



## ETHICS COMMITTEE

### REPORT NO. 201

# MATTER OF PRIVILEGE REFERRED BY THE REGISTRAR ON 23 OCTOBER 2019 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 15 February 2018.
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.<sup>1</sup> The committee investigates and reports on matters of privilege and possible contempts of Parliament referred to it by the Speaker, the Registrar, or the House.
3. This report concerns a referral from the Registrar regarding a possible contempt of Parliament by the Leader of the Opposition, Mrs Deb Frecklington MP for failing to declare interests on the Register of Members' Interests ('the Register').

## The referral

4. On 22 October 2019, the Member for Capalaba, Mr Don Brown MP wrote to the Registrar (the Clerk of the Parliament) alleging that the Leader of the Opposition, Mrs Deb Frecklington MP:
  - failed to declare her interest in Five Freckles Pty Ltd for a period of time between 2018 and July 2019;
  - failed to provide sufficient detail of the nature of the Weeroona Family Trust, and the investments of that trust, in particular that the trust allegedly has a contract to supply Woolworths with beef; and
  - has potentially failed to declare any drought assistance for the Weeroona Family Trust, considering that the Weeroona Pastoral Co – Weeroona Feedlot is in Guluguba, Queensland which is in a drought declared area, and this feedlot is owned/operated by the Weeroona Family Trust.
5. Subclause 14 of Schedule 2 of the Standing Orders sets out the procedure to be followed when a member alleges another member has failed to comply with the Register requirements. Under these procedures, members must make allegations in writing to the Registrar.

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<sup>1</sup> *Parliament of Queensland Act 2001* s 104B.

6. The Standing Orders (subclause 14 of Schedule 2) stipulate that the Registrar must refer any allegation regarding the Register to the committee.
7. On 23 October 2019, the Registrar accordingly referred the allegation to the committee.
8. The Registrar also wrote to the Leader of the Opposition, notifying her of the allegation and referral to the committee.

### **Obligations when considering allegations**

9. Subclause 15 of Schedule 2 of the Standing Orders outlines the obligations on the committee with respect to an allegation referred by the Registrar:
  - (1) *The Ethics Committee must consider each allegation referred to it, and for that purpose, may—*
    - (a) *give each member concerned the opportunity to be heard; and*
    - (b) *obtain information from such other persons, and make such inquiries, as it thinks fit;**after which it may—*
    - (c) *make a report to the Legislative Assembly; and*
    - (d) *with the report, recommend the action that should be taken in relation to the matter.*
  - (2) *The Ethics Committee must not make a report unless—*
    - (a) *it has given the member against whom the allegation has been made the opportunity—*
      - (i) *to be heard; and*
      - (ii) *to make written submissions; and*
    - (b) *it has given the person that the member nominates the opportunity to be heard.*

### **Definition of contempt**

10. 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.*
11. Standing Order 266(24) and the POQA section 37 (example 7) make it clear that failing to keep an accurate statement of interests can be a contempt of Parliament.
12. Standing Order 266(24) provides as an example of contempt:
 

*Contravening the requirements and orders imposed by the operation of the Parliament of Queensland Act (see also Examples 7 and 8 s 37 Parliament of Queensland Act and s 58 Criminal Code).*
13. POQA section 37 (example 7) states that a contravention of section 69B(1), (2) or (4) of the POQA is an example of a contempt.
14. Section 69B of the POQA states:
 

**Statements of interests**

  - (1) *A member must, within 1 month after taking the member’s seat, give to the registrar the following statements—*
    - (a) *a statement of the interest, as at the date of the election, of the member (a statement of interests (member));*

*(b) a statement of the interest, as at the date of the election, of which the member is aware of each person who is a related person of the member (a statement of interests (related persons)).*

*(2) A member must, within 1 month after becoming aware of a change in the particulars contained in the last statement of interests given by the member, notify the registrar in writing of the change.*

...

*(4) A member must not give to the registrar a statement of interests or information relating to a statement of interests the member knows is false or misleading in a material particular.*

15. A breach of the Register requirements will not always be a contempt of Parliament. Subclause 18 of Schedule 2 of the Standing Orders sets out the threshold requirements for a finding of contempt:

*A member who—*

*(a) knowingly fails to give a statement of interests to the Register as required*

*(b) knowingly fails to notify the Registrar of a change of details contained in a statement of interest; or*

