

STATES OF JERSEY



CODE OF CONDUCT FOR ELECTED MEMBERS OF THE STATES

**Lodged au Greffe on 25th March 2003
by the Privileges and Procedures Committee**

STATES GREFFE

PROPOSITION

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

to approve the draft Code of Conduct for elected Members of the States set out in Appendix 1 to the report of the Privileges and Procedures Committee dated 25th March 2003 and to request the Committee to include the necessary provisions in its proposals for the new States of Jersey Law and Standing Orders of the States of Jersey to enable the Code to be brought into effect.

PRIVILEGES AND PROCEDURES COMMITTEE

REPORT

1. Introduction

- 1.1 The Privileges and Procedures Committee is required by its terms of reference to bring forward proposals on a Code of Conduct for Members.

A draft of the Code is attached as Appendix 1 to this report.

- 1.2 Although certain matters concerning conduct are covered in Standing Orders and in the Members' Handbook, there has never before been a formal code of conduct for elected Members even though such codes have been introduced in many other legislatures in recent years. The Committee therefore established a small working party to research the position in other jurisdictions, to assess examples of good practice elsewhere, whilst ensuring that the draft Code was appropriate for Jersey.
- 1.3 The Codes of Conduct in place for Members of the House of Commons, the devolved legislatures of the United Kingdom and U.K. local government were considered, as well as examples from other jurisdictions.
- 1.4 After considering the various other codes, it became clear to the Committee that different approaches had been taken on what was included in such documents which, as a result, varied considerably in length. For example the Code of Conduct and accompanying guidance for Members of the Scottish Parliament runs to some 80 pages, whereas the Code in use in the National Assembly for Wales is only 2 pages long.
- 1.5 The reason for the difference comes principally from the inclusion or otherwise of the rules and guidance on the registration and declaration of interests which, can be extensive. The Committee intends to bring forward detailed proposals and guidance on the matter of declaration of interest in due course, but has concluded that detailed rules and guidance on this issue should not be included in the Code as, if they were, they would overwhelm everything else. The Committee hopes that the production of a relatively short Code will make the document more focussed and easily accessible.
- 1.6 The Committee is conscious that issues regarding the registration and declaration of interests are complex and wide-ranging and intends to undertake detailed research on the procedure in other jurisdictions and consult extensively before bringing forward recommendations. Members will note that there is a requirement in the Code to comply with whatever rules are in place.

2. The content of the Code

- 2.1 The Code sets out the rules of conduct for Members that elected Members are intended to observe in the course of their public duties. It is not intended to cover what Members do in their purely private and personal lives, although there is, in a small Island, inevitably some overlap between Members' private and public lives and, as explained below, certain parts of the Code could be said to impinge on the conduct of Members outside the course of their public duties.
- 2.2 The Committee's research showed that it is clear that the 7 principles of public life, the so-called 'Nolan' principles, first set out in the 1995 report of the United Kingdom Committee on Standards in Public Life chaired by Rt. Hon. Lord Nolan, have become widely accepted as the basic principles applicable to those holding public office and the draft Code has therefore incorporated these principles in common with similar Codes used elsewhere.
- 2.3 As can be seen, the Code sets out that Members are required to act, at all times, in the best interests of the Island. It is important to point out that this duty is not in any way intended to force Members to follow a particular political philosophy and it is, of course, a matter of political judgement for each Member to assess what course of action he or she considers to be in the best interests of the Island and of his or her constituents in particular.

