

STATES OF JERSEY



AMENDMENT (NO. 54) TO STANDING ORDERS – AMENDMENTS TO THE CODE OF CONDUCT FOR ELECTED MEMBERS AND RELATED MATTERS (P.1/2022) – AMENDMENT

**Lodged au Greffe on 15th February 2022
by the Privileges and Procedures Committee
Earliest date for debate: 1st March 2022**

STATES GREFFE

AMENDMENT (NO. 54) TO STANDING ORDERS – AMENDMENTS TO
THE CODE OF CONDUCT FOR ELECTED MEMBERS AND RELATED
MATTERS (P.1/2022) – AMENDMENT

1 PAGE 2, PARAGRAPH 1 –

In the definition of “relevant person” –

- (a) in paragraph (b), replace the words “a child” with the words “a dependent child” and after the word “cohabitee;” insert the word “and”;
- (b) delete paragraph (c) and redesignate paragraph (d) accordingly; and
- (c) replace paragraph (c) with the following paragraph –

(c) “any other relative who is a member of the member’s household”.

2 PAGE 2, PARAGRAPH 4 –

Designate the existing paragraph as paragraph (1) and at the end insert the following new paragraph –

“(2) The debate on a proposition lodged under this standing order must be held in camera”.

3 PAGE 3, PARAGRAPH 8 –

In proposed Standing Order 106, paragraph (3), delete the words “shall withdraw from any debate on the matter and”.

4 PAGE 3, PARAGRAPH 11 –

Delete paragraph 11 and renumber the remaining paragraphs accordingly.

5 PAGE 4, PARAGRAPH 13 –

In proposed Standing Order 153 –

- (a) in paragraph (2), after the word “occurring” insert the words “, or of the member becoming aware of the change or addition”; and
- (b) after paragraph (2) insert the following new paragraph and renumber the subsequent paragraphs accordingly –

“(3) In registering an interest held by a relevant person, a Member is not required to name the relevant person or to specify the nature of the relationship between the relevant person and the Member.”.

6 PAGE 5, PARAGRAPH 15 –

Replace paragraph 15 with the following new paragraph –

“15. In paragraph 1 [Employment, offices, directorships and partnerships], after sub-paragraph (3), insert the following sub-paragraph and renumber sub-paragraph (4) accordingly –

(4) If an elected member’s total income from any interest declared under this paragraph exceeds 25%, 50% or 75% of their total annual income in the previous 12 months, he or she must register which of these thresholds has been surpassed.”.

7 PAGE 5, PARAGRAPH 16 –

Replace paragraph 16 with the following new paragraph:

“16. In paragraph 2 [Self-employment, etc.], after sub-paragraph (3), insert the following sub-paragraph:

(4) If an elected member’s total income from any interest declared under this paragraph exceeds 25%, 50% or 75% of their total annual income in the previous 12 months, he or she must register which of these thresholds has been surpassed.”.

8 PAGE 6, PARAGRAPH 20 –

In proposed section 5, after paragraph (3) insert the following new paragraph –

“(4) A Connétable is not required to register an interest in relation to a gift, hospitality or benefit if the giving or offer of the gift, hospitality or benefit entirely relates to his or her parochial duties and confers no personal benefit on the Connétable or a relevant person.”

9 PAGE 7, PARAGRAPH 22 –

In proposed section 7 [Land] –

- (a) delete paragraph (2);
- (b) in paragraph (3), after the word “cohabitee” insert the words “or other relevant person”;
- (c) in paragraph (4), delete the words “, including the amount of income received from this source over the previous 12 months if that amount exceeds £10,000” and at the end of the paragraph insert the following new sub-paragraph –

- (5) If an elected member’s total income from any interest declared under this paragraph exceeds 25%, 50% or 75% of their total annual income in the previous 12 months, he or she must register which of these thresholds has been surpassed.”; and
- (d) re-designate paragraphs accordingly.

PRIVILEGES AND PROCEDURES COMMITTEE

Note: After this amendment, the proposition would read as follows –

THE STATES are asked to decide whether they are of opinion to make the following amendments to the Standing Orders of the States of Jersey, with immediate effect –

1 Page 12, Standing Order 1 [Interpretation]

After the entry for “Public Finances Law” insert the following new entry –

““Relevant person” means –

- (a) the member’s spouse, civil partner or cohabitee;
- (b) a dependent child of the member or of their spouse, civil partner or cohabitee and;
- (c) any other relative who is a member of the member’s household.”.