*(c) breaches s 69B(4) of the Parliament of Queensland Act 2001,<sup>2</sup>*

*is guilty of a contempt of the Parliament and may be dealt with accordingly.*

### **The committee's proceedings**

16. The committee has established proceedings 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 Standing Orders. The committee is also bound by instructions regarding witnesses, at Schedule 3 to Standing Orders.
17. The standard of proof in determining a contempt is the balance of probabilities. This is a lower standard than the 'reasonable doubt' standard required for criminal matters. However, a very high order of proof on the balance of probabilities is required to find a contempt, consistent with the test applied in relation to misconduct charges at common law. In the leading High Court authority in the area, *Briginshaw v Briginshaw* (1938) 60 CLR 336, Latham CJ at 343-344 stated: 'The standard of proof required by a cautious and responsible tribunal will naturally vary in accordance with the seriousness and importance of the issue'.
18. The committee wrote to the Leader of the Opposition inviting a submission addressing the elements to be established in the alleged contempts. The committee also sought a submission from the Clerk of the Parliament as Registrar.
19. Both parties responded and the committee found it had sufficient information to deliberate on the allegations.
20. The committee has previously considered references concerning an alleged failure to register an interest. In accordance with the procedures of past committees, the committee applied the following *two separate tests* to determine if the Leader of the Opposition was guilty of contempt:
1. Whether the matter required disclosure; and
  2. If yes, has the non-disclosure resulted in a contempt?
21. The committee considered the three allegations separately. The first allegation being that the Leader of the Opposition failed to declare her interest in Five Freckles Pty Ltd for a period of time; the second allegation being that she failed to provide sufficient detail of the nature of the Weeroona Family Trust, and the investments of that trust; and the third allegation being that the Leader of the Opposition has potentially failed to declare drought assistance received by the Weeroona Family Trust.

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<sup>2</sup> Section 69B(4) of the *Parliament of Queensland Act 2001* provides that a member must not give to the Registrar a statement of interests or information relating to a statement of interests the member knows is false or misleading in a material particular.

## ***Alleged contempt 1: Interest in Five Freckles Pty Ltd from 2018-July 2019***

### Did the matter require disclosure?

22. The purpose of the Register 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.<sup>3</sup>
23. The Member for Capalaba, when raising his allegation with the Registrar, provided the ASIC current and historical extract for Five Freckles Pty Ltd which shows that the Leader of the Opposition is a shareholder of Five Freckles Pty Ltd.
24. Under subclause 7(5)(a) of Schedule 2 of the Standing Orders, a member must disclose if they are a shareholder, or officer, or have controlling shares in any company:

*A statement of interests required to be given by a member must contain the following details—*

  - a) in respect of any company in which the member or a related person is a shareholder or officer or has controlling interests in shares—*
    - (iii) where the shareholding or interest is held in a private company, the investments or beneficial investments of the company; and*
    - (iv) where the shareholding or interest is held in private company—*
      - (A) the nature of the activities of the company; and*
      - (B) the assets or beneficial interests of the company.*
25. As a shareholder of Five Freckles Pty Ltd, the Leader of the Opposition was under an obligation to disclose on her statement of interests, in accordance with schedule 2, section 7.(5)(a) the name, nature and beneficial interests of Five Freckles Pty Ltd.
26. In her submission to the committee, the Leader of the Opposition admits there was a period of time from 22 March 2018 until sometime around 26 July 2019, where she did not declare her interest in Five Freckles Pty Ltd, despite her remaining a shareholder throughout this period.
27. Being a shareholder of Five Freckles Pty Ltd was clearly an interest that required disclosure, and the Leader of the Opposition failed to disclose this for a period of time.

### If the matter required disclosure, has non-disclosure resulted in contempt?

28. Subclause 18 of schedule 2 of the Standing Orders sets out when a failure to comply with the Register will be a contempt of Parliament:

*A member who—*

  - (a) knowingly fails to give a statement of interests to the Register as required*
  - (b) knowingly fails to notify the Registrar of a change of details contained in a statement of interest; or*
  - (c) breaches s 69B(4) of the Parliament of Queensland Act 2001,<sup>4</sup>*

*is guilty of a contempt of the Parliament and may be dealt with accordingly [emphasis added].*
29. The committee considers that inclusion of the word 'knowingly' is distinguishing intentional from inadvertent acts. The key to satisfying this element is knowledge of wrongdoing.
30. Committee precedent for contempt cases places a very high test on the knowledge element.

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<sup>3</sup> Schedule 2 – Registers of Interests, *Standing Rules and Orders of the Legislative Assembly*: Effective from 31 August 2004 (as amended at 15 February 2019).

<sup>4</sup> Section 69B(4) of the *Parliament of Queensland Act 2001* provides that a member must not give to the Registrar a statement of interests or information relating to a statement of interests the member knows is false or misleading in a material particular.

