
STATES OF JERSEY



COMMISSIONER FOR STANDARDS: INVESTIGATION OF COMPLAINT OF BREACH OF THE CODE OF CONDUCT FOR ELECTED MEMBERS BY DEPUTY R.G. BRYANS OF ST. HELIER

**Presented to the States on 6th April 2018
by the Privileges and Procedures Committee**

STATES GREFFE

INTRODUCTION

The Privileges and Procedures Committee has received a report from the Commissioner for Standards into an alleged breach of the Code of Conduct for Elected Members by Deputy R.G. Bryans of St. Helier.

The Commissioner for Standards has found that Deputy Bryans did not breach the Code of Conduct for Elected Members.

The Committee accepts the Commissioner's report, which is attached, and considers that no further action is necessary.

PRIVILEGES AND PROCEDURES COMMITTEE

REPORT OF THE COMMISSIONER FOR STANDARDS

Submitted on 4th April 2018

Introduction

1. Senator A.K.F. Green, M.B.E. [the complainant] submitted a complaint by means of a letter dated 23 January 2018 and attached a report from the HR Lounge Ltd. in support of his complaint. I acknowledged the complaint on 26 January 2018.

Summary

2. Senator Green's complaint was that Deputy Bryans had breached the provisions of Article 5 of the Code of Conduct for Elected Members and that a 'preliminary review conducted by an independent consultant' provided the basis for his complaint.
3. I wrote to Deputy Bryans on 26 January 2018 advising him of the complaint but not requiring a response until I had an opportunity to collect relevant evidence, so that he was aware of the exact allegations against him.
4. Senator Green had commissioned a consultant's report and the consultant recommended that the matter be referred to me. I was satisfied that the report provided relevant evidence and that the complaint merited investigation.
5. I proceeded to interview witnesses both those interviewed by the consultant and additional personnel I felt could supply relevant evidence.
6. I found that several witnesses did not necessarily agree with the views of the consultant or, indeed, with the views ascribed to them by the consultant.

The facts

7. In essence, Senator Green's complaint arose from a combination of an anonymous letter received by the Director of Education [Justin Donovan], a specific incident involving Deputy Bryans adjusting a female Deputy's dress zip and a generalised disquiet about Deputy Bryans' interaction with female members of staff.
8. The consultant's report was based on interviews with various members of staff, Deputies and with Deputy Bryans himself. It recommended that the matter be referred to my office for assessment.
9. I will deal with each of the 3 factors which led to both the consultant's report being commissioned and then to my investigation.
 - (a) Anonymous Letter
 - (b) The 'zip' incident
 - (c) Generalised disquiet.

10. An anonymous letter was received at the home address of Justin Donovan, the Director of Education. The letter alleged that Deputy Bryans was overly familiar with female members of staff, rubbing their shoulders and arms. The author, or authors, objected to that behaviour and wanted him spoken to. Mr. Donovan in my interview with him highlighted that delivering a letter to his home address is not an easy task. He was candid in admitting that the anonymous letter could no longer be located within his department. He described the letter as using the term “we” a lot and that its tone was pleasant, polite, non-emotional, perfectly reasonable”. The letter was shared with Deputy Bryans and according to Mr. Donovan he took the contents extremely seriously and had in [Mr. Donovan’s opinion] modified his behaviour since the letter was received. The letter was according to Mr Donovan received during 2017.

