

**WRITTEN QUESTION TO THE H.M. ATTORNEY GENERAL
BY DEPUTY S.Y. MÉZEC OF ST. HELIER
ANSWER TO BE TABLED ON TUESDAY 20th FEBRUARY 2018**

Question

Does the power of the Commissioner for Standards extend to ruling on the conduct of a Connétable whilst the Connétable is attending purely to Parish business (as opposed to States business)? If not, what procedures are available to Parishioners who wish to raise concerns about the conduct of a Connétable whilst the Connétable is carrying out their non-States duties?

Answer

In relation to the first part of the question: Does the power of the Commissioner for Standards extend to ruling on the conduct of a Connétable whilst the Connétable is attending purely to Parish business (as opposed to States business)?

The functions of the Commissioner under the Commissioner for Standards (Jersey) Law 2017 relate to investigating complaints that there has been a breach of ‘a code’ i.e.

- (a) the code of conduct for elected members of the States set out in Schedule 3 to the Standing Orders of the States of Jersey; or
- (b) the code of conduct and code of practice for Ministers and Assistant Ministers referred to in Article 18(3A) of the States of Jersey Law 2005.

Taking (b) above firstly, the codes referred to in Article 18(3A) of the States of Jersey Law 2005 necessarily relate to conduct and practice in the context of activities as a Minister or Assistant Minister.

The purpose of the code in Schedule 3 to the Standing Orders is “to assist elected members in the discharge of their obligations to the States, their constituents and the public of Jersey. All elected members are required, in accordance with standing orders, to comply with this code.”

Schedule 3 goes on to recite, under the heading ‘Public duty’ that: “The primary duty of elected members is to act in the interests of the people of Jersey and of the States. 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. Elected members have a general duty to act in what they believe to be the best interests 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. Elected 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.”

Schedule 3 also states these general principles of conduct which elected members should observe as 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 organization they are involved with.

- Integrity:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organizations 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 and its members in conducting public business.

Schedule 3 goes on to state how these principles are to be applied in practice. Thus for example paragraph 5 recites that: "Elected 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. Elected members should at all times treat other members of the States, 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."

Conduct by a Connétable in some cases may be alleged to have infringed these principles whether the conduct is in the context of States or Parish functions. Thus for example if a Connétable chairing a Parish Assembly were to treat a member of the public with disrespect and discourtesy, such conduct might properly be the subject of a complaint to the Commissioner and be investigated by him/her.

As the code itself states, it applies to conduct "at all times".

In short there is not a strict dividing line for this present purpose between conduct in a Connétable's capacity as an elected member of the States, and conduct in a Connétable's capacity as head of the Parish. The authority of the Commissioner is not automatically negated if and when an allegation relates in some way to conduct in the latter capacity, albeit that there may be occasions when a complaint in the context of the Connétable's Parish role would not be appropriate for investigation by the Commissioner.

In relation to the second part of the question: What procedures are available to Parishioners who wish to raise concerns about the conduct of a Connétable whilst the Connétable is carrying out their non-States duties?

The Connétable (along with other sworn officers of the Parish) has always has been, and remains, subject to the supervisory jurisdiction of the Royal Court. This jurisdiction has not been displaced by the Commissioner for Standards Law.

This is a jurisdiction of the Royal Court which has long existed at customary law. Its purpose is to secure the lawful and orderly administration of the Parish, primarily in terms of its obligation to keep the peace,

but also in terms of its wider civil functions. The Court may be seized of this jurisdiction by the Attorney General making a representation to the Court, or by a private party with a sufficient interest doing so, subject to the Attorney General being convened. The Court may impose sanctions ranging from reprimands to orders to do, or not to do, a certain thing; or the Court may dismiss persons from office. The States recently in passing the Connétables (Amendment No. 2) (Jersey) Law 201- confirmed the Royal Court's jurisdiction over the Connétables.

To the extent that a complaint in the context of the Connétable's Parish role might not be appropriate for investigation by the Commissioner, it may nonetheless - depending on the circumstances - be a matter in respect of which the Royal Court can exercise its jurisdiction.