

STATES OF JERSEY



DRAFT (AMENDMENT No. 1) OF THE STANDING ORDERS OF THE STATES OF JERSEY (P.225/2005): AMENDMENT

**Lodged au Greffe on 18th October 2005
by the Policy and Resources Committee**

STATES GREFFE

DRAFT AMENDMENT (No. 1) OF THE STANDING ORDERS OF THE STATES OF JERSEY (P.225/2005):
AMENDMENT

PAGE 15, AMENDMENT 7, INSERTED SCHEDULE 2A –

After paragraph 5 insert the following paragraph –

“5A 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.”.

POLICY AND RESOURCES COMMITTEE

REPORT

The Policy and Resources Committee welcomes the Code of Conduct (Schedule 2A) and, in particular in its role as employer, the Committee endorses the objectives set out in paragraph 5. It believes strongly that the States will only function effectively where mutual trust and respect exist between elected members and States' employees and officers.

However, the Committee accepts that there will be times, hopefully rare, when Members may have concerns or indeed are minded to complain about the conduct or the capability of an individual employee or officer of the States of Jersey. It has been the stance of this Committee and its predecessors the Establishment and Human Resource Committees that, in such events, established procedures would be followed; it was highlighted in a Statement that the President of the Policy and Resources Committee made to the States on 22nd July 2003.

Capability and disciplinary procedures are in place and are designed to ensure that concerns and complaints about individual employees are promptly and properly pursued. (These policies can be viewed on the States Intranet site within the website of the States Human Resources Department.) These and other related policies and procedures have contractual validity and include provisions which incorporate appropriate safeguards for the position of individual employees. Where necessary and appropriate, investigations independent of the officer's senior line manager will be arranged.

Hitherto, the convention that has been established through custom and practice for the communication of such concerns or complaints has not been formalised. The Committee believes that this is an opportune time to do so and proposes this straight-forward amendment to the Code of Conduct

Such an approach has become of even greater significance following the implementation of the new Jersey Employment Law and its attendant legal responsibility on employers to ensure that all their employees are treated in an objective and consistent manner. The proposed measures are also understood to be consistent with the spirit of the Convention rights (e.g. Article 8: right to private and family life) as set out in the Human Rights (Jersey) Law 2000.

Such Codes are not unusual. For example, the principles underpinning this amendment are enshrined in the Osmotherly Rules that provide guidance on the operation of the Select Committee system in the House of Commons. Similarly, they have been included in Codes of Conduct for members of Local Authorities and Councils in the United Kingdom.

The Policy and Resources Committee (in future, the States Employment Board) will ensure that where a complaint is received from an elected member in line with this proposed amendment, the procedure for dealing with that complaint, which is set out in the Appendix to this Report, shall be followed.

Given the overriding principle that States' members and States' employees and officers should deal with one another in a manner which engenders mutual trust, openness, honesty, fairness, transparency and with respect, if States employees are subject to public attack without the entitlement to defend themselves, then this will inevitably lead to the breakdown of relationships. The proposed amendment is designed to ensure that proper and timely investigation is carried out into any concerns that States members communicate in connection with the conduct or performance of a States' employee or officer, with due regard to the position of that person.

This measured approach is considered an appropriate way forward in dealing with such sensitive matters and is, therefore, commended to the House.

Financial and manpower statement

There are no financial and manpower implications arising from this amendment.

PROCEDURE FOR DEALING WITH A COMPLAINT OR CONCERN ABOUT CAPABILITY FROM AN ELECTED MEMBER

Investigation of a Complaint/Concern about Capability

Where the relevant officer receives a complaint or concern from an elected member and it is confirmed that the elected member wishes to pursue the matter formally, the officer will request a written statement setting out the grounds of the complaint or concern. The officer will then institute appropriate investigations and will instigate relevant disciplinary action where this is considered appropriate. The elected member who raised the matter will be notified of the outcome of the investigation and of any resultant action.

Review process

If the elected member is not satisfied with the outcome of the above investigations, he or she should initially discuss the matter with the officer who undertook the investigation. Where this fails to resolve the matter, the elected member will call for a review of the original decision. In this event, the review will be carried out by the following –

- The Chief Officer of the relevant Department, where the investigation has been carried out by a Manager of that Department;
- The Chief Executive to the Council of Ministers, where the investigation has been carried out by a Chief Officer;
- The Chief Minister, where the investigation has been carried out by the Chief Executive to the Council of Ministers;
- The Council of Ministers, where the investigation has been carried out by the Chief Minister.

Conflict of Interest

Where the person to whom the complaint has been addressed or who would be expected to undertake the review has been involved in the matter, or there is a conflict of interest, an independent person will carry out the investigation or the review.