*”. It may reduce their confidence in me, or in the DA, but not in Parliament. The Committee simply fails to draw a link between my speech and what clause 5(1)(e) prohibits.
159. As far as clause 5(1)(f) is concerned, the Committee does not explain why my remark shows that, in the performance of my duties, I am not committed to the eradication of all forms of discrimination:
- 159.1. The Committee never explains how my remarks were connected to the performance of my duties and responsibilities. They plainly were not.
- 159.2. Even on the Committee’s version, the word “amaphara” is derogatory because it “*is used to depict societal ills, criminals and societal parasites*”. That does not make its use discriminatory.
- 159.3. Discrimination is not the same as causing offence. Discrimination concerns differentiation on a listed or analogous ground of the kind contemplated in section 9(3) of the Constitution — such as race, sex,

religion, ethnic or social origin and the like. My remark was directed at the conduct of an apparent paid “rent-a-crowd” and at a political stratagem. It was not directed at any person on the basis of a prohibited ground. Political affiliation and the appearance or conduct of people at a political protest are not prohibited grounds of discrimination.

159.4. Criticising people who are guilty of “societal ills” who are “criminal” or are “social parasites” is not discrimination because it is not based on a ground of discrimination. Even if it was untrue, offensive, or defamatory (which I deny), it is not discriminatory. When discrimination is misused to refer to any form of offensive conduct or speech, it devalues the prohibition on discrimination.

159.5. The complaint does not allege and the Committee did not find that I used the word to refer only to people of a particular race, or people defined by a protected ground. My speech cannot, therefore, indicate that I am not committed to eradicating discrimination.

160. Generally, the Committee failed to consider the following relevant factors: the actual context of my remark, as disclosed by the transcript and my response affidavit, namely an apparent paid “rent-a-crowd” and an intoxicated individual who fell from a taxi; the protected character of political speech under section 16 of the Constitution; the requirement that the Code be interpreted consistently with the Bill of Rights; and the fact that the complainant had deposed under oath to a material falsehood, the “hobos” allegation, which the Committee itself

rejected, and which bore directly on the *bona fides* and reliability of the complaint as a whole.

161. The Committee also took into account irrelevant considerations, including: the dictionary or etymological meaning of the word “amaphara” divorced from the political context in which it was used, which in any event intersect with the etymological context; and my own statement that homophobic comments had been directed at me, which the Committee turned against me as supposed evidence of an intention to offend. Neither consideration was a proper or relevant basis for a finding of breach.

162. The Committee’s decision must therefore be set aside on the following grounds which, save for the last, are grounds of review under both PAJA and the principle of legality:

162.1. The decision is not rationally connected to the reasons given for it (PAJA s 6(2)(f)(ii)(dd)). The Committee simply failed to explain why my speech violates either clause 5(1)(e) or 5(1)(f).

162.2. The decision is not rationally connected to the purpose of the empowering provision, or the information before the administrator (PAJA s 6(2)(f)(ii)(bb) and (cc)).

162.3. The decision was taken because relevant considerations were not considered, and irrelevant considerations were (PAJA s 6(2)(e)(iii));

162.4. The decision is, therefore, arbitrary and capricious (PAJA s 6(2)(e)(vi));

- 162.5. The decision is materially influenced by an error of law – that my use of “amaphara” constituted discrimination (PAJA s 6(2)(d)); and
- 162.6. The decision is so unreasonable that no reasonable person could have taken it (PAJA s 6(2)(h)).
163. As the NA’s decision was based solely on the reasoning of the Committee, it is invalid for the same reasons.
164. The just and equitable remedy is to:
- 164.1. Declare the Committee’s Finding and the NA’s Decision unlawful and invalid;
- 164.2. Review and set those decisions aside; and
- 164.3. Substitute them with a decision that the complaint is dismissed, for the reasons I have given earlier.

Procedural Unfairness and Irrationality

165. There were seven ways in which the Committee’s and the NA’s conduct was procedurally unfair, and resulted in a process that was procedurally irrational:
- 165.1. The Committee did not provide me with the evidence against me;
- 165.2. I was not provided with the recommendation report prepared by the Registrar in terms of item 18(1)(c).

