
STATES OF JERSEY



COMMISSIONER FOR STANDARDS: INVESTIGATION OF COMPLAINT OF BREACH OF THE CODE OF CONDUCT FOR ELECTED MEMBERS BY DEPUTY I. GARDINER

**Presented to the States on 1st April 2021
by the Privileges and Procedures Committee**

STATES GREFFE

REPORT

The Privileges and Procedures Committee has received a report from the Commissioner for Standards regarding a self-referral by Deputy I. Gardiner of St. Helier. Deputy Gardiner referred herself for investigation in relation to a potential breach of the Code of Conduct for Elected Members.

The Commissioner for Standards found that Deputy Gardiner 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

**COMMISSIONER FOR STANDARDS:
INVESTIGATION OF SELF-REFERRAL BY DEPUTY I. GARDINER OF ST.
HELIER**

Introduction

Deputy I. Gardiner of St. Helier referred herself in relation to a potential breach of the Code of Conduct for Elected Members in an email dated 17th March 2021. I acknowledged the self-referral on 18th March 2021 and sought relevant background documentation.

Summary

In essence, the self-referral arises from a request by the Public Accounts Committee ('PAC') for the Chief Executive (Mr. C. Parker) to appear before it in a public meeting to discuss two matters related to Performance Management. Deputy Gardiner was the Chair of the PAC and took the lead in seeking to secure the attendance of the Chief Executive. It appears that the Chief Executive was scheduled to end his employment at the end of March 2021. The Chief Executive declined several requests to appear before the PAC because of existing commitments. The exchange of correspondence culminated in a letter from Deputy Gardiner dated 15th March 2021 and a reply from the Chief Executive dated 16th March 2021. Mr. Parker took exception to the tone of Deputy Gardiner's letter to him and highlighted his potential option of referring her to both the Privileges and Procedures Committee and my office.

The facts

Deputy Gardiner, in her capacity as Chair of the PAC, sought to arrange a public hearing of the Committee to address the issues of the use of consultants and digital modernisation. The Chief Executive was requested to attend the planned hearing. An email chain set out the initial request to the Chief Executive and subsequent developments. The Chief Executive was unable to attend on either of the two dates originally suggested, nor was he available on any other date. In an email dated 10th March 2021, the Chief Executive stated that 'Unfortunately I have literally no availability as I am coming to the end of my time and have a set of handover arrangements that I can't move'. That email is acknowledged by the relevant official.

On 15th March 2021, Deputy Gardiner wrote to the Chief Executive reiterating the PAC's desire to have him appear before it. She concluded the letter by requesting a response by noon on 16th March 2021 and highlighting her intention of publicising any failure to appear by the Chief Executive. Mr. Parker replied in a letter and made it clear that he took exception to the content and tone of her letter.

Analysis and findings

My task is not to adjudicate on the issue of the Chief Executive's appearance, or non-appearance, before the PAC. Rather, my role is confined to the issue of any breach of the Code of Conduct for Elected Members. Article 6 of the Code of Conduct covers 'Public comments etc. regarding a States' employee or officer'.

'Elected members who have a complaint about the conduct, or concerns about the capability, of a States' employee or officer should raise the matter, without undue delay, with the employee's or officer's line manager (or, if he or she has none, the person who has the power to suspend the employee or officer), in order that the disciplinary or capability procedures applicable to the employee or officer are commenced, rather than raising the matter in public.

Elected members should observe the confidentiality of any disciplinary or capability procedure regarding a States' employee or officer and its outcome. If an elected member is nevertheless of the opinion that it is in the wider public interest that he or she makes a public disclosure of or comment upon the outcome of any such procedure, he or she should inform the parties to the procedure before so doing and, when so doing, refer to the individual by the title of his or her employment or office rather than by his or her name.

In this paragraph, "States' employee or officer" means a States' employee within the meaning of the Employment of States of Jersey Employees (Jersey) Law 2005, a member of the States of Jersey Police Force and any officer mentioned in the Schedule to that Law who is not a member of the States.'

It is clear that a complaint about the Chief Executive should be raised with the Chief Minister, but I note that the exchange of correspondence ends with Mr Parker's letter dated 16th March 2021. I imagine that a formal complaint would have to be discussed by the PAC prior to being lodged with the Chief Minister and I also note that the Chief Executive's employment was scheduled to end within a timescale which might render a formal complaint a nugatory exercise. Deputy Gardiner did make it clear to the Chief Executive that she was contemplating a public statement regarding his non-availability, as required by the Code of Conduct.

I do not believe that Deputy Gardiner breached the Code of Conduct for Elected Members. The exchange of correspondence suggests a regrettable breakdown of constructive communication between the PAC and the Chief Executive.

Paul Kernaghan CBE QPM

Commissioner for Standards