- 2.4 The Code requires Members, 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. As mentioned earlier, the Committee is conscious that the area of private conduct is inevitably a difficult one to include in the Code and the Committee does not believe that there are certain moral standards or types of behaviour that must be observed by Members in the course of their private lives. Suffice to say that the over-arching requirement should apply.
- 2.5 Although the majority of the content of the Code is self-explanatory, the Committee wishes to draw particular attention to the proposed procedure for investigating complaints.
- 2.6 It is, of course, hoped and anticipated that breaches will be extremely rare but the Committee believes that it is important that any alleged breaches of the Code are considered by elected Members rather than by a person or body outside the States appointed for this purpose. Once the Code has been approved by the States and put in place, Members of the States will be bound by its provisions and it therefore seems entirely appropriate that any Member who is alleged to have breached the Code is investigated by his or her peers. The Committee believes that, although some may be concerned that Members are effectively regulating themselves, it is a necessary feature of a sovereign body such as the States Assembly that it should remain responsible for the conduct of its own Members to preserve its parliamentary privilege.
- 2.7 The Committee proposes that a Sub-Committee of the Privileges and Procedures Committee should be established to undertake the initial investigation of complaints, before making recommendations to the Privileges and Procedures Committee. It is important to remember that following the introduction of the new system of government the Privileges and Procedures Committee will have members from both the non-Executive and Executive parts of the States and should therefore be seen as an ‘independent’ body representing the interests of all Members.
- 2.8 In certain cases, the Privileges and Procedures Committee could refer the matter to the States Assembly for consideration. The recommended action could range from some form of public statement or apology concerning the breach, a vote of censure in more serious cases, or a period of suspension from the States in the most serious cases. The Member concerned would, of course, be entitled to address the Assembly on the matter (with such debates taking place *in camera* if necessary) and the Assembly would, in effect, act as an appeal hearing against the decision of the Privileges and Procedures Committee. It should also not be forgotten that all Members of the States are ultimately answerable to the electorate and voters will undoubtedly take note of any breaches.
- 2.9 It is envisaged that this Sub-Committee could include Members of the States who are not Members of the Privileges and Procedures Committee. The Code requires Members to comply with any investigation and failure to do so would, in itself, be a breach even if the initial complaint under investigation was found to be unsubstantiated.
- 2.10 A flowchart showing the operation of the procedure for investigating complaints is attached at Appendix 2.

3. Implementation of the Code

- 3.1 It will be necessary for appropriate amendments to be made to the Standing Orders of the States to give effect to the Code. The Privileges and Procedures Committee intends to bring forward those amendments as part of its overall review of the Standing Orders. In the interim it is hoped that Members will regard the Code as a helpful guide to conduct albeit, at this stage, an informal one.

4. Conclusion

- 4.1 In bringing forward the Code, the Committee is conscious, as stated above, that breaches are hopefully likely to be extremely rare and not of a serious nature. It is nevertheless the case that any public report of misconduct by a Member of the States could have a disproportionate effect on the public’s perception of the States as a whole. The Committee believes that a clear statement of the general rules of conduct

expected of Members, together with a transparent procedure for investigating complaints, will reinforce public confidence in the States.

4.2 There are no financial or manpower implications for the States arising out of the introduction of the Code.

25th March 2003

DRAFT CODE OF CONDUCT FOR ELECTED MEMBERS OF THE STATES OF JERSEY

Purpose of the Code

The purpose of the Code of Conduct is to assist elected Members of the States in the discharge of their obligations to the States, their constituents and the public of the Island of Jersey. All elected Members of the States are required, in accordance with the provisions of the Standing Orders of the States, to comply with the provisions of this Code.

Public duty

The primary duty of Members of the States is to act in the interests of the people of Jersey and of the States Assembly. In doing so Members have a duty to uphold the law in accordance with their oath of office and to act on all occasions in accordance with the public trust placed in them.

Members of the States have a general duty to act in the best interests of the Island of Jersey as a whole; and a special duty to be accessible to the people of the constituency for which they have been elected to serve and to represent their interests conscientiously.

Members must give due priority to attendance at meetings of the States in accordance with the terms of their oath of office and should be present in the Chamber when the States are meeting unless they have very compelling reasons not to do so.

Personal conduct

Members of the States should observe the following general principles of conduct for holders of public office –

Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family and friends, their business colleagues or any voluntary or charitable organisation they are involved with.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take.