11. The ‘zip’ incident was the subject of discussion between Senator Green, Deputy A.E. Pryke of Trinity and Deputy K.L. Moore of St. Peter. The resulting consultant’s report states that both Deputy Pryke and Deputy Moore separately stated that Deputy S.J. Pinel of St. Clement had told them of an incident which allegedly involved her and Deputy Bryans. Specifically, it was alleged that Deputy Bryans had unzipped Deputy Pinel’s dress to ‘bra level’ and commented on the colour of the bra. The consultant reported that Deputy Pinel had declined to assist him in his inquiry. Thus, one could classify the evidence of Deputy Pryke and Deputy Moore as ‘hearsay’. I sought to interview Deputy Pinel and was initially rebuffed, but when I highlighted her obligations both as an Elected Member and under the [Commissioner for Standards \(Jersey\) Law 2017](#), she agreed to meet with me. Deputy Pinel’s account of the incident was significantly different from that contained in the consultant’s report. Deputy Pinel stated that the incident took place during the lunch break at a Council of Ministers’ Meeting. She said that she was wearing a dress with an overt or obvious zip down the back and Deputy Bryans had whilst walking past her done the zip up. I then put an alternative scenario to her where Deputy Bryans had lowered the zip and commented on the colour of her underwear. I asked her if that version was accurate or inaccurate. She replied, “I really could not say. That is why I find things so extraordinary is because the only 2 people other than myself in the room were, as I mentioned, Alan Maclean and Paul Routier. Nobody else in the room. Yes, I felt him do my zip but other than that, as I say, I just did not really take much notice of it.” I then asked her if people were being inaccurate “if they say you advised them that he had commented on the colour of your underwear?” She then responded, “Well he may have done. I mean it was a mumbled thing. As I say, I was in conversation with Alan Maclean and Paul Routier at the time, so it did not stop the conversation, so he may have said something. This was about a year ago so ... But there was nobody ... it is interesting here you say, ‘witnesses’ because the only other 2 people in the room were Alan Maclean and Paul Routier.” I clarified that I meant witnesses in the sense that people had given evidence to me as opposed to eye witnesses of the incident. They had stated that in a conversation[s] Deputy Pinel had alluded to the fact that comment had been passed on the colour of her underwear. She replied, “I may have done. As I say it was a long time ago and he may have mumbled something.” On being pressed further on this point, Deputy Pinel responded, “I do not really know what he said in detail. I mean he may have said something about underwear, but I thought he was just sort of doing my zip up”.

12. I have spoken with Senator P.F. Routier, M.B.E. and Senator A.J.H. Maclean and asked them for their individual recollections of the 'zip incident'. Senator Routier and Senator Maclean both individually stated that they could not recall the 'incident' in any detail and neither remembered anything of an untoward nature.
13. Several female members of staff were named in the consultant's report and I interviewed them as part of my investigation. Not one witness reported any inappropriate behaviour by Deputy Bryans.

Deputy Bryans' response

14. I wrote to Deputy Bryans on 14 March 2018 requesting that he supply me with a full and accurate account of those matters which still required a response following my investigation. Deputy Bryans responded by e-mail on 23 March 2018.
15. Deputy Bryans disputed the consultant's account of their interview and described the word "tactile" as being overused. He stated that his physical interaction amounted to no more than commonly used gestures of communication, such as a pat on the shoulder to emphasise a positive point.
16. In relation to the zip incident with Deputy Pinel, he said that he noticed her dress was undone at the top and he pulled the zip up. He might have made a comment or joke, but he simply couldn't remember.
17. Deputy Bryans raised several points of concern with the consultant's report and approach, but I do not feel it is relevant to my task to comment on them.

Analysis and findings

18. I feel it is important to state that notwithstanding subsequent divergent accounts between the consultant's report and the recollection of witnesses when I interviewed them, I am satisfied that Senator Green was duty bound to refer this matter for my consideration. It is vital to public confidence that elected Members are held to account and operate to the highest professional standards.
19. The anonymous letter did initiate action by the Director of Education and it was right and proper that Deputy Bryans was made aware of its contents. I have no doubt that lessons have been learnt in relation to record-keeping and the safe custody of such important and sensitive documents.
20. The 'zip incident' has given rise to conflicting accounts. However, if I confine myself to the 2 principal actors, then their 2 accounts are basically compatible. In that Deputy Pinel states that Deputy Bryans merely pulled her zip up and he confirms that action. What he did or did not say at the time is unclear as neither party can recall the incident with any degree of certainty. I have no direct evidence to suggest that Deputy Bryans acted in an inappropriate manner. I recognise that both parties work closely together and openly acknowledge a degree of friendship, in addition to their professional relationship. However, I am satisfied that Deputy Moore and Deputy Pryke gave honest and sincere testimony. How a disparity arose between their accounts and that of the principal actors I cannot say.

21. The consultant's report, notwithstanding appropriate caveats, paints a picture of generalised disquiet about the behaviour of Deputy Bryans. However, on being questioned not a single witness expressed concern about Deputy Bryans' behaviour. I will avoid the term 'overly tactile' but there was an acknowledgement that Deputy Bryans can touch staff and colleagues where someone else might not. Everyone was very clear that they impute no pejorative motivation to his behaviour and he was universally commended for his commitment to and, indeed, passion for his ministerial portfolio.
22. I find that Deputy Bryans did not breach the Code of Conduct for Elected Members.

Paul Kernaghan, C.B.E., Q.P.M.
Commissioner for Standards