2 Page 24, Standing Order 21A [Additional requirements for proposition to suspend member]

In the title, after the words “suspend member” and in paragraph 3, after the words “be suspended” insert the words “as a sanction for certain actions”.

3 Page 24, Standing Order 21A [Additional requirements for proposition to suspend member]

In paragraph 3, after the words “duration of the suspension” insert the words “which must not be for longer than 28 days”.

4 Page 24, after Standing Order 21A, insert the following new Standing Order –

“21AA Additional requirements for proposition to suspend member as a neutral act

(1) A proposition that a member of the States be suspended as a neutral act may only be lodged by the PPC and must propose the duration of the suspension.

(2) The debate on a proposition lodged under this standing order must be held in camera.”.

5 Page 26, Standing Order 26 [Minimum lodging period]

In paragraph (3)(d) delete the words “or expelled from the States”.

6 Page 61, Standing Order 103 [Member cannot speak twice in debate]

In paragraph (2)(e) substitute the words “censure or suspend” for the words “censure, suspend or expel”.

7 Page 63, Standing Order 104A [Time limits on speeches in debates]

In paragraph (5) substitute the words “censure or suspend” for the words “censure, suspend or expel”.

8 Page 63, replace Standing Order 106 [Declaration of interests] with the following new Standing Order –

“106 Declaration of interests

(1) A member of the States must declare an interest at the earliest opportunity, clearly stating the nature of the interest, if –

- (a) the member, or another relevant person, has an interest in –
 - (i) a matter which is the subject of a proposition or of a written or oral question, or
 - (ii) any other matter before the States or one of its committees or panels; and
- (b) the member is aware of that interest.

(2) The Greffier of the States must ensure that declarations are recorded in the minutes, including the nature of the interest.

(3) In the event that the interest being declared is a financial interest which is personal to that member, or which is shared with a small number of other people, the member shall not vote on any proposition relating to the matter.

(4) The Bailiff shall issue guidance on the interpretation of this standing order.”.

9 Page 84, Standing Order 130 [Privileges and Procedures Committee: proceedings]

Delete paragraphs (6), (7) and (8) and renumber the remaining paragraphs accordingly

10 Page 96, Standing Order 152 [Elected members' interests that must be registered]

Replace paragraph (2) with the following new paragraph:

“(2) Other than in relation to land owned outside Jersey to which paragraph 7(4) of Schedule 2 does not apply, the requirement to register applies to an interest regardless of whether the interest is held (or the subject of the interest is received, arises, or is owned) within or outside Jersey.”

11 Page 96, Standing Order 152 [Elected members' interests that must be registered]

In paragraph (5), replace the words “spouse or civil partner or cohabitee” with the words “spouse, civil partner or cohabitee or other relevant person”.

12 Page 96, replace Standing Order 153 [Process for registering members' interests] with the following new Standing Order –

“153 Process for registering members' interests

(1) An elected member must, within 30 days from the day on which he or she takes the oath of office as a Connétable or Deputy (whether following his or her election or re-election), complete a return of his or her interests that must be registered and submit it to the Greffier.

(2) An elected member must notify the Greffier, in writing, of any change in or addition to his or her interests that must be registered within 30 days of the change or addition occurring or of the member becoming aware of the change or addition.

(3) In registering an interest held by a relevant person, a Member is not required to name the relevant person or to specify the nature of the relationship between the relevant person and the Member.

(4) The Greffier must, on the 1st June each year (other than a year in which a general election takes place) or on the first working day after 1st June, send each elected member a copy of their registered interests and request that the registered interests be reviewed and updated where necessary; an elected member must, within 30 days of receipt of the Greffier's communication, provide a written reply to confirm that the registered interests are correct or to make changes or additions.

(5) If an elected member does not, without reasonable excuse, provide a written response to the Greffier in accordance with paragraphs (1) or (3), the Greffier must report the matter to the Commissioner for Standards.

(6) If the Greffier is made aware of a potential irregularity in an elected member's registered interests he or she must draw the elected member's attention to the matter and request that it be resolved within 30 days; if after that period the Greffier considers that the matter has not been resolved, he or she must report the matter to the Commissioner for Standards.

(7) An elected member may include in his or her return of interests, or notify the Greffier at any time of, any interest which, although not required to be registered, is in the opinion of the member an interest which should be disclosed to the public.”.