They should give reasons for their decisions and restrict information only when the wider public interest, or rules on freedom of information, data protection or confidentiality clearly demand.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

Holders of public office should promote and support these principles by leadership and example to maintain and strengthen the public's trust and confidence in the integrity of the States of Jersey and its Members in conducting public business.

THE PRINCIPLES IN PRACTICE

Conflict between public and private interest

Members should base their conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest.

Members' conduct

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.

Members should at all times treat other Members, 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.

Gifts and hospitality

The acceptance by a Member of a bribe to influence his or her conduct as a Member is contrary to the States of Jersey Law 200- and constitutes a criminal offence.

Members should not accept gifts, hospitality or services that might appear to place the recipient under any form of obligation to the giver. In receiving any gift or hospitality Members should consider whether they would be prepared to justify acceptance to the public.

Register and Declaration of Members' interests

Members shall fulfil conscientiously the requirements of the Standing Orders of the States in respect of the registration of interests in the Register of Members' Interests and shall always draw attention to any relevant interest in any proceedings of the States or its Committees.

Paid advocacy

No Member shall act as a paid advocate on behalf of any third party in any proceedings of the States.

Access to confidential information

Members must bear in mind that confidential information which they receive in the course of their duties should only be used in connection with those duties, and that such information must never be used for the purpose of

financial gain nor should it be used in their own personal interest or that of their families or friends. In addition, Members should not disclose publicly, or to any third party, personal information about named individuals which they receive in the course of their duties unless it is clearly in the wider public interest to do so. Members must at all times have regard to all relevant data protection, human rights and privacy legislation when dealing with confidential information and be aware of the consequences of breaching confidentiality.

Procedure for Complaints

Complaints, whether from Members of the States or from members of the public, alleging that the conduct of a Member is in breach of the Code of Conduct should be addressed in writing to the Privileges and Procedures Sub-Committee on Standards.

It is not sufficient to make an unsubstantiated allegation and expect the Privileges and Procedures Sub-Committee on Standards to assemble the supporting evidence, and Sub-Committee will not normally regard a complaint founded upon no more than a media report as a substantiated allegation. The Sub-Committee will not entertain anonymous complaints.

If the Privileges and Procedures Sub-Committee on Standards is satisfied that sufficient evidence has been tendered in support of the complaint to justify its taking the matter further, it will ask the Member to respond to the complaint and will then conduct an investigation. After investigation, whether or not the Sub-Committee concludes that there is evidence of a breach, it will report its conclusions to the Privileges and Procedures Committee.

The Privileges and Procedures Committee will consider any matter relating to the conduct of Members, including specific complaints in relation to alleged breaches of the Code of Conduct which have been drawn to the Committee's attention by the Privileges and Procedures Sub-Committee on Standards.

The Member concerned will at every stage be given full details of the nature of the complaint and invited to respond. The Member concerned will also be invited to address the Sub-Committee and the full Privileges and Procedures Committee when the matter is considered. All Members of the States are required to co-operate fully with the Privileges and Procedures Committee and its Sub-Committee during any investigation, even if the Member concerned considers that the alleged breach is totally unsubstantiated. Failure to co-operate in any investigation will, in itself, be regarded as a breach of the Code.

The Privileges and Procedures Committee has the power to send for persons, papers and records, to order the attendance of any person before it, and to require that specific documents in the possession of a Member relating to its inquiries or to the inquiries of the Privileges and Procedures Sub-Committee on Standards be laid before it.

On specific complaints for which the Privileges and Procedures Sub-Committee on Standards has advised that there is a substantial complaint, the Privileges and Procedures Committee will, if it concurs with the Sub-Committee's view, make recommendations to the States on whether further action is required and, if so, what that action should be.

Where the complaint concerns the President or a Member of the Privileges and Procedures Committee the Member concerned shall take no part in any proceedings of the Committee concerning the complaint.

APPENDIX 2

COMPLAINTS PROCEDURE