31. Applying the knowledge element to the facts of this matter, the committee determined it would have to be satisfied that the Leader of the Opposition *knew* that failing to notify the Registrar that she was a shareholder of Five Freckles Pty Ltd was in breach of the requirements of the Register, and proceeded regardless.
32. The Leader of the Opposition provided the committee with some background information to explain why her interest in Five Freckles Pty Ltd did not appear on her register for a period of time.
33. The company, Five Freckles Pty Ltd, was a corporate trustee for the Frecklington Family Trust which traded as Gloria Jeans, Kingaroy from 2010 to April 2017 when it ceased trading.
34. Believing that the cessation of trading of Gloria Jeans, Kingaroy meant that her interest in Five Freckles Pty Ltd was extinguished, the Leader of the Opposition updated her statement of interests to reflect this.
35. When alerted to the fact that the company was still in existence, and after seeking advice from the Clerk on 23 July 2019, the Leader of the Opposition amended her statement of interests to reflect her interest in Five Freckles Pty Ltd as that of a trustee of an inactive trust.
36. The committee determined that the Leader of the Opposition fell into error under a mistaken belief that the interest was no longer in existence, and corrected this error as soon as she was made aware. Inadvertent errors of this kind, do not reach the ‘knowingly’ threshold required by the Standing Orders to find a contempt has been committed.
37. The Leader of the Opposition provided evidence to the committee that Five Freckles Pty Ltd was no longer in existence, and therefore the committee is satisfied that her current statement on the Register is an accurate reflection of her interests at this point in time.
38. As with previous Register of Interest matters, where there is no evidence of corrupt conduct, the committee’s focus is to ensure the member understands the requirements of the Register, and that the Register remains accurate.

### ***Alleged contempt 2: Nature of Weeroona Family Trust’s investments***

#### Did the matter require disclosure?

39. Under subsection 7.(5)(b) of Schedule 2 of the Standing Orders, a member must disclose certain details with respect to family trusts:
 

*A statement of interests required to be given by a member must contain the following details—*

  - (b) in respect of any family or business trust or nominee company in which the member or a related person is a trustee, office holder or holds a beneficial trust—*
    - (i) the name or a description of the trust, or the name of the nominee company, as the case requires;*
    - (ii) the nature of the activities of the trust or company;*
    - (iii) the nature of the interest of the member; and*
    - (iv) the investments or beneficial interests of the trust or company (of which the member is aware). [underlining added]*
40. The Leader of the Opposition has consistently declared that she was a beneficiary in a discretionary trust, that trust being the Weeroona Family Trust (‘the Trust’). The questions for the committee were:
  - a) whether the Leader of the Opposition made a fulsome declaration by stating that she was unaware of the investments or beneficial interests of the Trust; and
  - b) whether a failure to investigate the investments or beneficial interests of the Trust amounts to a contempt of Parliament.

41. The Leader of the Opposition provided the committee with context regarding the nature of her interest in the Trust:

*[The Trust] is a discretionary trading trust via which my parents conduct a commercial farming operation. I am aware of my interest as a beneficiary of the Trust only and not the specifics of my parents' business. At the time of completing my declaration of interests I did not know the specifics of my parents' actual commercial activities, customers, or the Trust's assets.*

...

*I am included in a long list of beneficiaries of the Trust, in classes separate to the four named primary beneficiaries. My status is listed only as a child of a named beneficiary and my inclusion is only to provide legal certainty that the Trust's operations can continue with a legitimate beneficiary in the event the primary beneficiaries cease to hold that position. I have no rights to compel a distribution from the trust... I have no rights to direct, control or own the Trust's assets.*

...

*I have never received a benefit or distribution from the Trust, and I have no expectation that I will.*

...

*I do not have the right to require an accounting of the Trust's operations and assets.*

42. The Member for Capalaba raised two arguments that the disclosures by the Leader of the Opposition with respect to the Trust were insufficient in his letter to the Registrar.
43. First, the Member for Capalaba argued that the Leader of the Opposition's declaration that the nature of the Trust's activities were farming/other, was not specific enough and should have stated that the nature of the Trust's activities was a beef cattle feedlot.
44. The committee does not support this argument. The committee finds the description of farming/other adequately covers a beef cattle feedlot.
45. Second, the Member for Capalaba argued that the Trust was a supplier to Woolworths and the Leader of the Opposition should have declared this under subsection 7.5(b)(iv).
46. The Leader of the Opposition's statement did not contain reference to the Trust having any kind of relationship with Woolworths. Therefore the committee looked to the nature of the alleged relationship to see if it was of the kind that required declaring in accordance with the Standing Orders.
47. The Leader of the Opposition submitted that it was only after the allegation from the Member for Capalaba that she enquired about the interests of the Trust with her parents and was informed the Trust had a supply contract with Woolworths to supply 85 head of cattle per fortnight, which accounts for approximately 0.00275% of Woolworths annual beef sales. This supply contract had been in place since 1992.
48. When considering this matter, the committee noted the minor nature of the relationship between the Trust and Woolworths.
49. While subsection 7.5(b)(iv) requires a member to disclose the investments or beneficial interests of the trust or company in question, it contains an important limitation – it is only those investments or beneficial interests *of which the member is aware*.
50. Therefore, the committee considered whether the Leader of the Opposition should have made herself aware of the investments and beneficial interests of the Trust in order to discharge her obligations under Schedule 2 of the Standing Orders. It sought advice from the Clerk of the Parliament, in his role as Registrar, as to this question.
51. The Clerk states in his advice to the committee that it is best practice for a beneficiary to request from the trustees the details of investments and beneficial interests of the trust. The member should then disclose this on the Register, taking the trustee in good faith.

