



FEDERAL LEGAL COMMISSION OF THE DEMOCRATIC ALLIANCE

INVESTIGATION REPORT

RAYBIN FIGLAND

1. REFERRAL

- 1.1. The Federal Legal Commission has been tasked with investigating allegations of misconduct against Mr Raybin Figland, a councillor in and deputy mayor of the George Local Municipality.
- 1.2. The referral of this investigation flows from a referral from the Western Cape Provincial Leader, Mr Tertuis Simmers. The complaint in this matter served before the Complaint Tagging Committee on 17 October 2023, where the decision was made that this matter was to be referred to the Federal Legal Commission for investigation.

2. BACKGROUND AND COMPLAINT

- 2.1. The substance of the complaint relates to an allegation that Figland had a sexually inappropriate relationship with a young woman, possibly a minor.
- 2.2. The complaint, initially brought to Simmers' attention by an anonymous source, disclosed a series of six WhatsApp screenshots of a conversation between an unknown person and Figland. The conversation was in informal Afrikaans and took place on 25 April 2022.

- 2.3. In the conversation, it is averred that Figland had requested nude photos from this person and that had one Brunice and this person's father not (accidentally) found out about it, it would never have stopped.
- 2.4. The person, identified as one Jay-Lynn, informs Figland that she is struggling to sleep and that what has happened between them is causing her severe anxiety and distress.
- 2.5. According to the texts of Jay-Lynn, Figland's wife had found out about the nude photos (when her young son found them on a cellphone to which he has access) and spread the story in the community. Jay-Lynn has effectively become a pariah as a result of what had happened.
- 2.6. In the screenshots, Figland at no stage denies what has happened, and instead seeks to placate Jay-Lynn by offering to talk to her at a later stage.
- 2.7. These screenshots appear to have found their way to Bohemia Jumatt, a journalist at Rapport, who published an article titled "*Gooi ma klippe sê DA-lid oor sekstekste*" on 15 October 2023.

3. METHOD OF INVESTIGATION

- 3.1. Upon receipt of this matter for investigation, the Federal Legal Commission met with persons involved in this matter at the DA East Region Offices in George on 30 October 2023. Limited information was obtained, and the matter was not finalized, largely due to obfuscation by role players and a lack of co-operation.
- 3.2. A consultation was also held with Simmers on 07 February 2024.
- 3.3. The Federal Legal Commission obtained two recordings in February 2024. In one of these recordings, the voice of Stag Cronje can be heard together with two others who identify themselves as Jay Lynn Saulse and Saulse Sr (her father). Saulse and Saulse Sr discuss the incident on the recording, which appears to have been made by Cronje.

- 3.4. After a protracted struggle, an address was obtained, which the investigators attended on 15 February 2024, without prior notification to the residents. Upon enquiring at the address, the resident indicated that he did not know a Jay-Lynn Saulse and that no person by that name has ever lived there.
- 3.5. A series of follow-up consultations (without prior notice) were facilitated in George and Mossel Bay on 15 February 2024.
- 3.6. All consultations were recorded, which recordings are in the possession of the Federal Legal Commission.

4. INFORMATION OBTAINED

4.1. Raybin Figland

- 4.1.1. Despite the Rapport article of 15 October 2023, at the initial consultation, Figland requested the screenshots and complaints prior to the consultation, which were promptly provided to him.
- 4.1.2. According to Figland, the WhatsApp messages were fake, and he was never involved with a minor.
- 4.1.3. Figland admitted that Jumatt made enquiries with both him and his wife about allegations that he (Figland) had relationships with minors. Figland expressly mentions that he did not have a relationship with a minor.
- 4.1.4. Figland further stated that he does not know a Jay-Lynn and that he only knows that the person who made the allegations was named Jay-Lynn.
- 4.1.5. This was clearly untrue, with Figland being very uncomfortable. When the contents of the screenshots were traversed with him, he became tearful and defensive, and changed his version dramatically. Figland's initial version

folded completely, and he could offer no explanation for his initial lies besides to say that he had been very afraid of the meeting.

