
STATES OF JERSEY



COMMISSIONER FOR STANDARDS: INVESTIGATION OF COMPLAINT OF BREACH OF THE CODE OF CONDUCT FOR ELECTED MEMBERS BY DEPUTY M.R SCOTT OF ST. BRELADE

**Presented to the States on 29th August 2023
by the Privileges and Procedures Committee**

STATES GREFFE

REPORT

Introduction

1. In March 2023, Deputy S.Y. Mézec, President of the Scrutiny Liaison Committee referred a matter to the Commissioner for Standards which concerned language used by Deputy M.R Scott towards Deputy M.B Andrews. It was alleged that Deputy Scott used inappropriate language towards Deputy Andrews on two occasions: once in November 2022 over the telephone and once on a Microsoft Teams meeting in February 2023.
2. On 12th January 2023, Deputy Scott apologised to Deputy Andrews for the November 2022 swearing incident, which he accepted. In relation to the February 2023 swearing incident, there is disagreement between the two Deputies as to whether Deputy Scott apologised.

Commissioner's conclusions

3. The Commissioner concluded that Deputy Scott breached the requirements of Article 5 of the Code of Conduct for Elected Members by using the language that she used towards Deputy Andrews. Article 5 of the Code of Conduct is set out below:

5 Maintaining the integrity of the States

Elected members should at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of the States of Jersey and shall endeavour, in the course of their public and private conduct, not to act in a manner which would bring the States, or its Members generally, into disrepute. Elected members should at all times treat other members of the States, officers, and members of the public with respect and courtesy and without malice, notwithstanding the disagreements on issues and policy which are a normal part of the political process.

4. In concluding the breach of Article 5, the Commissioner recommended that Deputy Scott should apologise to the States for her behaviour which led to a breach of the Code of Conduct.

PPC's conclusions

5. Standing Order 158 prescribes what PPC shall do on receipt of a report from the Commissioner for Standards:

158 Outcome of investigation by the Commissioner for Standards

- (1) When the Commissioner for Standards has reported the outcome of an investigation to the PPC under Article 9(1)(c) of the Commissioner for Standards (Jersey) Law 2017 in relation to the code of conduct for elected members of the States set out in Schedule 3, the PPC –

- (a) shall review the Commissioner's report;
 - (b) shall give the elected member whose act has been investigated the right to address the PPC, accompanied, if the elected member wishes, by a person of his or her choice;
 - (c) shall form an opinion, on the basis of the information before it, as to whether or not the elected member has breached the code of conduct and what action, if any, should be taken;
 - (d) shall inform the elected member of its opinion with reasons and what action, if any, it thinks should be taken; and
 - (e) may report its opinion and reasons, and any action it thinks should be taken, or which has been taken, to the States.
- (2) When the Commissioner for Standards has reported the outcome of an investigation to the States under Article 9(1)(c) of the Commissioner for Standards (Jersey) Law 2017 in relation to the code of conduct and code of practice for Ministers and Assistant Ministers referred to in Article 18(3A) of the Law, the PPC shall –
- (a) follow the procedure set out in sub-paragraphs (a) to (e) of paragraph (1) in relation to that report; or
 - (b) make the report of the Commissioner for Standards available to the States.
- (3) The report by the PPC referred to in paragraph (1)(e) may be presented to the States in writing or made orally by the chair of the PPC in a statement.

6. PPC invited Deputy Scott to give her response to the report, and she attended, unaccompanied, upon the Committee on 25th August 2023. Deputy Scott acknowledged the two swearing incidents but maintained that she had apologised to Deputy Andrews for both incidents at the time. Nevertheless, Deputy Scott recognised the breach of Article 5 of the Code of Conduct and apologised for both misdemeanours.
7. PPC accepts the Commissioner's finding that Deputy Scott breached Article 5 of the Code which specifies that Elected Members should at all times treat other members of the States, officers, and members of the public with respect and courtesy and without malice, notwithstanding the disagreements on issues and policy which are a normal part of the political process.
8. PPC concurs with the Commissioner's recommendation that an apology is made by Deputy Scott. The Committee believes that it would be sufficient for Deputy Scott to write a personal letter of apology to Deputy Andrews which should be sent through the Chair of PPC. The Committee has therefore requested Deputy Scott to act accordingly.