- 165.3. The Committee did not provide me or the NA with the views of dissenting members;
- 165.4. The Committee provided no reasons for refusing my request to make submissions on sanction, and did not relay the substance of my complaint to the NA;
- 165.5. The Committee refused, or failed to consider, my request to address it orally;
- 165.6. The Speaker did not provide my counsel's submissions to the NA; and
- 165.7. The nature of the charge against me changed midstream.
166. First, the Committee found that I had breached the Code on the strength of evidence that was never disclosed to me.
- 166.1. Beesley MP's affidavit relied upon a video recording supposedly annexed as annexure "A".
- 166.2. That video was never furnished to me, nor was I provided with any transcript of it. The existence of a transcript only emerged from the Committee's report in the ATC, after the finding had been made.
- 166.3. It is a cardinal requirement of natural justice that a person be afforded the evidence on which an adverse finding is based, so as to be able to answer it. To find me in breach of the Code on the basis of evidence I

was never shown is a fundamental violation of the *audi alteram partem* principle.

167. Second, I was not provided with the Registrar's recommendation report. I still do not know what she recommended, whether the Committee agreed or disagreed with her recommendation, or whether her reasons were different from those of the Committee.

168. Third, there was a dissenting view on the Committee. However, this dissenting view was never conveyed to me, or to the NA. This is manifestly unfair and irrational:

168.1. In terms of Joint Rule 126, the Committee – like all other committees – takes decisions by majority. There can therefore be minority views.

168.2. I (and the NA) were entitled to know that some members of the Committee disagreed with the majority's findings and the reasons why.

168.3. In order for it to exercise its functions, the NA had to know that the Committee was not unanimous and that some members concluded that I had not violated the Code. They also needed to know the reasons why, so that they could assess which view had more merit.

169. That is why Rule 166(4)(b) of the NA's Rules requires that the minority view of a committee is provided to the NA. It reads:

- (b) *If a report is not a unanimous report, it must —*
 - (i) *specify in which respects there was not consensus, and*



- (ii) *in addition to the views representative of the majority in the committee, express any views of a minority in the committee.*

170. Rule 168(3)(e) of the Joint Rules of Parliament is not directly applicable as it applies to Joint Committee considering bills. But it too provides:

In its report the committee –

...

- (e) *must, if it is not a unanimous report -*
 - (i) *specify in which respects there was not consensus; and*
 - (ii) *in addition to the majority report, express any views of a minority in the committee;*

171. There is nothing in the Code that suggests this ordinary provision should not apply.

171.1. When Clause 21 requires that the Committee's finding must be published in the ATC, that must naturally include any views of the minority on the Committee. That is the only way to comply with Clause 16(2), which requires that the procedure must be guided by the principles of natural justice.

171.2. While both the Code and the Joint Rules require that the Committee act confidentially, that ends when the Committee makes a recommendation to the relevant House. When it reports that it has made a finding of a breach of the Code, there is no reason to apply the confidentiality provisions to prevent the publication of any minority view.

172. Yet that did not happen in my case. Only the majority view was published as if it was the unanimous view of the Committee.
173. If the Code does not permit the publication of the minority view, then it is unconstitutional and invalid:
- 173.1. Section 57(2)(b) of the Constitution requires that the NA's Rules and Orders "*must provide for ... the participation in the proceedings of the Assembly and its committees of minority parties represented in the Assembly, in a manner consistent with democracy*". If the Joint Rules do not permit the publication of minority views of the Committee, then it is inconsistent with this provision.
- 173.2. The Rules would also violate the right to just administrative action in s 33 of the Constitution. The decisions would not be procedurally fair as the Code would prevent the NA from knowing about the minority views on the Committee. That limitation would not be justifiable in terms of s 36(1) because: (a) the Code is not a law of general application; and (b) no purpose is served by preventing the NA from knowing about the minority views on the Committee.
174. Accordingly, if the Code does not permit or prohibit the publication of minority views, it is unconstitutional and invalid. I seek a declaration to that effect. I also seek a reading-in to clause 21 that would repeat the language from Rule 166(4)(b) of the NA Rules.

175. Fourth, the Committee or the Registrar, refused my reasonable request for a short extension of the period for representations on penalty, without advancing any reasons whatsoever. There was no basis to refuse the request:

175.1. Parliament and the Committee were on recess and no prejudice could possibly be occasioned to the Committee;

175.2. I had shown good cause, having advanced reasons in respect of the Easter period, the constituency recess, and the need to take legal advice;

175.3. The Committee or the Registrar wrongly invoked item 19(7) of the Code, which applies only where a Member fails to make representations "*without good cause*", to finalise the penalty in my absence, when in truth I had shown good cause and had been actively seeking to be heard;

175.4. The Committee proceeded to a final recommendation on penalty without any representations from me at all, even though I had made it clear that I wished to make representations. The result was that my representations were also not placed before the NA.