- 4.1.6. Figland now admitted to knowing Jay-Lynn. This is Jay-Lynn Saulse, who is his niece by marriage (his wife's sister's husband's daughter).
- 4.1.7. He admitted that he and Saulse had the conversation that the screenshots referenced and that this conversation took place in 2022. Figland avered that he no longer had any record of this conversation, as he deleted the chat record and he alleged that he was no longer in contact with Saulse, nor did he have Saulse's contact number.
- 4.1.8. Figland was adamant in recording on more than one occasion that Saulse turned 21 in 2023 and was 19 or 20 years of age at the time of the conversation.
- 4.1.9. Figland confirmed that his wife, Brunice Figland, and Saulse's father found out about the conversations between him and Saulse, as well as about the photographs.
- 4.1.10. According to him, Figland would help Saulse with accommodation and work, and that evolved into chatting via text. Figland, however, denied ever having nude or sexual photos of Saulse and denied having any knowledge about the photos.
- 4.1.11. It is important to note at this stage that Figland was extremely hesitant when the Federal Legal Commission indicated that Saulse would have to be interviewed. Eventually, he agreed to attempt to find contact details for Saulse.
- 4.1.12. Despite initially denying any knowledge of what Saulse was referring to in the messages, Figland eventually admitted to receiving photos of a sexual nature from Saulse, which (according to him) photos depicted Saulse in her underwear. This, too, was clearly not true.
- 4.1.13. Again, it is important to note that the messages from Saulse to Figland specifically reference nude photos of Saulse sent to Figland at his behest.

This is not denied or challenged in the chat records, despite Figland being adamant that the photos were not nude photos.

4.2. Joshua Saulse

- 4.2.1. Figland called Mr Joshua Saulse, the father of Jay-Lynn Saulse, and requested that he attend the investigation interviews, which he did with some reluctance.
- 4.2.2. Joshua Saulse indicated that he did not see the screenshots of the conversations between Figland and Jay-Lynn. Saulse Sr confirmed that Jay-Lynn was 21 years of age at the time of the interview, having turned 21 in September 2023.
- 4.2.3. According to Saulse Sr, Jay-Lynn and Figland did not have a relationship, and he was of the view that nothing physical ever happened. Saulse Sr was aware there were photos.
- 4.2.4. Saulse Sr indicated that he was initially angry with Figland when he found out, but that this soon turned into disappointment. This has since eased to a state of understanding, as he understands that Figland is "*just a man*", and that the conversations between his daughter and Figland did not really say or mean anything. In his view, Figland made a stupid mistake, nothing more.
- 4.2.5. Saulse Sr confirmed that upon being informed of the news of the conversations and photos, he took Jay-Lynn's phone, but did not find any nude photos.
- 4.2.6. According to Saulse Sr, Jay-Lynn was at the time living on her own and was employed. She was apparently trying to put the incident behind her and that she was trying to focus on her future. When asked, Saulse Sr refused to tell the Federal Legal Commission where Jay-Lynn was employed or to provide any means of contacting her.

4.2.7. Saulse Sr was adamant that he would not provide the Federal Legal Commission with Jay-Lynn's contact details, nor would he allow her to be consulted.

4.2.8. It must be mentioned that as Jay-Lynn's father, Saulse Sr's "understanding" of the incident and the situation that Figland was in was extremely suspicious and it appeared that Saulse Sr was seeking to protect Figland over his own daughter,

4.3. Stag Cronje

4.3.1. Cronje was briefly consulted, as he had, ostensibly, heard about this incident at the local rugby club.

4.3.2. Cronje indicated that he spoke to Simmers and Ms Venolea Fortuin about this issue and that he provided Simmers with the name of Jay-Lynn Saulse.