PAN-ISLAND
COMMISSIONER
FOR STANDARDS



Report by the Pan-Island Commissioner for Standards on a complaint
against Deputy Moz Scott referred by Deputy Sam Mézec, President of the
Scrutiny Liaison Committee

Government of Jersey

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Summary

I received a referral on 24 March 2023 from Deputy Sam Mézec, President of the Scrutiny Liaison Committee. The complaint relates to language used by Deputy Moz Scott towards Deputy Max Andrews and cites an alleged breach of paragraph 5 “Maintaining the integrity of the States” in the Code of Conduct for Elected Members.

It is alleged that Deputy Scott used inappropriate language towards Deputy Andrew on two occasions; once in November 2022 over the telephone and once on a Microsoft Teams meeting on 14 February 2023. On both occasions she told him to “f*** off”. On 12 January 2023, Deputy Scott apologised to Deputy Andrews for the November 2022 swearing incident, which he accepted. In relation to the 14 February 2023 swearing incident, there is disagreement between the deputies as to whether Deputy Scott apologised.

After considering all of the evidence in relation to this complaint, including written responses, documentary evidence and interviews, I found that Deputy Moz Scott breached Paragraph 5 of the Code of Conduct for Elected Members by using the language that she used towards Deputy Andrews.

Introduction

1. I received a referral on 24 March 2023 from Deputy Sam Mézec, President of the Scrutiny Liaison Committee (“SLC”) alleging that Deputy Moz Scott, Chair of the Economics and International Affairs Panel (“EIAP”) breached Paragraph 5 of the Code of Conduct for Elected Members due to the language used by Deputy Scott towards Deputy Max Andrews. Deputy Mézec states that the SLC regrettably, despite having engaged with Deputy Scott on three occasions, had not been able to satisfactorily resolve the situation and was guided by the provisions of the Scrutiny and Public Accounts Committee Proceedings: Code of Practice (Paragraph 125) in submitting the complaint to the Commissioner for Standards in order to achieve an appropriate resolution to the matter.
2. The provisions of the Code of Conduct for Elected Members relating to the allegations above are:

“5 Maintaining the integrity of the States

Elected members should at all times conduct themselves in a manner which will tend to maintain and strengthen the public’s trust and confidence in the integrity of the States of Jersey and shall endeavour, in the course of their public and private conduct, not to act in a manner which would bring the States, or its Members generally, into disrepute.

Elected members should at all times treat other members of the States, officers, and members of the public with respect and courtesy and without malice, notwithstanding the disagreements on issues and policy which are a normal part of the political process.”

Scope of the Complaint

3. Whilst I have received an abundance of information which I have considered carefully, the focus of my investigation has been on the substantive issue of conduct. In particular, I examined the allegation that Deputy Scott had breached Paragraph 5 of the Code of Conduct for Elected Members by using inappropriate language towards Deputy Andrews on two occasions.

Investigation

4. During the course of my investigation, I carried out the following:
 - Reviewed the complaint
 - Requested a written response from Deputy Scott, Chair of the EIAP
 - Reviewed written responses and evidence submitted by Deputy Scott
 - Interviewed Deputy Scott
 - Interviewed Deputy Andrews
 - Interviewed Deputy Raluca Kovacs