14 Page 100, replace Standing Order 164 [Suspension of member of the States] with the following new Standing Order –

“164 Suspension of a member of the States

(1) A member of the States who is suspended (as a sanction for certain actions or as a neutral act) must not, during the period of suspension –

(a) discharge the functions of –

(i) any Ministerial office relating to the business of the Assembly or of a committee or panel,

(ii) any functions as a member of any committee or panel, to which he or she is appointed in accordance with these standing orders, or

(iii) any functions of any other post held by virtue of being a States Member; or

(b) in his or her own right –

(i) lodge a proposition,

(ii) give any question to the Greffier, or give notice to the Greffier of any question, that is to be answered by the tabling of a written reply in a meeting or orally during a meeting, or

(iii) present any report or comment to the States.

(2) For the purposes of provision being made for the discharge of the functions mentioned in paragraph (1)(a), the member of the States who is suspended shall be taken to be temporarily absent during the period of suspension.

(3) A member of the States who is suspended as a sanction for certain acts must leave the precincts of the States immediately and, during the period of suspension, not return.

(4) A member of the States who is suspended as a sanction for certain acts shall not receive the remuneration and allowances to which he or she would otherwise be entitled as a member for the duration of the suspension.

(5) The day on which a suspension occurs shall count as the 1st day of the suspension.

(6) A period of suspension lapses upon the expiry of the member concerned’s term of office.”

15. In paragraph 1 [Employment, offices, directorships and partnerships], after sub-paragraph (3), insert the following sub-paragraph and renumber sub-paragraph (4) accordingly:

(4) If an elected member's total income from any interest declared under this paragraph exceeds 25%, 50% or 75% of their total annual income in the previous 12 months, he or she must register which of these thresholds has been surpassed.

16. In paragraph 2 [Self-employment, etc.], after sub-paragraph (3), insert the following sub-paragraph:

(4) If an elected member's total income from any interest declared under this paragraph exceeds 25%, 50% or 75% of their total annual income in the previous 12 months, he or she must register which of these thresholds has been surpassed.”.

17 Page 108, Schedule 2 [Register of Interests of Elected Members]

In paragraph 2 [Self-employment, etc.], sub-paragraph (2), replace the words “a significant portion”, where they first occur, with the words “at least 5%” and, where they occur on the second occasion, with the words “at least 10%” .

18 Page 109, Schedule 2 [Register of Interests of Elected Members]

In paragraph 3 [Shareholdings], sub-paragraph (1), replace the words “the elected member's spouse, civil partner or cohabitee” with the words “a relevant person”

19 Page 110, Schedule 2 [Register of Interests of Elected Members]

In paragraph 4 [Sponsorship] sub-paragraph (3) after the word “sponsorship” insert the words “including the amount of sponsorship received within the previous 12 month period”.

20 Page 110, Schedule 2 [Register of Interests of Elected Members]

Replace paragraph 5 [Gifts, hospitality and other benefits] with the following new paragraph –

“5 Gifts, hospitality and other benefits

- (1) An elected member must register the name and address of any person who gives or offers the elected member, or his or her spouse, civil partner or cohabitee or other relevant person, any gift, hospitality or other benefit which has a monetary value greater than £40 (or a cumulative value of more than £100 if more than one gift is given or offered by a person over a 12 month period) if the giving or offer of the gift, hospitality or benefit is, or could reasonably be considered to be, in any way, related to membership of the States.
- (2) An elected member must register the name and address of any person to whom he or she gives or offers any gift, hospitality, or other benefit which has a monetary value greater than £40 (or a cumulative value of more than £100 if more than one gift is given or offered by a person over a 12 month period) if the giving or offer

of the gift, hospitality or benefit is, or could reasonably be considered to be, in any way, related to membership of the States.

- (3) When registering the name and address under paragraphs (1) or (2) the elected member must also provide a brief description of the gift, hospitality or other benefit given or offered.”.

- (4) A Connétable is not required to register an interest in relation to a gift, hospitality or benefit if the giving or offer of the gift, hospitality or benefit entirely relates to his or her parochial duties and confers no personal benefit on the Connétable or a relevant person.

21 Page 110, Schedule 2 [Register of Interests of Elected Members]

In paragraph 6 [Overseas visits], replace the words “spouse or civil partner or cohabitee” with the words “spouse, civil partner or cohabitee or other relevant person”.