4.3.3. Cronje did not know where the Federal Legal Commission could find Saulse, but he would try to find a contact number or further information.

4.3.4. Cronje confirmed that Saulse Sr was once an assistant coach at the local Crusaders Rugby Club in George and that he was indeed Jay-Lynn's father.

4.3.5. According to Cronje, despite taking place more than a year after the messages, the story was still gaining traction in the George area and appeared to still be spreading.

4.3.6. Despite not being entirely sure about the relationships, Cronje indicated that to his knowledge, this incident was a "family affair", and found it to be a very strange and unsettling situation.

4.3.7. Cronje failed to contact the FLC again, never providing any details of any further assistance.

4.4. Stag Cronje (2)

- 4.4.1. Cronje was interviewed for a second time on 15 February 2024, this time in respect of the recordings received by the FLC in February 2024, on which his voice can be identified.
- 4.4.2. Cronje admitted that he had not initially disclosed the recordings to the Federal Legal Commission but confirmed that he recorded the audio that features Saulse and Saulse Sr.
- 4.4.3. According to Cronje, the head coach at the Crusaders Rugby Club informed him of the matter.
- 4.4.4. Saulse Sr was very upset after having learned of the communication between Figland and his daughter, and the head coach suggested that he discuss the matter with Cronje, who was the George Caucus Chairperson at the time.
- 4.4.5. Cronje confirmed having met with Saulse and Saulse Sr, which meeting he estimates to have taken place in April 2022. Saulse, according to Cronje, dropped out of school after Figland's wife came to learn of the photos and was visibly upset about the incident.
- 4.4.6. Cronje further confirmed that Saulse looked very young to him when they met, but could not say how old she was exactly.
- 4.4.7. Apparently, Saulse was involved with a young man at the time, which relationship Figland had found out about.
- 4.4.8. This relationship was not known to Saulse Sr and Figland is purported to have used his knowledge of it to extort nude photos from Saulse.
- 4.4.9. Judging from how upset Saulse Sr was when he initially met with the head coach on the matter and during his interaction with Cronje, Cronje found it exceedingly strange that Saulse Sr has since changed tack on the matter as dramatically as he has. Though there is no evidence thereto, it is suspected that some sort of agreement was entered into between Saulse

Sr and Figland following the incident, which seems to have tempered his anger towards him.

4.4.10. Cronje indicated that according to his knowledge, Mrs Brunice Figland was appointed in the office of the Executive Mayor of the Garden Route District Municipality, Mr Memory Booysen, in an attempt to keep her quiet. It is further suspected that Saulse was given an EPWP position at GRDM in the process.

4.4.11. Of great concern is Cronje indicating that this does not appear to be an isolated incident, with rumours persisting that Figland had engaged in similar inappropriate relationships with other young and or underage children.

4.5. Memory Booysen

4.5.1. Booysen was consulted to ascertain the truth of Saulse's apparent appointment in the GRDM's EPWP.

4.5.2. Booysen did not recognize the name of Jay-Lynn Saulse but confirmed that Brunice Figland is indeed employed in his office.

4.5.3. No record could be found of Saulse's employment in the GRDM EPWP.

4.6. Brunice Figland

4.6.1. Mrs Figland is employed in the office of the Executive Mayor of GRDM and was willing to consult with the Federal Legal Commission on the matter.

4.6.2. Mrs Figland indicated that she is aware of the allegations against her husband, but denied that she had seen any of the photos referenced, nor is she aware of such photos.

4.6.3. Mrs Figland denies having a confrontation with her husband about the incident and confirmed that Saulse is not in the employ of the GRDM.

- 4.6.4. Mrs Figland managed to obtain the details of Mr Joshua Saulse, as well as the address where Ms Jay-Lynn Saulse was currently residing and provided same to the Federal Legal Commission. It must be borne in mind that Mrs Figland is the sister of Mr Saulse's wife.