Background and context

5. Deputy Scott and Deputy Andrews are States Members who were elected in 2022 and worked together on the EIAP. Up to December 2022, the EIAP consisted of Deputy Scott (Chair), Deputy Kovacs (Vice-Chair) and Deputy Andrews (Member). All three deputies agree, for various reasons, that relationships on the Panel deteriorated over time. There were assertions by Deputy Andrews and Deputy Kovacs relating to the behaviour of the Chair, Deputy Scott, in relation to timekeeping, question formulation and delivery as well as the general style of communication with and between Panel members. On 29 November 2022, Deputy Andrews and Deputy Kovacs met with the States Greffe and Chair of the PPC to discuss their difficulties on the Panel and their options in relation to the EIAP including bringing a potential vote of no confidence against Deputy Scott. On 21 December 2022, the States Greffe recommended mediation but Deputy Andrews and Deputy Kovacs declined mediation on the grounds that it was expensive and would likely not have a positive outcome.
6. Connétables Richard Honeycombe and Marcus Troy agreed to become members of the EIAP in late December 2022. Various efforts by Deputy Scott, Deputy Andrews and Deputy Kovacs to try and sort their differences out as a panel were not successful. On 21 March 2023, Deputy Kovacs announced that she and the other three EIAP members were resigning. As it transpired, only Deputy Kovacs and Deputy Andrews resigned.
7. While there are finer details relating to the working of the EIAP contained in the complaint, this investigation did not focus on the way the EIAP functioned in terms of its scrutiny role or the politics surrounding the EIAP. This investigation focused on whether Deputy Scott used inappropriate language in breach of the Code of Conduct for Elected Members.

Evidence

8. Deputy Scott admits to using inappropriate language towards Deputy Andrews. This occurred on two occasions; once in November 2022 over the telephone and once on a Teams meeting on 14 February 2023. On both occasions she told him to “f*** off”.
9. On 12 January 2023, Deputy Scott apologised to Deputy Andrews for the November 2022 swearing incident, which he accepted. In relation to the 14 February 2023 swearing incident, there is disagreement between the deputies; Deputy Scott claims she did apologise on 24 February 2023 and Deputy Andrews alleges she did not apologise.
10. In Deputy Scott’s written response and at interview, she asserts that she was provoked by Deputy Andrews in relation to telling him to “f*** off”. As part of her written evidence, she stated:

I was exasperated, worn out and angry at the unnecessary situation he was putting me in and used the most concise form of words that came into my head at the time to end the call and enable me to return to my constituent work rather than have an unproductive and distracting conversation discussing his feelings and perception of my personal flaws without him accepting my position regarding my own feelings about him, having already refused mediation.

11. Deputy Scott claims that Deputy Andrews' complaint submitted via the SLC is vexatious. She stated in her written evidence:

Prior to Deputy Mézec referring this matter to you, Deputy Andrews attended a meeting of the Scrutiny Liaison Committee on 4 April in his capacity as Vice-Chair of one of the Scrutiny Panels on which he sits (although I recall both Chairs being in attendance at that meeting). Immediately after the meeting closed, and officers were absent, he sought a meeting of the SLC without officers to discuss his complaint. He said that he had made it to gain my attention to discuss his grievance against me. He suggested that he would withdraw it if I did not proceed with my complaint against him.

12. When asked why he decided to submit a complaint, Deputy Andrews stated at interview:

Well, the reason why I brought the complaint to the Scrutiny Liaison Committee, I felt we had exhausted all angles. I had spoken to Deputy Scott on numerous occasions and she had not taken my stance seriously, that there were problems on the panel. During my interaction with her, she was dismissive and a couple of times I was very upset with how she acted towards me. After my meeting on the 7th of March, with Connétable Honeycombe, we had both been reprimanded a couple of times during the meeting, before officers, and that was the point where I thought something has to be done, and I'd rather not go to the Commissioner for Standards at that point, because I think the Scrutiny Liaison Committee should be the first port of call, and failing that, then it should be accelerated to the Commissioner for Standards.

He further stated in his written evidence:

I mentioned to Deputy Scott at the end of the Scrutiny Liaison Committee that I never wanted to accelerate my complaint to the Commissioner. I believed the Scrutiny Liaison Committee needed to get involved. Speaking to the Chair of the Scrutiny Liaison Committee I was hoping Deputy Scott would acknowledge that the swearing incidents were not acceptable. As I had left the Panel, I mentioned at the end of the meeting that it was futile filing two complaints when we could speak through things with everybody in the room. The Deputy seemed antithetical in discussing this matter with the Scrutiny Liaison Committee which was disappointing.

