

STATES OF JERSEY



VOTE OF CENSURE: DEPUTY A.D. LEWIS OF ST. HELIER

Lodged au Greffe on 18th August 2017
by the Privileges and Procedures Committee

STATES GREFFE

PROPOSITION

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

to censure Deputy Andrew David Lewis of St. Helier whom the Privileges and Procedures Committee has determined breached the Code of Conduct for Elected Members by failing to maintain the integrity of the States.

PRIVILEGES AND PROCEDURES COMMITTEE

Note: In accordance with the requirements of Standing Order 21B, the following Members are signatories to this proposition –

1. Connétable L. Norman of St. Clement
2. Connétable C.H. Taylor of St. John
3. Deputy S.Y. Mézec of St. Helier
4. Deputy S.M. Bree of St. Clement
5. Deputy S.M. Wickenden of St. Helier.

REPORT

The Privileges and Procedures Committee has completed its investigation into the complaint made under the Code of Conduct for Elected Members against Deputy Andrew David Lewis of St. Helier.

A public hearing was held on 1st August 2017, at which Deputy Lewis exercised his right to address the Committee. Following this hearing, and having considered the matter fully, the 5 members of the Committee who dealt with the complaint are unanimous that Deputy Andrew David Lewis of St. Helier breached the Code of Conduct for States Members. The Committee is of the opinion that Deputy Lewis' actions in and beyond 2008 failed to maintain the integrity of the States.

Maintaining the integrity of the States

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.

The Committee did not reach this decision lightly.

The Committee decided before the hearing that it would not be seeking to 're-open' the Independent Jersey Care Inquiry ("I.J.C.I.") to determine whether or not Deputy Lewis 'lied' to the Inquiry or States Assembly. The Committee does not challenge the conclusion drawn by the I.J.C.I. Panel.

The majority (those being the Connétable of St. Clement, Deputy S.M. Bree of St. Clement, and Deputy S.Y. Mézec of St. Helier) of the 5 members of the Committee who dealt with the complaint, are in full agreement that the Code has been breached by Deputy Lewis as a consequence of the following –

- (a) the findings of the I.J.C.I. (reproduced below) that he lied in 2008 in the States Assembly. That lie, in itself, constituted a breach of the Code.

“10.40 We find that Andrew Lewis lied to the States Assembly about the Metropolitan Police Service report, stating that he had had sight of it when he had not. We can readily see why these acts have given rise to public suspicion that all or some of those involved were acting improperly and that they were motivated by a wish to discredit or close down investigations into child abuse.”;

- (b) that irrespective of the findings of the I.J.C.I., he misled the Assembly in 2008 and did not seek to rectify the situation at the earliest opportunity. Moreover, his subsequent robust defence of his position and failure to acknowledge and apologise for having misled the Assembly, even during the PPC hearing, constituted a breach of the Code.

The minority (namely the Connétable of St. John and Deputy S.M. Wickenden of St. Helier), whilst not seeking to challenge the findings of the I.J.C.I., do not feel it appropriate that the findings of a third party, independent Committee of Inquiry be used as the sole basis on which to determine that a breach of the Code of Conduct for Elected Members has occurred, as referred to in section (a) above. The Connétable of St. John

and Deputy Wickenden are, however, unanimous with the other members of the Committee in the view that Deputy Lewis did breach the Code of Conduct for Elected Members for the reasons as detailed in section (b) as above.