4.7. Raybin Figland (2)

- 4.7.1. Figland was consulted a second time on 15 February 2024 and confronted with the information obtained by the Federal Legal Commission.
- 4.7.2. Stating that the main focus must be on the upcoming elections and that he fears the damage that it would do to the Party if this matter became public knowledge, Figland indicated that he would rather resign than cause the Party harm. He made it clear that this was not really a feasible option, as the press would then highlight the fact that "another black leader" had left the DA, thereby insinuating that the matter should not be pursued. Figland does not deny that he had relationships with other young people, similar to Saulse, but again insists that they were all 18 years of age or older. There appears to be no appreciation whatsoever that an adult, deputy mayor should set a much better example.
- 4.7.3. Figland further denied that there was any arrangement or agreement with Saulse Sr.

4.8. Jay-Lynn Saulse

- 4.8.1. Figland called Saulse Sr and asked him to attend the consultation with the Federal Legal Commission with Jay-Lynn Saulse.
- 4.8.2. Jay-Lynn Saulse was interviewed without Figland or Saulse Sr being present, despite their clear reluctance to allow this. She confirmed that she is currently 21 years old.

- 4.8.3. Saulse was asked whether she recalls the conversation with Cronje, which was recorded. She acknowledged that she recalled the conversation and declined to listen to it again. She confirmed the basics of the conversation that she had with Cronje, which was recorded.
- 4.8.4. Saulse confirmed that Figland had forced her to provide nude photographs (*fotos van my lyf en my privaatdele*) in an extortive manner after finding out that she was in a relationship with another person. This took place early in her matric year, though she could not provide any dates or an estimate of when this was. Saulse could, however, confirm that it was in the first half of the year.
- 4.8.5. Saulse indicated that she had to send Figland nude photos to keep him quiet about the relationship, as she was afraid of what her father's reaction would be. It is patently obvious that she is severely traumatized by the events, and is terrified of her father.
- 4.8.6. Saulse dropped out of school as a result of the matter becoming public and the subsequent emotional toll that the matter took on her. She had deleted the photos sent to Figland and the phone from which they were sent has since been stolen.
- 4.8.7. Saulse appeared to be very uneasy talking about the matter and was initially very uncomfortable. She confirmed that she is afraid of her father and that this matter still causes her a great deal of distress.
- 4.8.8. Saulse was encouraged to contact the investigators in the event that she feared for her wellbeing, which invitation she accepted. She also indicated that she would be open to counselling to address the trauma that she has suffered as a result of this matter, though she indicated that she was not too sure how her father would react to her receiving same.
- 4.9. **Joshua Saulse (2)**
- 4.9.1. A follow-up consultation was conducted with Saulse on 15 February 2024. He could not provide any further insights into the matter at hand, though he

showed a deeply troubling hierarchical worldview of the position of men and women in society and the family.

4.9.2. Saulse Sr is not deemed to be trustworthy and showed a great deal of animosity towards Cronje, who made the recording of his and Saulse's report of the incident. He confirms the recorded conversation with Stag Cronje. He offers no explanation for his failure to act to protect his daughter, and is clearly on friendly terms with Figland.

4.10. Upon arriving back in Cape Town on 15 February 2024, Cronje informed the Manager of the Federal Legal Commission that following the consultation that with Figland, Figland had sent him the following message:

"Ek hoop regtig dat dit met jou goed sal gaan en as ek ooit enige haat aan jou gedoen het j my sal kan vergewe"

4.11. Cronje was advised not to respond to this message and to keep his relationship with Figland professional. This message is, however, seen as a clear attempt by Figland to influence a witness in this matter.

5. LEGISLATION

5.1. As a society, understanding the implications of sexual abuse against children is very important, not only from a legal perspective but also from that of the developmental psychology of the child post the abuse. Apart from being the morally and ethically right thing to do, as members of society, everyone has a legal duty to report sexual or other abuse committed against children.