22 Page 110, Schedule 2 [Register of Interests of Elected Members]

Replace paragraph 7 [Land] with the following new paragraph –

“7 Land

- (1) An elected member must register a description of any land in Jersey sufficient to identify it, which is wholly owned, or jointly owned with another person (including land wholly or jointly owned by a company or holding company in relation to which the elected member has registered a shareholding under paragraph 3) –
- (a) by or on behalf of the elected member or his or her spouse, civil partner or cohabitee or other relevant person; or
- (b) by or on behalf of the elected member and his or her spouse, civil partner or cohabitee or other relevant person jointly.
- (2) No declaration is required in respect of land so owned which is the principal place of residence of the elected member or of his or her spouse, civil partner or cohabitee or other relevant person.
- (3) An elected member must register a brief description of any land (whether in Jersey or elsewhere) from which the elected member or his or her spouse, civil partner or cohabitee or other relevant person derives an income.
- (4) If an elected member’s total income from any interest declared under this paragraph exceeds 25%, 50% or 75% of their total annual income in the previous 12 months, he or she must register which of these thresholds has been surpassed.”.

23 Page 110, Schedule 2 [Register of Interests of Elected Members]

In paragraph 8 [Miscellaneous], replace the words “spouse or civil partner or cohabitee” with the words “spouse, civil partner or cohabitee or other relevant person”.

In section 3 [Personal Conduct] leave out the words from “holders of public office –” until the end and insert the following words:

“Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.”.

Replace the existing section 7 [Gifts and Hospitality] with the following new section –

“The giving or acceptance of gifts, hospitality and services can give rise to a perception of corruption. In giving or receiving any gift, hospitality or service,

members should consider whether they could justify acceptance to the public. In the event of doubt, members should seek advice from the Greffier of the States or the Commissioner for Standards.

Elected members should not accept gifts, hospitality or services which might appear to a reasonable person to compromise their personal judgement or integrity or place the recipient under any form of obligation to the giver, in order to guard against corruption or the perception of corruption. The same principle applies to gifts, hospitality or services offered or received to a family member or cohabitee.

The giving, receipt or offer of a gift, hospitality or service which a reasonable person might consider to be connected to membership of the States must, if it is of sufficient value, be registered in accordance with the rules on the registration of interests.”.

26 Page 114, Schedule 3 [Code of Conduct for Elected Members]

In section 9 [Co-operation with committees and panels], in paragraph (a), after the words “a scrutiny” insert the words “or review”.

27 Page 115, Schedule 3 [Code of Conduct for Elected Members]

In section 9 [Co-operation with committees and panels], in paragraph (b), after the words “the PAC” insert the words “and the PPC”; replace the words “terms of reference;” with the words “and the PPC’s terms of reference; and”; in paragraph (c) delete the word “and”; and delete paragraph (d).

REPORT

PPC is bringing forward nine amendments to its proposed changes to Standing Orders in respect of the Code of Conduct for Elected Members and related matters, following consultation with Members and further consideration by the Committee.

Amendment 1 relates to the registration of interests held by family members. There was concern that the definition proposed in P.1/2022 was imprecise and unreasonable, in requiring published disclosures about family members who were entirely independent of the Member. The amendment narrows the definition to encompass spouses, civil partners and cohabitants (the current requirement), dependent children and other family members who are part of the Members household. This definition is precise and the family members concerned will all be closely connected to the Member required to register interests. This definition is consistent with Commonwealth Parliamentary Association best practice on the matter. **Amendment 5** is related to this change. Part (a) clarifies that the 30-day deadline for registering a changed or new interest relates to when the Member becomes aware of the interest or change, which is relevant to interests held by family members. Part (b) clarifies that a Member is not required to name the family member with the interest or their relationship to the Member. All that is required is registration of the interest being held by a 'relevant person' under the terms of Standing Order 1.

Amendment 2 concerns the proposed new Standing Order to enable PPC to lodge a proposition that a Member be suspended as a neutral act in certain circumstances. It was suggested that the cases where such a suspension may be proposed are likely to be very sensitive and debates should be held in camera.

Standing Order 106 stipulates that if a Member has a direct financial interest in a matter they must declare the interest and withdraw from the debate and vote on the matter. This provision has been retained in the redrafted Standing Order 106 in P.1/2022. After further deliberation, PPC wishes to propose, in **Amendment 3**, that the rule should be changed. In the Committee's view, Members with a direct financial interest should be enabled to contribute to a debate in which they have that interest but not permitted to vote. In such cases, the Members with the interest are often the most expert or most directly affected by the proposition and it is perverse for the Assembly to deny them their right to speak. The States is also unusual, when compared to other legislative bodies, in requiring Members to withdraw from debates in certain cases. However, given the small size of the States it is appropriate to retain the rule requiring withdrawal from a vote.