The Committee also does not consider that Deputy Lewis was entirely candid during the hearing. He maintained that he had “*no idea that this perceived error was of any significance*” whilst he was out of the States, until “*several years later ... probably around the Napier review, which is 2 years later*”. He affirmed that the first time he was publicly able to correct the information, was after the 2014 election when standing for a Ministerial position and his Public Accounts Committee Chairman’s role, during which time he “*robustly defended his intention not to mislead*”. However, he made a statement which was reported by bloggers on social media, as well as in the Jersey Evening Post on 12th February 2010, which suggests he was aware in 2010 of a growing public perception of a conflict surrounding the accounts of those involved in Mr. Power’s suspension. Furthermore, the exchanges recorded in Hansard on 6th November 2014 clearly indicate that Deputy Lewis had been aware of the allegations during the previous 6 years (emphasis added) –

“7.2.12 Deputy M.R. Higgins:

“I was not going to get into this area until I heard the answers that the candidate gave to Deputy Tadier and to Senator Ozouf. First of all, I would like to know what specific academic and professional qualifications he has got and, secondly, how he can reassure us that he will be his own man rather than merely the voice or the tool of the Chief Minister when he played a major role in the unfair dismissal of the former Chief of the States of Jersey Police at the behest of the former Chief Minister.”

Deputy A.D. Lewis:

Deputy Higgins has had a mantra on this for the last 6 years. My family and myself have been plagued by this since I made that decision. But I am not frightened of making difficult decisions. I made decisions based on evidence in front of me. I had outstanding evidence. I had consultation with Law Officers, with the Solicitor General, who is now our Attorney General. I spoke to H.R. professionals. I do not take decisions without taking advice. I am not an expert on everything and that is why I took strong advice on that particular issue. My academic qualifications? Yes, I have qualifications in marketing, tourism, travel. I have run businesses, which I have elaborated in my speech, so I feel I am eminently qualified to take on the mantle of Minister for Economic Development. I repeat again, I am not frightened of making difficult decisions. I did not commit any kind of illegal act and I have never lied to this House and I never will lie to this House.

7.2.13 Deputy M.R. Higgins:

*Supplementary. The candidate just told us that he took advice before he took the action he did do. The advice from the Attorney General at the time was to not take action unless you have a very, almost damning report from the Metropolitan Police, who were investigating the conduct of Operation Rectangle. Not as a disciplinary matter but as a method of trying to see what they did right, what they did wrong. **The candidate failed to mention he did not have that advice from the Metropolitan Police, although he told the States that he had.** He said he had absolute evidence, he had no choice, but the truth*

of the matter is, as he later admitted to the inquiries, he did not see the Metropolitan Police report. Is that not the case?

Deputy A.D. Lewis:

I had unequivocal evidence to make a decision. I am not frightened of making difficult decisions. The Deputy has continued to pursue this for the last 6 years. I have not ever had the opportunity to say anything about this. This was a local disciplinary matter. I was the Minister responsible legally to take action. I am not going to elaborate further on this today, simply because I was the employer. The subject, or the person you are talking about, was the employee. He has a duty of confidentiality. I am not going to discuss the case of a member of staff of the States of Jersey, who I was effectively the employer and that is the position when you are a Minister. You have to respect confidentiality. There is a difference between confidentiality and secrecy and conspiracy and this is confidential.

In refusing to acknowledge, correct or rectify the error made in the first instance, until many years after the event, the Committee believes that Deputy Lewis perpetuated the confusion surrounding the 'lie'. If he wished to maintain the integrity of the Assembly, he should have sought to remedy his mistake and to apologise to anyone who had felt misled immediately he became aware that his comments had been misinterpreted. Minutes after Deputy Lewis stated he had 'read an alarming report from the Metropolitan Police', former Deputy Paul Le Claire repeated the inference that it was the full report which had been seen –

“Deputy P.V.F. Le Claire:

The Minister has made reference to the Metropolitan Police report which, as an interim report, he has described as alarming. As an interim report he has said that has swayed and made his decision, something he has relied upon. The full report, which is due to be tabled and considered by the next Minister, was put in a question by Senator Syvret whether or not it would become publicly available. The answer was as it formed part of the Crown Prosecution's case it would not become a public document. How does that square with full disclosure in an appeals process where the defendant and the prosecution are entitled to see all the documents and evidence laid before the court?”