5.2. Due to their young age and being in a powerless position in society, children are more vulnerable and have less opportunity to protect themselves. Adults, therefore, have an increased responsibility to act on a child's behalf, hence the Constitution in terms of section 28(2) making the best interests of the child of paramount importance in every matter concerning the child.

- 5.3. More often than not, people are unsure as to how exactly they can go about reporting a case of sexual abuse against a child, especially since the duty to report is set out in two different pieces of legislation, that being the Children's Act 35 of 2005 and the Criminal Law (Sexual Offenses and Related Matters) Amendment Act 32 of 2007.
- 5.4. Even though these two pieces of legislation both make provision for and are firmly positioned to do away with the affliction that is sexual abuse against children, there are subtle differences between them. It is important to note that these differences highlight the varying notions on the concept of reporting that the Acts prescribe.
- 5.5. Children's Act 35 of 2005
 - 5.5.1. A duty to report arises:
 - 5.5.1.1. If the person making the report can conclude on reasonable grounds that a child has been:
 - 5.5.1.2. Abused in a manner causing physical injury; or
 - 5.5.1.3. Sexually abused; or
 - 5.5.1.4. Deliberately neglected.
 - 5.5.2. Therefore, it is important to note that such a conclusion will be based on a balance of probabilities and influenced by an observation of signs and indicators.
 - 5.5.3. The report should be made to the following persons/bodies:
 - 5.5.3.1. A designated child protection organisation; or
 - 5.5.3.2. Their provincial department of social development; or
 - 5.5.3.3. A police official.
 - 5.5.4. The following protocols are to be followed when reporting:

- 5.5.4.1. Regulation 33 of the Children's Act Regulations, which specifically pertains to the reporting of abuse and/or the deliberate neglect of a child, makes provision for how a report which is made in terms of section 110 should be effected.
- 5.5.4.2. In terms of Regulation 33(1), such report must be on a form, which is identical to that of Form 22; and must be inclusive of any relevant particulars known or in possession of the person making the report. The person completing the report must do so to the best of their ability. It is also important to note that, where more than one child is exposed to the abuse when making a report, a separate form must be completed for each child.
- 5.5.4.3. In terms of Regulation 33(2), the provincial department of social development, designated child protection organisation or police official to whom a report has been made, must submit the particulars of the abuse in a form identical to that of Form 23 to the Director-General for inclusion in Part A of the National Child Protection Register. Again, a separate form must be used for each child in the instance that the abuse affects more than one child.
- 5.5.4.4. The abovementioned forms can be accessed on the Department of Justice Website. Similar versions can be sourced from various websites online.
- 5.5.5. Neglecting to report can hold the following legal consequences:
 - 5.5.5.1. In terms of section 305(6) of the Children's Act, a convicted person is liable to a fine or imprisonment for a period not exceeding ten years, or to both a fine and such imprisonment.
 - 5.5.5.2. In terms of section 305(7) of the Children's Act, a person convicted of such an offence more than once is liable to a fine or imprisonment for a period not exceeding twenty years, or to both a fine and such imprisonment.

5.6. Criminal Law (Sexual Offenses and Related Matters) Amendment Act 32 of 2007

5.6.1. In terms of section 54(1)(a) & (b), a person who has knowledge that a sexual offence has been committed against a child must report such knowledge immediately to a police official. Any person who fails to make the necessary report under this section will be considered to have committed a criminal offence, punishable with a fine or imprisonment of 5 years or both.

5.6.2. In terms of section 54(2)(c), any person who in good faith reports such reasonable belief or suspicion shall not be liable to any civil or criminal proceedings by reason of making such report.

5.6.3. A duty to report arises if a person has:

5.6.3.1. Knowledge; or

5.6.3.2. A reasonable belief; or

5.6.3.3. Suspicion,

that a sexual offence has been committed against a child.