176. Fifth, the Committee or the Acting Registrar refused, alternatively failed to consider, my request to address it orally and, if necessary, with the assistance of a legal representative, notwithstanding that the Code does not prohibit such assistance and that the Committee is obliged to consider each case on its own merits; and

177. Sixth, the Speaker failed to properly act on the submissions that my counsel made to her on my behalf. She did not consider whether there was any merit in the submissions and assess whether the Committee's findings could indeed be considered by the NA.
178. She inexplicably did not provide the submissions to the members of the NA for them to consider when they decided whether to accept or reject the Committee's findings. The result was that the NA acted without access to relevant information.
179. Seventh, the unfairness was further compounded by the manner in which the charge mutated. The complaint was a single, composite charge that I had called the ActionSA supporters both "amaphara" and "hobos". The two epithets were advanced together, and the meaning ascribed to the one was coloured by the other. The "hobos" allegation was untrue, and the Committee accepted that it was untrue. The composite charge, as framed, was, therefore, proven to be false. Rather than dismiss the complaint on that footing, the Committee convicted me of what was, in substance, a different and reformulated charge, namely the use of "amaphara" alone. I was never confronted with a complaint formulated in that way, and therefore never afforded an opportunity to answer it. A finding of breach reached in that way is neither rational nor fair.
180. For each of these reasons, individually and cumulatively, the procedure followed by the Committee, the Speaker and the NA was procedurally unfair, contrary to s 6(2)(c) of PAJA, and procedurally irrational because it was not

rationally connected to the purpose of determining whether I had violated the Code or not.

181. The just and equitable remedy will depend on exactly what conclusions the Court reaches. As these grounds of review are procedural, substitution would not be appropriate. But undoubtedly the Committee's Finding and/or the NA's Decision must be declared unlawful and invalid, and then reviewed and set aside.

VII HEARING OF THIS APPLICATION

182. This application is brought without unreasonable delay and well within the 180-day period prescribed by section 7(1) of PAJA.
183. I have not altered the ordinary timelines for the filing of papers. But I have set it down on a preferential date.
184. Immediately when I launch this application, I will write to the Judge President to request a judge be allocated to hear the application on that date, or as soon thereafter as the Court can accommodate the parties.
185. I also note that Ian Cameron MP, the Chairperson of the Portfolio Committee on Police, was found to have violated the Code on 11 June 2026. I understand that he also intends to launch an application seeking to review the Committee's and the NA's conduct and, if necessary, declaring the Code unconstitutional

and invalid. We will ask that the two matters are heard together as they raise similar, but not identical issues.

VIII CONCLUSION

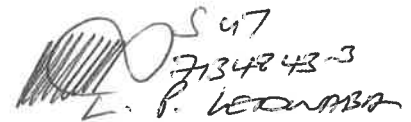
186. For the reasons set out above, the impugned decisions are unlawful, unconstitutional, procedurally unfair, irrational and unreasonable, and they constitute a jurisdictional overreach.
187. They punish me for performing the ordinary functions of political life, which includes speaking, robustly and on a matter of public interest, in the public political square, and they trespass upon my right to freedom of expression.
188. The impugned decisions also set a precedent that reaches well beyond me.
189. Because the NA is a representative body in which a majority prevails, an interpretation of the Code that permits the censure of Members for controversial speech made outside Parliament, and unrelated to its functioning, places in the hands of the majority a tool by which to discipline minority and opposition voices for political expression with which it disagrees. That is fundamentally inconsistent with the open, robust and contested democracy that the Constitution establishes and protects.
190. If this application is successful, I am entitled to my costs. If it is unsuccessful, then there should be no order as to costs as I am asserting my constitutional rights against an organ of state.

191. I, accordingly, pray for orders as set out in terms of the Notice of Motion.



DEAN WILLIAM MACPHERSON

I certify that the deponent has acknowledged that he knows and understands the contents of this affidavit which was signed and sworn to before me at Sandton on this 18 day of JUNE 2026, the regulations contained in Government Notice No. R1258 of 21 July 1972, as amended and Government Notice No. 1648 of 19 August 1977, having been complied with.



COMMISSIONER OF OATHS

Full names: LESETSA PHINEAS LEDWABA

Business Address: 02 Summit Road, Morningstar, Sandton

Designation: SERGEANT

Area/Office: SANDTON SAPS
02 Summit Road, Morningstar, Sandton

