



MEMBERS' ETHICS AND PARLIAMENTARY PRIVILEGES COMMITTEE

Report No. 96

Matter of Privilege Referred by the Registrar on 10 February 2009 Relating to the Alleged Failure by the then Leader of the Opposition to Register a Benefit Received in the Register of Members' Interests

Introduction and background

1. The Members' Ethics and Parliamentary Privileges Committee (the MEPPC or the committee) is a statutory committee of the Queensland Parliament established under the *Parliament of Queensland Act 2001* (the POQA or the Act). The current committee was appointed by resolution of the Legislative Assembly on 23 April 2009.
2. Section 91 of the POQA provides that the MEPPC's area of responsibility about the ethical conduct of members includes considering complaints referred to the committee about the failure to register particular interests. The committee investigates and may report on allegations referred to it by the Registrar, and inquires into and reviews other significant issues regarding the Register of Members' Interests.¹
3. By letter to the Registrar of Members' Interests (i.e. the Clerk of the Parliament) dated 9 February 2009, the Treasurer, Mr Andrew Fraser MP, raised the allegation that Mr Springborg MP, had 'failed to comply with Section 7 of Schedule 2 of the Standing Orders...by failing to register sponsored travel received on numerous occasions from Mr Palmer and widely reported in the media.'

The reference

4. Section 14(3) of Schedule 2 of *The Standing Rules and Orders of the Legislative Assembly: Effective from 31 August 2004* (Standing Orders) states that the Registrar must refer an allegation made by a member, made in writing, to the MEPPC. Consequently, the Registrar referred the matter to the committee on 10 February 2009.
5. On 23 February 2009, Parliament was dissolved and it became a matter for the new committee as to whether to progress the matter referred to its predecessor committee.

¹ Schedule 2: *Registers of Interests. Standing Rules and Orders of the Legislative Assembly: Effective from 31 August 2004* (amended 26 May 2005, 30 March 2006, 20 June 2006, 8 February 2007, 1 May 2007, 24 May 2007 and 12 February 2008) at 69.

On 20 May 2009, the new committee decided to continue the matter in accordance with s.105 of the *Parliament of Queensland Act 2001*.

6. Specifically, the matter before the committee concerns an allegation that Mr Springborg allegedly failed to register a benefit received in the Register of Interests.

Previous references

7. The committee has previously had two references concerning an alleged failure to register a benefit in the Register of Interests. The first matter was deferred pending the outcome of the CMC investigation.²
8. The second reference related to an alleged failure of the Premier to register a benefit in the Register of Interests. The committee found that it could be argued that the Premier was required to register accommodation in the Register of Members' Interest within a month of the house-sitting arrangement. The committee noted that this subsequently occurred. The committee went on to find that the Premier had no knowledge at the time of the house-sitting arrangement that it was an interest that could be required to be registered. The Premier was therefore not guilty of a contempt for knowingly failing to register the benefit in the Register of Members' Interests in the time required.³

Two separate tests

9. With respect to allegations of a failure to register an interest the committee examines *two separate tests* and their elements as derived from the Standing Orders⁴—
10. Whether the matter required disclosure; and
11. If yes, has the non-disclosure resulted in a contempt?

Whether the Matter required disclosure?

12. 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.⁵
13. The Preamble contains numerous statements that indicate the intention of the register of interests is for disclosure. The Register of Members' Interests and Register of Related Persons' Interests are mechanisms to encourage and foster transparency, accountability and openness.⁶ Accordingly, the question of whether a member is required to register a benefit received needs to be considered in this context.

² *Matter of Privilege Referred by the Speaker on 13 November 2006 Relating to the Alleged Failure by a Member to Register a Private Loan in the Register of Members' Interests.*

³ MEPPC, *Matter of Privilege Referred by the Registrar on 21 July 2008 Relating to the Alleged Failure by the Premier to Register a Benefit Received in the Register of Members' Interests*, Report No. 93, Goprint, Brisbane, 2008 at 6.

⁴ Schedule 2 – *Registers of Interests. Standing Rules and Orders of the Legislative Assembly*: Effective from 31 August 2004 (amended 26 May 2005, 30 March 2006, 20 June 2006, 8 February 2007, 1 May 2007, 24 May 2007 and 12 February 2008).

