



ETHICS COMMITTEE

REPORT NO. 161

MATTER OF PRIVILEGE REFERRED BY THE REGISTRAR ON 21 SEPTEMBER 2015 RELATING TO AN ALLEGED FAILURE TO REGISTER AN INTEREST IN THE REGISTER OF MEMBERS' INTERESTS

Introduction and background

1. The Ethics Committee (the committee) is a statutory committee of the Queensland Parliament established under section 102 of the *Parliament of Queensland Act 2001* (the POQA). The current committee was appointed by resolution of the Legislative Assembly on 27 March 2015.
2. The committee's area of responsibility includes dealing with complaints about the ethical conduct of particular members and dealing with alleged breaches of parliamentary privilege by members of the Assembly and other persons.¹ The committee investigates and reports on matters of privilege and possible contempts of parliament referred to it by the Speaker or the House.
3. The matter in this report concerns an allegation that the Member for Southport, Mr Rob Molhoek MP, failed to notify the Registrar of income over \$500 per annum earned in accordance with his obligations under the *Parliament of Queensland Act 2001* (POQA) and the Standing Rules and Orders of the Legislative Assembly (the Standing Orders).

The referral

4. On 17 September 2015, the Leader of the House, Mr Stirling Hinchliffe MP wrote to the Registrar (the Clerk of Parliament) alleging that there was *prima facie* evidence that the Member for Southport, Mr Rob Molhoek MP, was engaged by Phil Gray Consulting for some period up until 10 August 2015, for which he may have received income for his services.
5. The Leader of the House asserted that in the Register of Members' Interests as at 7 May 2015, the Member for Southport's statement of interests did not include an entry for any source of income over \$500 per annum. He also advised that there was no such entry in any of the updated Registers up to and including 10 August 2015, which would indicate that he failed to notify the Registrar of income earned, in accordance with his obligations under the POQA and the Standing Orders had he received consulting income from Phil Gray Consulting.

¹ *Parliament of Queensland Act 2001*, section 104B.

6. Schedule 2 of the Standing Orders sets out the procedure to be followed where a Member makes an allegation against another member that the other Member has failed to comply with the registration requirements. Under these procedures, Members must make allegations about current Members to the Registrar.
7. The Standing Orders state that the Registrar must refer an allegation to the committee and give details of the allegation to the Member against whom the allegation has been made.
8. On 21 September 2015, the Registrar wrote to the committee referring the complaint to the committee, in accordance with section 14 of Schedule 2 of the Standing Orders.

Committee proceedings

9. The committee has established procedures for dealing with privileges references, which ensure procedural fairness and natural justice is afforded to all parties. These procedures are set out in Chapters 44 and 45 of the Standing Orders. The committee is also bound by the *Instructions to committees regarding witnesses* contained in Schedule 3 of the Standing Orders.
10. Following the referral by the Registrar, the committee invited Mr Molhoek and the Leader of the House to provide further information on the alleged contempt of failing to register an interest in the Register of Members' Interests.
11. Mr Molhoek had pre-empted the invitation to provide information, sending a letter to the committee upon receiving the correspondence from the Clerk that the matter had been referred. No further submissions were received from Mr Molhoek or the Leader of the House.
12. However, correspondence was received from Mr Phil Gray, including a letter and a statutory declaration.
13. The committee then sought further clarification from Mr Gray on the information he had provided in his letter.
14. The committee then found that it had sufficient material before it to deliberate on the allegation.

Definition of contempt

15. Section 37 of the POQA defines the meaning of 'contempt' of the Assembly as follows:
 - (1) *"Contempt" of the Assembly means a breach or disobedience of the powers, rights or immunities, or a contempt, of the Assembly or its members or committees.*
 - (2) *Conduct, including words, is not contempt of the Assembly unless it amounts, or is intended or likely to amount, to an improper interference with—*
 - (a) *the free exercise by the Assembly or a committee of its authority or functions; or*
 - (b) *the free performance by a member of the member's duties as a member.*

Nature of the contempt of failing to register an interest in the Register of Members' Interests.

16. The committee has previously considered references concerning an alleged failure to register an interest in the Register of Interests. In setting down precedent for future potential investigations previous Ethics Committees have paid particular attention to the following *two separate tests* and their elements as derived from the Standing Orders —
17. Whether the matter required disclosure; and
18. If yes, has the non-disclosure resulted in a contempt?

Whether the matter required disclosure?

19. The purpose of the Register of Members' Interests is to place on record any pecuniary or other relevant interests of a Member which may give rise to a conflict of interest or a perception of a conflict of interest between a Member's private interests and the public interest. The register seeks to provide information which might be thought by others to affect a Member's public duties, or to influence their speeches or votes in the Legislative Assembly.²
20. The Preamble at Schedule 2 to the Standing Orders contains numerous statements that indicate the intention of the register of interests is for disclosure. For example, the Preamble states that the Register of Members' Interests and Register of Related Persons' Interests are mechanisms to encourage and foster transparency, accountability and openness. As such the question of whether a Member is required to register a benefit received is interpreted widely. There is an expectation, especially a public expectation that Members record any benefits received that may be perceived as a potential conflict of interest.³
21. Section 69B(1) of the POQA requires Members to give the Registrar statements of interests of the Member and related persons within one month of taking their seat. Section 69B(2) of POQA requires Members to notify the Registrar, within one month, of any changes to their interests or the interests of related persons.