52. Further, the Clerk makes reference to the ‘knowingly’ requirement in subclause 18, schedule 2 of the Standing Orders, and notes that acts made in good faith are unlikely to be a contempt:

*If the member only discloses what they know without making inquiries of the trustees, then it is unlikely that the member would be in contempt. However, the member runs the risk of possible embarrassment and reputational damage if they in good faith declare only what they know, only to have it later revealed that something has not been declared which is controversial or involves a possible conflict in interest.*

53. The committee considers the current situation closely reflects the situation the Clerk contemplated in his advice. The Leader of the Opposition disclosed only what knowledge she had of the Trust’s investments and beneficial interests. While adequate to avoid a finding of contempt in this instance, enquiring with the trustees for more detail is best practice and should occur wherever possible.
54. The committee considers that this first test is not satisfied. The Leader of the Opposition has declared her interest in the Trust to a level that is sufficient to satisfy the requirements of the Standing Orders.

### **Alleged contempt 3: Drought assistance for Weeroona Family Trust**

55. Under section 7.(5) of Schedule 2 of the Standing Orders, a member must disclose any additional sources of income:

*A statement of interests is required to be given by a member must contain the following details—*

*k) the source of any income over the published indexed threshold received during a reporting period by—*

*(iii) a private company, or a trust, in which the member or a related person holds an interest;*

56. The Member for Capalaba postulated that because the Trust property includes a farm in Guluguba, a drought-declared shire, that there is a possibility that it may have received drought assistance; and, if this is the case, the Leader of the Opposition was under an obligation to declare this under schedule 2, section 7.(5)(k) of the Standing Orders.
57. The Member for Capalaba provided no evidence to support these claims and admitted he was unsure if any funding has actually been received.
58. The committee is of the view that the Member for Capalaba failed to provide sufficient particulars or evidence to warrant further investigation of this particular allegation.
59. The committee notes, however, that the Leader of the Opposition confirmed in her submission that the property in question had not applied for, or intends to apply for, drought assistance.

### **Conclusions**

60. The committee finds that being a shareholder of Five Freckles Pty Ltd was an interest that the Leader of the Opposition was under an obligation to disclose.
61. While the Leader of the Opposition failed to register this interest for a period of time in 2018 and 2019, the committee determines this failure was not undertaken knowingly.
62. The committee also believes it is important to note that the interest itself was not material to any perceived or actual conflict of interest. That is, there was no allegation the Leader of the Opposition’s failure to disclose her interest in Five Freckles Pty Ltd was, or could be, used to her personal advantage.
63. The committee finds that the level of detail provided by the Leader of the Opposition with respect to the Weeroona Family Trust complies with the requirements of the Standing Orders.
64. The committee finds that the allegation of drought assistance contained insufficient evidence and particulars, and summarily disposes of the issue in accordance with Standing Order 270(1)(a).



### Committee comment

65. When a matter is referred to the committee under Standing Orders 268 and 269, there is an initial assessment of the matters by the Speaker before referral to the committee. As matters regarding the Register are referred automatically by the Registrar to the committee, there is no similar screening process to determine if the matter *prima facie* requires further attention.
66. The committee acknowledges that being subject of an allegation that is being assessed and potentially investigated by the committee can be both stressful, and adversely impact a member's reputation.
67. The committee encourages members to carefully consider any allegations before raising them with the Registrar. There should be some evidential basis to support the allegation, rather than being a mere hypothesis. In the absence of such evidence, the committee will summarily dispose of the matter.
68. Finally, the committee takes this opportunity to draw members' attention to the Clerk's advice as Registrar in relation to trusts. Namely, that if a member discloses only what they know about a trust of which they are a beneficiary without making enquiries of the trustee, they are unlikely to be found in contempt. However, best practice is to enquire as to the investments and beneficial interests of the trust in order to reduce the potential for reputational risk and embarrassment.