Findings of Fact

13. I found the following facts established to the required standard of proof:
 1. In November 2022, whilst on the telephone Deputy Scott, Chair of the EIAP, told Deputy Andrews to "f*** off".
 2. On 29 November 2022, Deputy Andrews and Deputy Kovacs attended a meeting with the States Greffe and the Chair of the Privileges and Procedures Committee ("PPC") to discuss their options on the Panel, which included a potential vote of no confidence in Deputy Scott.
 3. On 12 January 2023, during a meeting with Deputy Andrews and Deputy Raluca Kovacs, Deputy Scott apologised for her language towards Deputy Andrews in November 2022.

4. On 16 January 2023, Deputy Scott reprimanded Deputy Andrews in front of two civil servants; this incident was reported to the States Greffe.
 5. On 14 February 2023, Deputy Scott told Deputy Andrews to “f*** off” on a Teams call.
 6. On 24 February 2023, Deputy Scott admitted that she told Deputy Andrews to “f*** off” on 14 February 2023.
 7. On 1 March 2023, Deputy Scott encouraged Deputy Andrews to report her to the Commissioner for Standards in relation to the two swearing incidents.
 8. On 7 March 2023, following an EIAP meeting, Deputy Andrews sent an email to the SLC relating to Deputy Scott’s conduct at the EIAP meeting.
 9. On 9 March 2023, following an EIAP meeting, Deputy Andrews sent an email to the SLC relating to Deputy Scott’s conduct at the meeting.
 10. On 10 March 2023, Deputy Mézec wrote to Deputy Scott outlining the “Conduct Complaint” relating to her use of language towards Deputy Andrews.
 11. On 13 March 2023, Connétable Troy emailed Deputy Scott expressing that he was uncomfortable with the way both Deputy Kovacs and particularly Deputy Andrews were cut off by Deputy Scott and seemingly reprimanded for not having concise questions for the Tourism Strategy Meeting.
 12. On 16 March 2023, Deputy Mézec wrote to Deputy Scott requesting that she confirm whether she told Deputy Andrews to “f*** off”.
 13. On the 24 March 2023, Deputy Mézec referred the complaint to the Commissioner for Standards.
14. Deputy Scott was afforded an opportunity to challenge any of the above findings before I finalised my report. She did not challenge any of the findings of fact.

Reasoned Decision

15. Deputy Andrews submitted this formal complaint against Deputy Scott via the SLC under the Chairmanship of Deputy Mézec. In relation to Deputy Scott refusing to answer Deputy Mézec’s question as to whether she used the language she did towards Deputy Andrews, Deputy Scott told me “I wanted an independent person to actually hear it”. It was Deputy Scott’s prerogative to have the complaint heard by an independent person such as the Commissioner for Standards.
16. Deputy Andrews asserts that Deputy Scott, in her capacity as Chair of the EIAP, at times cut him off, did not listen to him, did not keep to time, contacted him out of normal working hours, among other criticisms. It is my view that if Deputy Andrews did not like the way Deputy Scott chaired the EIAP, he was free to resign and did so in March 2023.

17. Deputy Scott admits to using inappropriate language towards Deputy Andrews; she admits that she told Deputy Andrews to “f*** off” on two occasions. Deputy Andrews had previously told Deputy Scott that he did not like the use of bad language (prior to the swearing incidents in question). Deputy Scott asserts that she was provoked by Deputy Andrews. On balance, I believe it was a culmination of events that led up to each of the occasions that could have led to Deputy Scott’s use of such language. It is conceivable that Deputy Scott’s patience was running thin with Deputy Andrews; she stated at interview that “he could try the patience of a saint”.