Alleged failure to declare source of any other income over \$500

22. In making his allegation, the Leader of the House referred to the Phil Gray website which contained information about the Member for Southport up until 10 August 2015, when it was removed. The Leader of the House stated that:

Details about Mr Molhoek were contained on the page entitled 'Our Team'. It stated various biographical details about Mr Molhoek, including that 'Today Rob is the Assistant Minister for Child Safety and LNP Member for Southport Queensland'. It concludes by stating, "Rob is a proud associate of Phil Gray Consulting.

23. At the time the issue was first raised in the media, Mr Molhoek advised, via a spokeswoman through the media articles, that he had 'never received remuneration from Phil Gray Consulting', and further that 'Rob Molhoek has not worked for Phil Gray Consulting while he has been the Member for Southport'. The entry on the website was described as 'out of date'.
24. The Leader of the House stated that:

This appears to be inconsistent with the advertising material distributed by Phil Gray Consulting throughout 2013 and 2014, after Mr Molhoek became the Member for Southport, and the entry on the website which describes him as an 'Assistant Minister' and Member for Southport'.
25. In a brochure produced for Phil Gray Consulting, allegedly created on 19 August 2015, it outlined the services offered. It included a box entitled 'Meet Phil Gray and the team of Associates'. It listed Mr Molhoek, and described him as a business advisor, broadcast media marketing specialist and philanthropist. The Leader of the House alleged that an earlier brochure created on 13 May 2013 did not include Mr Molhoek.
26. The Leader of the House contended that the information about Mr Molhoek was added to the brochure between 3 May 2013 and 14 August 2014, a period during which Mr Molhoek was both the Member for Southport and an Assistant Minister.

² Schedule 2 – Registers of Interests, *Standing Rules and Orders of the Legislative Assembly*. Effective from 31 August 2004 (as amended 17 July 2015)

³ *Ibid*

27. The Leader of the House also referred to the Phil Gray Consulting website containing testimonials from former clients that referred to both Phil Gray and Rob Molhoek in the context of having conducted workshops that they attended. The Leader of the House suggested that the quotes indicate Mr Molhoek played a very active part in the workshops.
28. The Leader of the House noted that the webpage did not give any indication of the dates that the participants attended the workshops, or whether it was during the period that Mr Molhoek had been the Member for Southport, but went on to state that:
- ... it certainly raises the question as to whether Mr Molhoek was working for Phil Gray Consulting when he was the Member for Southport, and whether he received any income in excess of \$500 which should have been declared in the Member's pecuniary interest register.*
- While Mr Molhoek has declared in the media, through a spokeswoman, that 'the last time he worked for Phil was mid-2011 running workshops for community radio stations', there is evidence that he has clearly worked for Phil Gray Consulting, and some indication that this may have been during the 2013-2014 period. Mr Molhoek has not made a statement in the House about this matter during personal explanations when he had the opportunity to do so.*
29. In Mr Molhoek's letter to the committee, he included the information he provided to the Clerk on the matter, which stated that:
- I have never been a business partner, employee or paid consultant to Phil Gray Consulting. I have never received any remuneration from him.*
- We partnered prior to my election of 2012 to co-present workshops to Community Radio Broadcasters on programming and sponsorship.*
- The content on his website is out of date. I have requested to be removed from the website.*
30. In the letter from Mr Gray to the committee, Mr Gray indicated that "I have never paid Robert Molhoek for any of his services in respect of these workshops since his election to the Queensland Parliament".
31. The committee sought further information from Mr Gray on the possibility of Mr Molhoek receiving income via someone or an entity other than Mr Gray or the payments being made to one of Mr Molhoek's companies or a related person.
32. In response, Mr Gray wrote to the committee and advised that:
- I can unequivocally state that*
- a) I do not know of any income that Mr Robert Molhoek would have received from any person or any entity for work in relation to sponsorship or programming workshops post our last workshop we jointly conducted 2 & 3 February 2012.*
- b) I don't know of any payments that were made to one of Mr Molhoek's companies post our last workshop we jointly conducted 2 & 3 February 2012.*
33. Accordingly, there was no evidence before the committee to indicate that Mr Molhoek received income in excess of \$500 from Phil Gray Consulting since being elected to the Queensland Parliament in 2012, and therefore no disclosure was required.

*Consideration**Did the matter require disclosure?*

34. There was no evidence presented to the committee to indicate that Mr Molhoek had received any income from Phil Gray Consulting since being elected to Parliament in 2012.
35. Accordingly, the committee found that there was no matter requiring disclosure under the POQA or the Standing Orders.

If yes, has the non-disclosure resulted in a contempt?

36. As the committee did not find a matter requiring disclosure there was no need to consider the second element.

Conclusion

37. On the matter of Mr Molhoek failing to register an interest in the Register of Members' Interests, the committee found that there was no evidence that Mr Molhoek failed to register an interest in the Register of Members' Interests.

Conclusion

On the information before the committee, it finds that there was no evidence that Mr Molhoek failed to register an interest in the Register of Members' Interests.

Recommendation

The committee recommends no finding of contempt be made against Mr Molhoek for failing to register an interest in the Register of Members' Interests.



Mark Ryan MP
Chair

3 December 2015

Membership — 55th Parliament

Mr Mark Ryan MP, Chair
Member for Morayfield

Mr Glen Elmes MP, Deputy Chair
Member for Noosa

Ms Nikki Boyd MP
Member for Pine Rivers

Mr Jim Madden MP
Member for Ipswich West

Mr Matt McEachan MP
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