5.6.4. The report should be made to a police official.

5.6.5. No particular protocol is expected to be adhered to by members of the public when reporting the sexual abuse of a child. However, it is important to stipulate that such a report can be made in one of two ways, which are:

5.6.5.1. By telephone/cell phone, or

5.6.5.2. In-person

5.6.6. When making the report in person, the reporting party can do so at any police station in the country, irrespective of the fact that that police station is outside of the jurisdiction of either the victim's home or where the alleged sexual abuse occurred.

5.6.7. Neglecting to report can hold the following legal consequences:

5.6.7.1. A fine or imprisonment not exceeding five years or both.

5.7. Regardless of the subtle differences between the Acts that have been highlighted above, the most imperative aspect that we must be cognisant of when it comes to the issue of reporting sexual abuse against children, is the fact that one cannot choose which Act to follow and simply ignore the other. Therefore, in cases of sexual abuse of children, it is required to report the abuse to a police official in order to ensure compliance with both Acts. The only time when an individual may report to a designated child protection organisation or the provincial department of social development and not to a police official is when they are reporting abuse, which is not of a sexual nature, or the deliberate neglect of a child in terms of the Children's Act.

6. CONSIDERATION

- 6.1. Figland is the deputy mayor in the George Local Municipality, a position which does not only carry with it certain privileges, but also a great degree of responsibility.
- 6.2. As a leader in the local executive government, Figland is expected to show *uberrima fides* in his conduct, the highest standard of good faith. Engaging in extortionist behaviour, regardless of the age of the person involved, does not meet this standard by any stretch of the imagination. He lies without hesitation and shows no sign of any embarrassment when caught out in his lies.
- 6.3. Furthermore, the age of Saulse is only relevant in determining whether Figland committed a crime and is not a deciding factor in determining whether a *prima facie* act of misconduct has been committed. It is argued that the age difference and vast socio-economic and relative power disparity

at play in this matter are sufficient to argue that Figland has exploited Saulse.

- 6.4. From the information that has been obtained by the Federal Legal Commission, there is certainly *prima facie* evidence that Figland has committed an act of misconduct in terms of the Federal Constitution.

7. RECOMMENDATION

- 7.1. From the above, the Federal Legal Commission finds that there is *prima facie* evidence that Figland has committed an act or omission that constitutes misconduct in terms of the *Federal Constitution of the Democratic Alliance*.
- 7.2. Accordingly, it is recommended that there is sufficient evidence of a *prima facie* act of misconduct having taken place and that this evidence must be presented to a disciplinary panel for consideration.
- 7.3. It is therefore recommended that Mr Raybin Figland be charged accordingly and that this matter be referred for a disciplinary hearing.
- 7.4. Furthermore, it is submitted that given the actions of Figland immediately after the Federal Legal Commission's consultation on 15 February 2024 in contacting Cronje, it would be prudent if the Federal Executive considers suspending Figland pending the finalisation of the disciplinary process.
- 7.5. The Federal Executive may also wish to lodge a "red-flagging" application in respect of Figland's candidature for the 2024 National and Provincial Elections, though formally recommending that such an application be brought falls outside the scope of the Federal Legal Commission.
- 7.6. Additionally, and perhaps outside the remit of the Federal Legal Commission, it is recommended that the Party be willing to cover any costs that may be incurred in Jay-Lynn Saulse receiving the necessary

counselling and psychological treatment to address the trauma resulting from her interaction with a senior Party official.

- 7.7. Finally, it is recommended that, if the Party is of the view that a possible transgression in terms of the Children's Act 35 of 2005 or Criminal Law (Sexual Offenses and Related Matters) Amendment Act 32 of 2007 has been committed, that the matter be reported in line with the requirements of those acts.

So dated on this 20th day of FEBRUARY 2024

Adv G Breytenbach

Mr G Michalakis

Mr MG Victor

Committee Assistants