

Date: 10 November 2023

Report to the Leader of the ACT Greens

Internal review to understand complaints made about Johnathan Davis MLA

On **Sunday 29 October** Ms Davidson texted me to let me know that she had a serious issue which she needed to raise at 0800 in my office the following morning.

On **Monday 30 October** at 0800 Ms Davidson and two other staff members let me know that there were rumours circulating about Mr Davis engaging in inappropriate behaviour with younger people, and that it was possible that some of those people might be between 15 and 17. At this point, those rumours could not be substantiated and there were no individuals coming forward with any specific information.

We took this information very seriously. Ms Davidson and I both made it clear that if these two staff members had any information which suggested illegal activity had taken place, it should be reported to the police.

We also considered that because Mr Davis was an out, proud and sex-positive gay man – with a strong community presence, that we needed to ensure that we had facts around this case, and that we could not act on rumour alone. We wanted to ensure both that he received natural justice and that were the rumour to be baseless, he did not have his public reputation tarnished or questioned.

During that week Mr Davis was at various meetings in Perth and Brisbane. We were concerned that if we were to contact him directly over the phone, he may attempt to contact any alleged victims and remove evidence. If there was to be any future police investigation that evidence would need to remain intact. We were naturally also concerned that communicating this inappropriately could have severe negative mental health consequences while he was isolated from his usual support networks.

I kept in frequent contact with one staff member because the other said he no longer wished to be involved. I held a walking meeting with that staff member on 30/10 at 1020 – 1100 so I could better understand the information that had been given, including whether it could be substantiated. We thought first of the potential victims, our obligation to them and any support we might need to provide. We then thought of the personal and political consequences for Mr Davis – which were and are very serious. We then considered the possibility that this accusation did not have associated victims or victim survivors.

In a meeting the same day at approximately 1730 with Ms Davidson, we agreed that it was important to a) preserve any potential evidence and b) ensure that Mr Davis could hear these accusations, still not substantiated, in person.

On **Tuesday 31 October** Ms Davidson, and the other staff member and I reconvened to discuss what further actions could be reasonably taken at this stage. We wanted to ensure that our initial thinking represented the best course of action, and give Mr Davis the opportunity to come forward with information which might assist our investigations. We learned that he was due to return to work on **Monday 6 November**.

On **Monday 6 November** at 0840 Ms Davidson, Mr Davis and I met in my office to discuss the accusation and let Mr Davis know that we felt he needed to share it with you as Party Leader. He

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spoke to you over the course of the morning. You and I spoke about the rumours, at which point there had still been no specific allegation made.

On **Tuesday 7 November** you asked me to conduct an internal review, the purpose of which was to establish the facts of what we know, rather than to decide on a course of action for Mr Davis. This was in order to ensure that Mr Davis be given natural justice. **This is the first day on which we obtained any evidence that anybody had any specific complaint about Mr Davis.** The report is below:

At approximately 1200 I met with the same key staff member who had accompanied Ms Davidson to inform me of the original complaint, and the principal source of intelligence surrounding the allegations that Mr Davis had acted inappropriately with younger people. This key staff member was quickly able to set up a meeting with an eighteen-year-old person at 1430 at the ANU – which he attended with me at Badger and Co.

Findings from this meeting:

- Mr Davis is well known across the ACT LGBTIQ+ community and is apparently particularly known to have a preference for younger people.
- It was alleged that Mr Davis set the age filters to 18-19 on the dating app Grindr, with the aim of meeting and having sexual exchanges with men of that age.
- This man stressed from the outset that he did not see himself as a victim, and that all activity with Mr Davis had been consensual.
- He did however say that Mr Davis was aware that he was under 18, because he shared a COVID certificate with him that included his date of birth.
- He said that they had both exchanged flirtatious and sexual texts and met up for sex on several occasions including on 17 January 2023 and in April 2023. At least one of those occasions was at Mr Davis' home.
- He also said that Mr Davis has been in touch with him as recently as Sunday 6 November 2023.
- He made allegations that Mr Davis was persistent in his messaging, engaging on multiple platforms.
- He drew parallels between Mr Davis' sexual behaviour and the Brittany Higgins and Bruce Lehrman case at Parliament House, and that what Mr Davis was doing could amount to an abuse of power. This was his view – and gave a sense of the perspective from which he was now seeing his previous experiences.
- He said that there might be further such allegations made by several young men, and he didn't elaborate further on this point.
- He said he knew he had breached Grindr community guidelines which state that you must be 18 to use the app.

At the outset I thanked this man for making time for us, and for bravely coming forward. I stressed that if he believed anything illegal had happened, he should report it to the police, and that I knew this might be uncomfortable and difficult. I made a broad offer of support. I also asked him to let me know that if there were any further allegations, that I would take these seriously.

We exchanged contact details as he said he would like to forward material which showed evidence of his ongoing exchanges/relationship with Johnathan. I reviewed this material and found that while much of the language could be considered explicit, the messages were consensual and the communications were made in the context of an ongoing relationship. This did not appear to be an

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obvious breach in the law. It appears that photos were exchanged, but at a time after which both parties had engaged in a physical relationship. At this point it was clear that Mr Davis knew that this party was 17 and not 18 because on 8 December 2022 he shared a COVID certificate with a birth date confirming his age.

This now eighteen-year-old stressed how important it was to him to remain anonymous, that he had exams, and that he did not want the police involved. As I was unclear whether illegal conduct had occurred – relating to the exchanging of possible intimate images involving a person under the age of 18, and unsubstantiated allegations of other relationships with children younger than 16 - I felt obligated to report the information to the police. I did this at 1000 on **Friday 10 November** given a lack of clarity on our mandatory reporting obligations.

ACT Policing assured me that they would in the first instance talk to the person making the accusations and seek their advice on how they wished to proceed.

Wednesday 8 November

I spoke to the same key staff member in case further allegations had been made about Mr Davis' conduct. I spoke further with yourself to update you on my initial findings and stressed the aim of creating a safe space for other people with complaints to come forward. I hoped that if there were further people coming forward, this would help us gather evidence that would inform better decision making.

The staff member informed me that he did not know of any further people willing to come forward and suggested that I ask the eighteen-year-old person whether he would encourage anyone he knew who had been affected negatively by Mr Davis, to speak with me.

The eighteen-year-old person informed me via text on **Thursday 9 November 2023** that: *"everyone I've spoken too (sic) has no evidence given that it either years ago or given that he's blocked them from various platforms. Happy for what I've sent to assist in the investigation (provided my face, name, and details are de-identified and redacted)."*

I spoke to a number of staff, both current and past to see if they knew of any activity which might be illegal - that Mr Davis may have undertaken. Each reported that while some of the language Mr Davis used was inappropriate for the workplace, they were not aware that he'd undertaken any illegal activity.

On that same day I spoke with various staff members. On each occasion I reiterated that if staff members felt that illegal activity had occurred, they should report it to the police.

Conclusion: Mr Davis has undertaken activity which may be considered unethical and inappropriate, which does not align with community expectations, and is likely to bring himself and the ACT Greens into disrepute. I was concerned enough by the content of the material and also felt that our organisation was not equipped to appropriately investigate the allegations being made, that I felt it necessary to report the matter to police.