### Conclusion

**On the information before it, the committee finds that on the matter of privilege in relation to the Leader of the Opposition, that the allegations of contempt are not made out.**

### Recommendation

**The committee recommends that the House take no further action in relation to these allegations.**



Joe Kelly MP  
**Chair**

June 2020



### **Membership — 56<sup>th</sup> Parliament**

Mr Joe Kelly MP, Chair  
*Member for Greenslopes*

Mr Tim Nicholls MP, Deputy Chair  
*Member for Clayfield*

Ms Leanne Linard MP  
*Member for Nudgee*

Mr Mark McArdle MP  
*Member for Caloundra*

Mr Ray Stevens MP  
*Member for Mermaid Beach*

Mr Chris Whiting MP\*  
*Member for Bancroft*

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\*Mr Chris Whiting MP replaced Ms Nikki Boyd MP on the Ethics Committee on 19 May 2020.



# Deb Frecklington MP

Leader of the Opposition and Shadow Minister for Trade

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21 January 2020

Ethics Committee  
Attention: Mr Joe Kelly MP

By email: [ethics@parliament.qld.gov.au](mailto:ethics@parliament.qld.gov.au)

Dear Mr Kelly

Thank you for your letter of 20 December 2019 and the opportunity to provide the committee with submissions in relation to this matter.

At the outset, I can confirm that Five Freckles Pty Ltd has been deregistered by the Australian Securities and Investments Commission on 25 December 2019 and therefore no longer exists. I have updated my Register of Interests accordingly.

I note you have asked me to address the following two issues:

- *whether there was a period of time where your interest in Five Freckles Pty Ltd did not appear on your statement of interests, before reappearing, and the reasons for this;*
- *any prior or existing relationship between Weeroona Family Trust and Woolworths.*

I will deal with these matters in turn.

## FIVE FRECKLES PTY LTD

On 12 March 2018 I signed a Statement of Interests of a Member, Form 1, which omitted the declaration of Five Freckles Pty Ltd ("the **Company**"). I now admit this was in error, however, at the time I signed the form I believed that as the business it operated had ceased trading and been dissolved, the Company had been similarly dealt with and therefore was not a declarable interest.

I will make an apology to the House for this error at the first sitting week, in the following terms:

*“Mr Speaker, in early 2018 I updated my register of interests and incorrectly omitted an interest I had in Five Freckles Pty Ltd on the mistaken belief that I no longer had such an interest. Since my error has come to light, I have updated the interest register and taken action to ensure the deregistration of the company. I have now properly dispensed with the interest. The Register of Member’s Interests is an important tool and I support its operation and the Standing Orders of this House. I apologise to the House for my error.”*

For clarity and to assist committee members with the full knowledge of this matter, let me provide the following facts:

1. The Company was the corporate trustee for the Frecklington Family Trust, which traded a business as Gloria Jeans, Kingaroy from 2010 until April 2017.
2. My husband was the sole director of the Company and managed its affairs. I was a shareholder and I played no active part in the business.
3. After the business was finalised and at the time I updated my interests register in 2018, the Company has been inactive. It did not operate any other business, hold any investments, have any liabilities or interests – save for a second-hand car with a value of less than \$8,000. We always intended to deregister the Company but the process was delayed.
4. I did not intend to remove the declaration for any improper purpose. I removed the declaration because I thought it was correct to do so.
5. While the declaration was omitted from my interest, the Company was inactive and no matter arose that could have given rise to a real or perceived conflict of interest.
6. On being alerted to my error that the Company was still in existence, I immediately restored the declaration to my Register of Interests, and then ensured the Company’s deregistration was completed.

I ask the committee to accept my immediate action to correct my error and my apology, as the end of this matter.

#### WEEROONA FAMILY TRUST

The Weeroona Family Trust (“the **Trust**”) is a discretionary trading trust via which my parents conduct a commercial farming operation. I am aware of my interest as a beneficiary of the Trust only and not the specifics of my parents’ business. At the



time of completing my declaration of interests I did not know the specifics of my parents' actual commercial activities, customers or the Trust's assets.

I am included in a long list of many potential beneficiaries of the Trust, in classes separate to the four named primary beneficiaries. My status is listed only as a child of a named beneficiary and my inclusion is only to provide legal certainty that the Trust's operations can continue with a legitimate beneficiary in the event the primary beneficiaries cease to hold that position.

I have no rights to compel a distribution from the Trust. Despite my status as a potential beneficiary of the Trust, I have no rights to direct, control or own the Trust's assets. The terms of the Trust mean that the trustee has complete discretion to make a distribution to beneficiaries.