P.1/2022 proposes to give effect to certain recommendations of the Comptroller and Auditor General requiring the amount of outside earnings by elected Members to be registered. After consulting Members, and further deliberation, PPC has decided to amend P.1/2022 which honours the spirit of the recommendations but without requiring Members to make what could be highly intrusive disclosures about external earnings and assets. **Amendment 4** reinstates the current provision in Standing Order 152 that elected Members are not required to provide information regarding the monetary value of any interest (although they can choose to do so). **Amendments 6, 7 and 9** give effect to the new rule (which applies in respect of outside earnings from various forms of employment, self-employment and land). Members who earn more than 25%, 50% or 75% of their total annual income from any of these categories would be required to declare the fact. This would show which areas of earning were of most significance to

Members without requiring every aspect of those earnings to be made public. This would be particularly significant for Members who have business interests for which registering amounts of earnings could compromise commercial confidentiality.

Amendment 8 makes clear that the giving or offer of gifts, hospitality, or benefits by Constables should not be registered if the gift, hospitality or benefit entirely relates to a Constable's parochial duties and they do not personally benefit in any way.

Finally, **Amendment 9** also makes clear that there is no requirement to register the principal residence of a 'relevant person' (although in almost all cases the elected Member will share their principal residence with all of their relevant persons).

Financial and manpower implications

There are no financial and manpower implications. The work involved in preparing these changes and implementing them is part of the ordinary operations of the States Greffe.

Appendix 1

Child Rights Impact Assessment

STAGE 1: SCREENING

Question 1: Name the measure / proposal and briefly describe its overall aim
<p>The Privileges and Procedures Committee has lodged 'Amendment (No. 54) to Standing Orders – Amendments to the Code of Conduct for elected members and related matters' (P.1/2022) for debate by the States Assembly. The Amendment, if adopted, would update and enhance the Code of Conduct for Elected Members and change the provisions for declarations of interest made by elected members. The aim is to ensure sufficient accountability of elected members to the Island's public and transparency of parliamentary decision-making. The Committee has also lodged amendments to P.1/2022.</p>
Question 2: What children's rights does it impact upon?
<p>Right to privacy – Every child has the right to privacy. The law should protect the child's private, family and home life, including protecting children from unlawful attacks that harm their reputation.</p>
Question 3: What children and young people will be affected?
<p>P.1 affects the children and young people of the 49 elected members of the States Assembly as well as the children of their children and the children of their spouses, civil partners or cohabitees.</p> <p>As amended by the PPC amendment, P1 would only affect the children and young people of the elected members of the States Assembly and any other child family members who live in the same household as the member.</p>
Question 4: What is the likely impact of the proposal / measure on children?
<p>Under the Code of Conduct and the Standing Orders of the States of Jersey, the 49 elected members of the States Assembly are required to register certain of their interests, including any additional employment they hold, sponsorship they receive, gifts they have been given, land and property they own – and anything else which they believe could be perceived as a potential influence on their conduct and decision-making as an elected parliamentarian. Registration must include any interests (of which they are aware) arising from the interests of their spouse, partner or cohabitee. P1 extends this provision to encompass any interests (of which they are aware) of their children and any other relevant person (as defined in Standing</p>

Order 1). In this context “children” primarily means the adult children of the elected members as they will be able to own land, shares, hold employment in their own right etc; although in theory, an elected member might need to register an interest arising from a child or young person who is not an adult but for whom they are responsible (although the elected member does not need to explain from whom the interest arises and the child / young person would not therefore need to be identified).

As amended by the Committee, P1 would only require the registration of the interests set out above in respect of dependent children and other family members living in the same household as the member. Standing Orders would explicitly state that a Member would not need to register the name of the person with the interest or the nature of the relationship between that person and the Member.

Registered interests are publicly accessible in order that the interests of elected members are transparent to the public of Jersey and to ensure the accountability of members. Details of an elected member’s life are therefore made publicly accessible to the extent necessary that those interests can be seen and understood. This means that, by implication, details of the lives of those connected with the elected member may also be seen to be made publicly available. However, the elected member is not required to explain to whom an interest relates; that the member has an interest is all that must be registered. In addition, in terms of land and property, there is no requirement to declare the elected member’s principal address.

Question 5: Is a full child rights impact assessment required? Explain your reasons

A full Child Rights Impact Assessment is not required.

The requirement to register interests falls on the elected member and the information placed in the public domain relates directly to them; it is their responsibility. There is a clear rationale for requiring members to register interests and registers are common across many jurisdictions. If a member has to declare an interest arising from their spouse, cohabitee, partner, child or relevant person, it is the interest that is significant, not the person to whom it relates; there is consequently no obligation for the member to say whether the interest relates to their spouse, child etc. The amendment to P1 puts this beyond doubt. The other person is therefore not identified.

Re-issue Note

This amendment was re-issued to fix a numbering error on page 9.