

# STATES OF JERSEY

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## HOUSING COMMITTEE: VOTE OF NO CONFIDENCE

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Lodged au Greffe on 3rd February 2004  
by Deputy G.P. Southern of St. Helier

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STATES GREFFE

## **PROPOSITION**

**THE STATES are asked to decide whether they are of opinion –**

that they have no confidence in the Housing Committee.

**DEPUTY G.P. SOUTHERN OF ST. HELIER**

Note: As required by Standing Order 18B, the following States members also signed the proposition –

1. Senator P.V.F. Le Claire
2. Senator E.P. Vibert
3. Deputy R.C. Duhamel of St. Saviour

The reason for moving this proposition is that the Housing Committee has shown itself to be unable to properly comply as a Registered Data User with the provisions of the Data Protection (Jersey) Law 1987.

## REPORT

In the Housing Committee's strategic policy report (2002) the Committee lays out several principal aims, including:

*...to meet the reasonable demands of all residents to obtain secure homes ..... to improve the quality of life for residents ....*

In particular, we are promised –

*..... .. specific emphasis on the Human Rights implications of current law and policy.*

Under 3.10.2 of the Committee's report, dealing with the right of residents to a fair and public hearing under Article 6, we are informed that there can be no conflict of interest in the Housing Committee's role as law/policy maker and decision maker, since residents have the right of appeal beyond the Committee to a Review Board.

The Housing President's display of contempt on the 26th March 2003 for the role of the States Greffe and the Administrative Appeals Board, and his subsequent treatment of the Privileges and Procedures Committee, gave me an understanding of the President's lack of respect for Article 6 of the Human Rights (Jersey) Law.

The President's actions in breaching the Third Principle of the Data Protection (Jersey) Law 1987 on two occasions lead me to question his real commitment to Article 8 of the Human Rights Law, the right to respect for one's private and family life, home and correspondence.

On 6th December 2001, Deputy Le Main published details of a tenant's rental payments in the JEP. Some members at the time considered bringing a motion of censure, and some called for his resignation, but despite refusing to apologise for publishing confidential information, the Deputy got away with saying that "it was a one-off incident".

A letter to States members of 8th December 2001 contained the words "If being honest and being transparent with the electorate is an abuse of power, then I apologise."

He also acknowledged the importance of confidentiality in the following words –

*"Now as most people know, I was the President of the Committee of Freedom of Information who took the Regulations to the States and I believe that the public should be informed as much as possible without breaching their personal confidentiality and the electorate expect this from their States members."*

In the States meeting of 18th December 2001, his apology contained the precursor "While I have no regrets over the action which I took..."

On 15th March 2002 the Data Protection Registrar ruled that the Housing Committee was in breach of the Third Principle of the Data Protection (Jersey) Law 1987.

The Registrar issued an enforcement notice on the Committee to take specific actions to ensure future compliance. This required –

That all sitting members of the Housing Committee are made specifically aware that personal information extracted from computer input, or computer screen or print out is recognised as data under the 1987 Law.

That sitting members are made sufficiently aware of the requirements of the 1987 Law with emphasis on third party disclosures.

When asked by me on 17th April 2002 whether he would consider further measures to restore the confidence of the public in the committee, the Deputy replied:

*“My committee is not proposing to take any further steps as it believes that these measures will be fully effective in restoring any damage that may have occurred to the trust and confidence of tenants.”*

He also refused to resign, when asked.

On 6th March 2002 the Press Complaints Commission (PCC) upheld the complaint that the JEP had intruded into the tenant’s privacy by publishing a letter from the Housing President containing details of her rent, as follows:

*“In this case the details relating to the complainant’s rental payments were very clearly private and personal and, while the editor had considered the author of the letter was a competent authority, the newspaper ought not to have made the information public.”*

On 2nd April 2002, following questions by me, the then President of the Policy and Resources Committee, Senator P.F. Horsfall wrote to the Data Protection Registrar highlighting the international connotations relating to the island’s reputation, as follows –

*“I believe that this matter is of high importance and I would ask that, arising from the recent breach, a paper is prepared by your Department, which sets out the obligations of members and their departments while high lighting the international perspective.”*

As a result, in conjunction with the States Computer Services Department, two seminars were held on data handling, and a series of intensive one-to-one meetings were held with the Chief Executive of every department to ensure that the issue of data protection was fully understood. I am unaware of whether the President of Housing attended either of the seminars.

On 2nd May 2003, a further ruling was issued by the Data Protection Registrar stating that the Housing Committee in the person of the President, had once again breached the third principle – unauthorised disclosure of confidential information to a third party. On this occasion there was also a breach of the fifth principle, which concerns the accuracy of the data held.

This breach was obviously considered to be more serious than the previous occasion, as it obviously followed some time after the initial breach, and might therefore be viewed as knowing and reckless. It was referred to the Attorney General to consider prosecution. As the Registrar has pointed out publicly, the Attorney General’s decision not to prosecute does not mean that there was no offence, simply that the Attorney General considered that insufficient evidence to give a reasonable probability of obtaining a conviction.

By the time members are debating this proposition, they will have heard the president’s responses to my questions on 3rd February 2004, and they will be able to examine the facts further, and decide for themselves how much confidence they have in the President. However, I have examined the evidence at length, and I am convinced that the only way we can prevent further breaches of confidential information is to remove this Committee.

I believe that this Assembly must be seen to act to restore the confidence of the public and to protect their rights. I believe that the reputation of this Assembly is at risk, indeed that the reputation of the Island is at risk. That action cannot be a mere motion of censure; that will be seen as permission to carry on. I warned in April 2002 that we could not trust the President not to repeat his actions. We still cannot. The Housing President has gone on record as saying *“I would do the same again”*. A motion of no confidence is the only way we can put a stop to this.

There are no financial or manpower implications arising from this proposition.