I have never received a benefit or distribution from the Trust, and I have no expectation that I ever will.

I do not have the right to require an accounting of the Trust's operations and assets.

From a legal-ownership perspective, I am at "arm's length" from the Trust's dealings and I do not influence its operations and vice versa.

Since receiving Mr Brown's complaint, I have made inquiries with my parents and can advise the committee that the Trust has a contract to supply approximately 85 head of cattle per fortnight to Woolworths and has done so since 1992, long before I was elected to be a Member of the House.

In relation to drought assistance I can advise that although the farm is in a drought declared area, my parents have not sought, nor received any drought assistance. My parents are proud people, they have worked hard their whole lives. They haven't claimed any drought assistance in the current drought, even though they would be more than entitled to do it. They know there are farmers who are doing it tougher.

I note the committee's letter stated as follows:

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

*Section 18 of Schedule 2 of the Standing Orders sets out when a failure to comply with the Register of Interest's requirements will be deemed a contempt:*

*A member who—*

*(a) knowingly fails to give a statement of interests to the Register as required*

*(b) knowingly fails to notify the Registrar of a change of details contained in a statement of interest; or*

*(c) breaches s 69B(4) of the Parliament of Queensland Act 2001; is guilty of a contempt of the Parliament and may be dealt with accordingly.*

I can advise the committee that all of my declarations about the Trust have been to the full extent of my knowledge. I did not have any further knowledge of my parents' business or the Trust beyond what I have declared.

Therefore, I don't believe I breached section 18 of schedule 2 of the Standing Orders by omitting a reference to Woolworths as a customer of the Trust.

I ask the committee to consider that I have not committed a Contempt as I did not knowingly fail to give an accurate statement of interests to the Registrar.

If I can be of any further assistance to the committee, I will be happy to address any other matter.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Deb Frecklington', with a long horizontal flourish extending to the right.

**DEB FRECKLINGTON MP**  
**Leader of the Opposition**  
**Shadow Minister for Trade**  
**Member for Nanango**



## Queensland Parliamentary Service

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Our Ref: A525689

4 February 2020

Mr Joe Kelly MP  
Chair  
Ethics Committee

[ethics@parliament.qld.gov.au](mailto:ethics@parliament.qld.gov.au)

Dear Mr Kelly

I refer to your letter of 20 December 2019, in relation to allegations that the Leader of the Opposition, Mrs Deb Frecklington MP, failed to comply with Schedule 2 of the Standing Rules and Orders of the Legislative Assembly in respect of registering interests.

You have requested information on any advice that I may have provided to the Leader of the Opposition in relation to the following interests:

- interest in Five Freckles Pty Ltd for a period of time between 2018 and July 2019;
- the nature of the Weeroona Family Trust, and the investments of the trust, in particular that the trust allegedly has a contract to supply Woolworths with beef; and
- drought assistance for the Weeroona Family Trust under 'any other income' on the Register of Interests.

The Leader of the Opposition was first elected a member in 2012 (the 54<sup>th</sup> Parliament). Prior to the 54<sup>th</sup> Parliament, whilst new members received a comprehensive induction, including a detailed induction on the requirements of the registers of interest, a meeting with the Registrar whilst offered was only taken up by some members. From the commencement of the 54<sup>th</sup> Parliament as Registrar I began the practice of ensuring a meeting between myself and each new Member to discuss their register of interest, prior to the time for their first declaration. Indeed, appointments for these meetings were arranged at the induction.

I recall my first meeting with Ms Frecklington about her registers of interests. Unfortunately, I cannot give a date for the meeting as I have been unable to retrieve my electronic diary for 2012. I clearly recall discussions with Ms Frecklington about both Five Freckles Pty Ltd and the Weeroona Family Trust.

Five Freckles Pty Ltd was essentially a trustee for the Frecklington Family Trust – a vehicle for the operation of her husband's Gloria Jeans coffee shop in Kingaroy. The following declarations resulted for Ms Frecklington's register of interest:



3. The investments or beneficial interests of private companies [7(2)(a)(iii) & 7(2)(a)(iv)(A) and (B)]	Five Freckles Pty Ltd
6. Beneficial interests in family or business trusts, or nominee companies [7(2)(c)(i) to (iii)]	Frecklington Family Trust, coffee shop, beneficiary;
7. Investments or beneficial interests of any trust listed in (6) above [7(2)(c)(iv)]	Frecklington Family Trust, own a Gloria Jeans franchise business in Kingaroy;

In respect of the Weeroona Family Trust, my advice in respect of this discretionary trust was consistent with advice that I have provided to other members that are the beneficiaries of discretionary trusts:

- Schedule 2 of Standing Orders requires members to disclose any family or business trust in which the member or a related person holds a beneficial interest. The schedule requires the name or descriptions of the trust, the nature of the activities of the trust, the nature of the interest and the investments in beneficial interests of the trust.
- Schedule 2 assumes that members are aware of their own interests and interests made on their behalf via trusts. The schedule makes no such assumptions when it comes to related persons. The schedule recognises circumstances where a member may not know the interests of a related person. But it does not acknowledge that a member would not know about their own interests or interests held by a trust on their behalf.
- Generally, and without access to the trust deed, a beneficiary of a discretionary trust has a right to discover the holdings of the trust and the distributions made by the trustees (account) as opposed to a right to question or demand an actual distribution.
- Whilst the member may not consider the trust as their business, once a trust was settled and they were made a beneficiary of the trust, then in a sense the settlor's business became the members business.
- Best practice is to request from the trustees the details of the investments and beneficial interests of the trust.
- Schedule 2 provides that a member is only in contempt of Parliament for not complying with the requirements of the Schedule if the Member "knowingly"— fails to give a statement of interests to the Registrar; fails to notify the Registrar of a change of details contained in a statement of interests; gives the Registrar a statement of interests, or gives information to the Registrar or the Committee, that is false, incomplete or misleading in a material particular.
- If a member in good faith advises the Registrar what the trustees advise them to be the investments of the trust of which they are a beneficiary, it is unlikely that a member would find themselves in contempt of the Parliament. Of course, in these circumstances the onus is on the trustees to ensure that they are giving the Member the correct information.
- If the member only discloses what they know without making inquiries of the trustees, then it is unlikely that the Member would be in contempt. However, the member runs the risk of possible embarrassment and reputational damage if they in good faith declare only what they know, only to have it later revealed that something has not been declared which is controversial or involves a possible conflict of interest.

I recall Mrs Frecklington being adamant that she had no expectation of ever receiving anything from the discretionary trust and that the trust was really about the operation of her parents and brothers' businesses in which she was in no way involved. In Mrs Frecklington's expressed view, it was not her business.



The following declarations resulted for Ms Frecklington's register of interest:

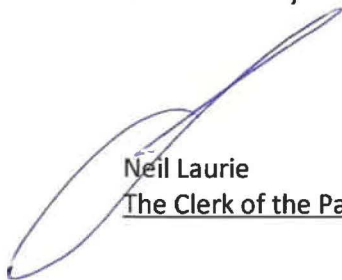
6. Beneficial interests in family or business trusts, or nominee companies [7(2)(c)(i) to (iii)]	Weeroona Family Trust, farming/unaware, beneficiary in discretionary trust
7. Investments or beneficial interests of any trust listed in (6) above [7(2)(c)(iv)]	Weeroona Family Trust, unaware of nature of business holding

Five Freckles Pty Ltd and the Frecklington Family Trust were declared until the end of the 55<sup>th</sup> Parliament. Reference to the coffee shop was removed in April 2017. Five Freckles was not declared at the commencement of the 56<sup>th</sup> Parliament. The Frecklington Family Trust was declared as "Frecklington Family Trust; inactive, trustee".

I met with the Leader of the Opposition at 3.00pm on 23 July 2019. Mrs Frecklington advised that she had omitted to declare Five Freckles Pty Ltd as an oversight, probably because the trust of which it was trustee was inactive. I advised that even dormant corporate and trust vehicles need to be declared, although they are obviously not material to any conflict. We reviewed her declaration and Mrs Frecklington, on my advice, added under 7(5)(a)(iii) and (iv) "Five Freckles Pty Ltd trustee of inactive trust, "Frecklington Family Trust" and altered 7(5)(b) to remove "trustee" and replace with "Beneficiary".

I met with the Leader of the Opposition and Mr Peter Coulson from the Office of the Opposition in my office at her invitation on 13 November 2019 at 12.00pm. The stated purpose of the meeting was "Regarding Speaker's letter of 11/11/19". The Speaker's letter was about the complaint by the Member for Capalaba and issues arising under SO 260. I gave the Member advice about previous rulings regarding the operation of SO 260. My advice in this regard appears to have influenced the Leader of the Opposition's submission to the Speaker dated 29 November 2019 which was tabled in the House by the Speaker on 4 February 2020. During the course of this discussion there was incidental discussion of the matters referred to your committee, wherein I touched upon some of my advice to Mrs Frecklington in 2012 noted above. Mrs Frecklington was again adamant that she never had any expectation of receiving anything from the discretionary trust and that the trust was really about the operation of her parents and brothers' businesses in which she was in no way involved.