18. Deputy Andrews states that he was never rude to Deputy Scott. He maintains she didn’t react well if you disagreed with her or challenged her--that it was “her way or the highway”. Deputy Andrews highlighted the initial swearing incident, stating at interview:

So I received a phone call and she imploded. That's the only way how I can describe it. She just went into a tirade, and I was uncertain how to deal with it. So I was just in silence, but she was shouting profanities down the phone. I've never seen her like this. I've seen her be tenacious and abrasive but never raise her voice. The conversation lasted about three minutes, and towards the tail end of the conversation I said, 'I think you need to calm down.' And that was when she said, 'F off.' But during the phone call she threatened to call me back, once she had calmed down, and that was something that was very unwelcomed....

19. It is my considered view that Deputy Scott appears to have been exasperated by Deputy Andrews’ behaviour towards her leading up to the 14 February 2023 when Deputy Scott used inappropriate language towards him. It appears to have been after Deputy Andrews told her that she needed to “calm down”. From experience, telling someone who is “in a tirade” to calm down rarely has a calming effect. It potentially has the opposite effect and can upset or make a person angrier as it can feel like emotions are being invalidated. It can also come across as condescending.

20. Deputy Scott apologised for the swearing incident which occurred in November 2022. I am left unsure as to whether there was an apology by Deputy Scott for the 14 February 2023 incident as recollections appear to vary. On balance, I do not believe Deputy Scott has apologised and I do not believe Deputy Andrews believes she has apologised.

21. Rule 5 states that “Elected members should at all times conduct themselves in a manner which will tend to maintain and strengthen the public’s trust and confidence in the integrity of the States of Jersey and shall endeavour, in the course of their public and private conduct, not to act in a manner which would bring the States, or its Members generally, into disrepute. Elected members should at all times treat other members of the States, officers, and members of the public with respect and courtesy and without malice, notwithstanding the disagreements on issues and policy which are a normal part of the political process.”

22. Notwithstanding the fact that Deputy Scott felt exasperated by Deputy Andrews, the language used by Deputy Scott towards Deputy Andrews was not respectful or courteous; it was not a normal part of the political process in terms of disagreements on issues and policy. Further, the use of such language by one Member towards another could bring the States into disrepute. As such, Deputy

Scott breached the Code of Conduct, Paragraph 5, when she used inappropriate language towards Deputy Andrews.

Other Observations

23. As is often the case, during the course an investigation items may emerge which, whilst not directly related to proving the allegations of the immediate complaint(s) *per se*, are nonetheless observations of importance in terms of providing advice on standards of conduct and further promoting standards in public life. The following are such observations.
24. Both Deputy Scott and Deputy Andrews are new members. Whilst other States Members and staff at the States Greffe have attempted to provide advice and support to both deputies throughout the difficulties they've been experiencing, it escalated to a point where Deputy Andrews either thought, was perhaps advised by someone, or even motivated by Deputy Scott's suggestion, that submitting a complaint to the Commissioner for Standards was the right way to address his concerns over Deputy Scott's failure to apologise for her language. Ultimately, it was his decision in accordance with the SLC guidelines and its Chair Deputy Mézec to submit the complaint. It is my view, however, that this complaint would have been better dealt with through mediation which was offered and declined by Deputy Andrews. I am not convinced a formal complaint was the best and most efficient way to try and resolve the issue.

Recommendations

25. Deputy Scott should apologise to the States for her behaviour which has led to a breach of the Code of Conduct for Elected Members as outlined in this report.

16 August 2023

Dr Melissa McCullough

Pan Island Commissioner for Standards

Annex A

Document	Description
1	Complaint: SLC Pres to Commissioner for Standards - Scott Conduct
2	Additional Information bundle - SLC referral of Scott complaint - 2023.03.24
3	Scrutiny Liaison Committee Referral of Conduct Complaint
4	Deputy M Scott response to complaint
5	Appendix -Expanded Complaint History M Scott
6	Extra email evidence Moz Scott
7	Interview transcript Deputy Scott
8	Interview transcript Deputy Kovacs
9	Interview transcript Deputy Andrews (20230001/4/6)