“Deputy P.V.F. Le Claire:

... I just have a question mark over the “available in one form or another”. Surely the full interim report should be available because the full interim report has been given to the Minister for Home Affairs and it has been that interim report that has given him this position.”

It was clear from Deputy Le Claire's comments that he had understood that Deputy Lewis had seen a 'report', yet this misunderstanding was not countered.

Even during the in-Committee debate on 7th July 2017, Deputy J.A. Hilton of St. Helier advised that she had believed that Deputy Lewis had seen the actual report –

“As a States Member who was in the Assembly when we had that in camera debate, I was in absolutely no doubt that when Deputy Andrew Lewis told Members present that he had seen a copy of the Metropolitan Police interim report and that it was damning, I thought: “Oh my goodness, he has seen the report.” As far as I am concerned – and I do not know about other Members; there will not be that many Members in the Assembly today who were here at that time – I was in absolutely no doubt what he said to me and what I believed he said to me.”

Deputy Lewis has had ample opportunity to correct this misunderstanding since 2008, and the Committee does not accept that because he was no longer an elected member he was unable to do this. Anyone can make a statement to the media.

Instead of resolving the matter in 2008, or apologising for not doing so subsequently, Deputy Lewis has chosen to robustly defend and justify his actions; question why the Law Officers did not step in to correct his mistake; provide e-mail exchanges to intimate he was not party to the machinations of civil servants behind the scenes; blame pressure of work and his lack of familiarity or experience in his role; question the motives, political or otherwise, of those who have sought to raise this issue over the intervening years; and, most recently, to claim that the way in which he was treated by the I.J.C.I. was ‘unjust’.

Indeed Deputy Lewis, even during the hearing, did not appear to the Committee to accept that he had made a mistake and continued to robustly defend his actions: *“What I have done is use the wrong language to describe a report and some Members have clearly been misled by that.”*

At no point, until the release of a media statement after the hearing, did Deputy Lewis say unequivocally that he was sorry. This statement was not circulated to States Members.

When, in the hearing, it was highlighted that, during the in-Committee debate on 7th July 2017, he had said: *“the Assembly deserves an apology from me”*, he admitted he had forgotten he had said that, and then stated: *“... well there’s an apology. I had not realised I’d said that ... I think that is almost an apology ... I think that’s the sort of similes one would use if they were making an apology.”* This is not acceptable and it is not honourable.

Criticism was made by Deputy Lewis and Senator Sir P.M. Bailhache of the I.J.C.I.’s processes and the fact that Deputy Lewis was not allowed legal representation during the Inquiry’s questioning, and that the legal practice of Maxwellisation which allows persons who are to be criticised in an official report to respond prior to publication, based on details of the criticism received in advance, was not followed by the Inquiry. The Committee accepts that Deputy Lewis should have been given prior notice of the findings, given the strength of the comments contained therein.

The issue as to whether Deputy Lewis sufficiently co-operated with the I.J.C.I. hinges on the phraseology he used when replying to the questions put to him by the Counsel to the Inquiry. Just as he argues it to have been a question of semantics as to the meaning of ‘interim’ and ‘report’, so too, does he argue that rather than saying: *“I’m not prepared to answer any more questions on this subject”*, he should have perhaps said simply that he did not have anything more that he could add, which is what he actually meant. Under

the Code of Conduct, Members of the States are expected to co-operate when requested to appear and give evidence before a Committee of Inquiry. The Committee did not find that Deputy Lewis had breached this particular aspect of the Code, but agree that he could have phrased his responses differently.

Vote of Censure

The Committee believes that this breach of the Code of Conduct should be grounds for a Vote of Censure.

All States Members should comply with the Code at all times. Whilst the Code itself is silent as to the definition of 'integrity', it is widely accepted that this word means an adherence to moral principles.

Financial and manpower implications

There are no financial or manpower implications for the States arising from the adoption of this proposition.