

STATES OF JERSEY



PRIVILEGES AND PROCEDURES COMMITTEE SUB- COMMITTEE ON STANDARDS: COMPLAINT AGAINST SENATOR E.P. VIBERT

**Presented to the States on 28th June 2005
by the Privileges and Procedures Committee**

STATES GREFFE

FOREWORD

On 25th April 2005, the Policy and Resources Committee submitted a complaint to the Privileges and Procedures Committee in connexion with an article posted on the website www.tedvibert.com. The article in question was entitled, 'The Bus Enquiry will finally decide who is to blame for the fiasco'. The Privileges and Procedures Committee elected to form a Sub-Committee on Standards to investigate the complaint in accordance with both the draft Code of Conduct for Elected Members of the Assembly (Projet No. P.32/2003 refers), and with specific terms of reference as determined by the Committee.

The Sub Committee consisted of the following Members –

Deputy R.G. Le Hérisier of St. Saviour (Chairman),
Deputy C.H. Egré of St. Peter, and
Constable G.W. Fisher of St. Lawrence.

Three meetings of the Sub-Committee were held between 17th and 26th May. During the course of its investigations it met with, and received oral submissions from, Senator E.P. Vibert.

On 9th June 2005 the Privileges and Procedures Committee received and considered the Sub-Committee's report. It concluded that the findings were objective, rational and well-judged. Accordingly, and although it invited the Sub-Committee to consider several minor revisions to the wording of its report (which have since been accepted by the Sub-Committee), the Committee endorsed the conclusions reached. Having studied the report in detail, the Committee wishes to draw to the attention of the Assembly to the following observations –

- (a) that any States Member publishing an article in any media format should ensure that the information contained therein is –
 - (i) accurate,
 - (ii) not offensive or discourteous to any civil servant or States Member, and
 - (iii) does not specifically refer to any civil servant by name;
- (b) that States Members should avoid speculating on the outcome of any public enquiry until such time as the findings of that enquiry have been made public; and
- (c) that Members should not assume that information broadly similar, but not identical, to that which has been presented in written or oral form to a Committee of Inquiry is covered by privilege when published elsewhere.

On the matter of accuracy, the Committee expressed concern with regard to the format used by Senator E.P. Vibert in the section of his article referred to as an 'excerpt' of a meeting that allegedly took place on 8th January 2004. While the Privileges and Procedures Committee accepts that no evidence was found of any deliberate intention on the part of Senator E.P. Vibert to mislead readers, the Committee considered that the aforementioned section was an unfortunate misconstruction of information given by the Senator to the Committee of Inquiry into the Tender Process and Award of the Bus Contract that gave an inaccurate impression of its evidential quality.

The Privileges and Procedures Committee understands that Senator Edward Vibert has already removed the offending article from www.tedvibert.com. It nevertheless invites the Senator to take greater care when adding any new material to his website. In particular, he should ensure that any future articles are fully compliant with paragraphs (a) and (b) above and that he is mindful of the limitations of parliamentary privilege. On a more general note, the Privileges and Procedures Committee continues to encourage all elected Members to adhere to the draft Code of Conduct and to maintain appropriate standards of behaviour whilst in Public Office.

The final report of the Sub-Committee is attached, and the Privileges and Procedures Committee would like to thank Deputy Egré and Constable Fisher for their assistance.

Complaint – www.tedvibert.com

This report outlines the findings of the Sub-Committee on Standards in connection with the complaint made by the Policy and Resources Committee to the Committee concerning the article, posted on the website www.tedvibert.com, on the Committee of Inquiry into the Tender and Award of the Bus Contract.

TERMS OF REFERENCE

The terms of reference for the investigation of the complaint were as follows –

- (a) to establish whether the alleged publication by Senator E.P. Vibert of the said article was in contravention of the draft Code of Conduct for Elected Members of the Assembly;
- (b) to establish whether the alleged publication by Senator E.P. Vibert of the said article was in contravention of Projet No. P.68/2005, as adopted by the Assembly on 5th April 2005; and,
- (c) to establish whether the alleged publication by Senator E.P. Vibert of the said article pre-empted or prejudiced, or was intended to pre-empt or prejudice, the outcome of the Committee of Inquiry into the Tender and Award of the Bus Contract.

METHOD

The Sub-Committee met on 3 occasions between 17th and 26th May to consider the complaint.

On the matter of evidence gathering, the Sub-Committee reviewed the article as posted on www.tedvibert.com. Individual members reviewed relevant Committee of Inquiry transcripts in order to establish whether the allegations made in the article mirrored those which had been made to the Committee of Inquiry. Enquiries were made of the Clerk to the Committee of Inquiry in order to clarify the status of the evidence as given by Senator E.P. Vibert. Advice was sought from the Corporate HR Director – Policy and Employee Development on the matter of whether civil servants were permitted to respond to public criticism. Finally the Sub-Committee elected to meet with Senator E.P. Vibert and record his views in connexion with the complaint.

FINDINGS

1. The Sub-Committee found that Senator E.P. Vibert had breached the draft Code of Conduct by framing and publishing a series of allegations concerning the competence and integrity of 2 senior civil servants, whom he had elected to refer to by name, in terms which were discourteous and disrespectful.
2. The Sub-Committee found that Senator E.P. Vibert had contravened Part 1(b) of Projet No. P.68/2005. Although it was acknowledged that the Senator's views were based on extensive research, it was clear to the Sub-Committee that his allegations remained unsubstantiated until such time as the Committee of Inquiry had reported its findings and had declared whether it agreed with the Senator's assessment. Nevertheless, Senator E.P. Vibert was considered to have complied with the requirement to go through the 'appropriate channels' by virtue of his having reported the allegations to the Committee of Inquiry.
3. On the question of pre-emption of the Committee of Inquiry, the Sub-Committee considered that it was for the Committee of Inquiry to determine whether its work had been compromised. Nevertheless, Members were expected to refrain from speculation in connexion with the outcome of any Committee of Inquiry.

With regard to the matter of seriousness, the Sub-Committee did not consider that repetition of allegations made previously in a formal and public forum amounted to a serious breach of the draft Code of Conduct. However, the issue was complicated by the format and style of presentation used in the article. The Sub-Committee concluded that the section entitled, 'Excerpt of a Meeting with Deputy Hilton, Senator Vibert and Mr. John Richardson January 8th 2004' purported to be a contemporaneous note or transcript. In fact, Senator E.P. Vibert had disclosed to the Committee of Inquiry that he could not be certain that the meeting had actually taken place on 8th January 2004. He had further disclosed that he had first created a written record of the said meeting, from memory, in March 2005, some 14 months after the event. While the SubCommittee considered that there was no evidence of any deliberate intention on the part of Senator E.P. Vibert to mislead readers, it formed the view that the account of the meeting as published gave a misleading impression of its evidential status.

CONCLUSION

The Committee is invited to review the findings of the Sub-Committee and decide whether it agrees with its assessment of the evidence, before deciding whether further action is necessary.