⁵ Note 4.

⁶ Note 4.

14. Section 7 of Schedule 2 of the Standing Orders presents two potential categories of benefits requiring registration which the travel could potentially fall into. This includes 'sponsored travel or accommodation' under s. 7(2)(l) and 'any other interest' under s. 7(2)(p).

Sponsored travel or accommodation

15. Sponsored travel or accommodation is defined in schedule 2 as any travel undertaken, including accommodation incidental to the travel, or any accommodation benefit received, by the member or a related person in respect of which a contribution (whether in cash or kind) to the cost of the travel (including incidental accommodation) or the accommodation is made by a person other than the member or a related person.⁷
16. Helicopter flights paid for by a private person or a company would fall within this definition and therefore be required to be registered by the Member under section 7(2)(l) of the Standing Orders. However, there are four exceptions to the requirement to register according to this definition. The first exception is relevant in this case in that it states that sponsored travel or accommodation does not include:

(a) travel or accommodation received in an official capacity.

17. In his submission to the committee, Mr Springborg stated:

The travel on all occasions was official i.e. to or from parliament house or official engagements for party purposes i.e. making Party promotional material.

18. In addition, Mr Springborg's submission stated that he received advice from the Registrar early last year that the nature of this travel would not normally activate the disclosure sections of the Register of Members' Interest. Specifically Mr Springborg advised:

I had also received written advice from the Clerk earlier last year that the nature of this travel which I had alerted him to would not normally activate the disclosure sections of the Register of Members' Interest...

The Clerk indicated that on a discretionary basis I could consider a voluntary disclosure through the Member Register of Interests if I wished.

19. There is nothing before the committee to suggest that the travel was not in Mr Springborg's official capacity as the then Leader of the Opposition. Accordingly, the committee finds that Mr Springborg was not required to disclose the travel pursuant to s. 7(2)(l) of schedule 2 of the Standing Orders.

Any other interest

20. Section 7(2)(p) of the Standing Orders states that:

any other interest (whether or not of a pecuniary nature) of the member or a related person—

(i) of which the member is aware; and

⁷ Schedule 2, section 1 – definitions.

*(ii) that raises, appears to raise, or could foreseeably raise, a conflict between the member's **private interest** and their duty as a member [emphasis added].*

21. In his submission to the committee, Mr Springborg stated that there was no private interest to conflict with his duties as a member as the travel was in an official capacity. Furthermore, Mr Springborg indicated that he had received written advice from the Clerk earlier last year to the effect that he was not required to disclose the travel (as per extract above).
22. On the information before the committee, the committee finds that this was not a matter which met the minimum requirements for disclosure in the Register of Members' Interests.
23. From the information before the committee, the committee is of the view that Mr Springborg was not required to register the benefit in the Register of Members' Interests and therefore the second test does not need to be examined in this instance.
24. However, the committee notes that it would be difficult to prove that Mr Springborg knowingly failed to disclose the benefit in breach of schedule 2, given he had received advice from the Registrar to the contrary.
25. The committee takes this opportunity to encourage all members to seek advice from the Registrar or Integrity Commissioner if in any doubt about disclosing a benefit received.

Conclusion 1:

The committee finds that the member was not required to register the travel received, in an official capacity, in the Register of Members' Interests in accordance with schedule 2 of the Standing Orders.

Conclusion 2:

As a result of conclusion 1, the committee did not need to consider whether the Member knowingly failed to register the travel. However, the committee notes that it would be difficult to prove that Mr Springborg knowingly failed to disclose the benefit in breach of schedule 2, given he had received advice from the Registrar to the contrary.

Recommendation 1:

The committee recommends that the House take no action in relation to this matter.

Recommendation 2:

The committee encourages all members to seek advice in the future from the Registrar or Integrity Commissioner if in any doubt about disclosing a benefit received.⁸

Kerry Shine MP

Chair

June 2009

⁸ The committee notes clause 79 of the Criminal Code and Other Legislation (Misconduct, Breaches of Discipline and Public Sector Ethics) Amendment Bill, which provides for a Member of the Legislative Assembly to seek advice from the Integrity Commissioner (02.06.09).

Membership — 53rd Parliament

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