Yours sincerely



Neil Laurie  
The Clerk of the Parliament

**EXTRACT OF MINUTES –**

**MATTER REFERRED BY THE REGISTRAR ON 23 OCTOBER  
2019 RELATING TO AN ALLEGED FAILURE TO REGISTER AN  
INTEREST IN THE REGISTER OF MEMBERS' INTERESTS**



**Ethics Committee**

Meeting No. 33

Thursday, 19 December 2019, 10.35am

Committee Room 1, Parliamentary Annexe

**Present**

Mr Joe Kelly MP, Chair  
Mr Tim Nicholls MP, Deputy Chair  
Ms Nikki Boyd MP  
Mr Mark McArdle MP

**Apologies**

Ms Leanne Linard MP  
Mr Ray Stevens MP

**In attendance**

Ms Bernice Watson, Committee Secretary  
Ms Rebecca Meehan, Assistant Committee Secretary

**Inquiry No. 13 – Frecklington matter**

Discussion ensued.

Resolved

That the committee send a letter to Mrs Frecklington and the Clerk of the Parliament in the terms agreed to.

Moved: Mr Kelly      Seconded: Mr Nicholls

**EXTRACT OF MINUTES –**

**MATTER REFERRED BY THE REGISTRAR ON 23 OCTOBER  
2019 RELATING TO AN ALLEGED FAILURE TO REGISTER AN  
INTEREST IN THE REGISTER OF MEMBERS' INTERESTS**



**Ethics Committee**

Meeting No. 37

Thursday, 20 February 2020, 1.07pm

Committee Room 1, Parliamentary Annexe

<b>Present</b>	Mr Joe Kelly MP, Chair Ms Nikki Boyd MP Mr John-Paul Langbroek MP (substitute for Mr Tim Nicholls MP under SO 202) Ms Leanne Linard MP Mr Mark McArdle MP Mr Ray Stevens MP
<b>Apology</b>	Mr Tim Nicholls MP
<b>In attendance</b>	Ms Bernice Watson, Committee Secretary Ms Rebecca Meehan, Assistant Committee Secretary

**Inquiry No. 13 – Frecklington matter**

Discussion ensued.

The committee requested a briefing from the Secretariat on the operation of discretionary trusts and the role of beneficiaries.

**EXTRACT OF MINUTES –**

**MATTER REFERRED BY THE REGISTRAR ON 23 OCTOBER  
2019 RELATING TO AN ALLEGED FAILURE TO REGISTER AN  
INTEREST IN THE REGISTER OF MEMBERS' INTERESTS**



**Ethics Committee**

Meeting No. 42

Thursday, 21 May 2020, 1.04pm

Committee Room 3, Parliamentary Annexe and Teleconference

**Present**

Mr Joe Kelly MP, Chair  
Mr Tim Nicholls, Deputy Chair  
Ms Leanne Linard MP  
Mr Mark McArdle MP  
Mr Ray Stevens MP  
Mr Chris Whiting MP

**In attendance**

Ms Bernice Watson, Committee Secretary  
Ms Rebecca Meehan, Assistant Committee Secretary (teleconference)

**Inquiry No. 13 – Frecklington matter**

Discussion ensued.

The committee determined that it has sufficient information to deliberate on the matter.

Resolved

That no finding of contempt be made against the Leader of the Opposition.

Moved: Mr Kelly    Seconded: Mr Nicholls

The committee instructed the secretariat to draft a final report in the agreed terms.

**EXTRACT OF MINUTES –**

**MATTER REFERRED BY THE REGISTRAR ON 23 OCTOBER  
2019 RELATING TO AN ALLEGED FAILURE TO REGISTER AN  
INTEREST IN THE REGISTER OF MEMBERS' INTERESTS**



**Ethics Committee**

Meeting No. 44  
Thursday, 18 June 2020, 1.04pm  
Committee Room 1, Parliamentary Annexe

**Present**

Mr Joe Kelly MP, Chair  
Mr Tim Nicholls, Deputy Chair  
Ms Leanne Linard MP  
Mr Mark McArdle MP  
Mr Ray Stevens MP  
Mr Chris Whiting MP

**In attendance**

Ms Bernice Watson, Committee Secretary  
Ms Rebecca Meehan, Assistant Committee Secretary  
Mr Neil Laurie, Clerk of the Parliament

**Inquiry No. 13 – Frecklington matter**

Resolved

That the committee adopts the Chair's draft report and authorises its tabling.

Moved: Mr Kelly                      Seconded: Mr Nicholls

**Extracts certified correct on 16 July 2020**

A handwritten signature in black ink that reads 'Joe Kelly'.

**Joe Kelly MP**  
Chair