

STATES OF JERSEY



STATES MEMBERS' DUTIES

Lodged au Greffe on 29th March 2018
by the Privileges and Procedures Committee

STATES GREFFE

PROPOSITION

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

that the duties of an elected States Member are to –

- (a) represent, defend and promote the interests of the people of Jersey, particularly their parishioners and constituents;
- (b) play an active and constructive role in the governance of the Island, whether as Ministers, Scrutiny Panel members, or in other positions, ensuring that the States Assembly functions effectively and efficiently as the Island's legislature and gives voice to the diverse interests of people in Jersey;
- (c) initiate, seek to amend and review legislation so as to help maintain a continually relevant and appropriate body of Jersey law;
- (d) establish and maintain a range of contacts throughout the Island, and proper knowledge of its characteristics, so as to identify and understand issues affecting Jersey, contribute to debates and other Assembly proceedings on those issues, and, wherever possible, further the interests of the Island (or constituency) generally;
- (e) provide appropriate assistance to individuals in Jersey, through using knowledge of Jersey's government institutions, to progress and where possible help resolve their problems;
- (f) undertake these duties with particular regard to the most vulnerable members of the community, including the Island's children and other people for whom the States of Jersey has a duty of care;
- (g) be ambassadors for the Bailiwick of Jersey, its people, and for the States Assembly in all that they do.

PRIVILEGES AND PROCEDURES COMMITTEE

REPORT

The Independent Jersey Care Inquiry, in its July 2017 report ([R.59/2017](#)), recommended that, to emphasize the importance of the responsibility of States Members as ‘corporate parents’ of looked-after children –

Reference is made to this specific responsibility in the oath of office taken by members of the States Assembly.

The Privileges and Procedures Committee (“PPC”) has accepted in principle that elected States Members should make a formal commitment to uphold the welfare of looked-after children, in the wake of the Care Inquiry’s report. PPC has gone slightly further, to include in this formal commitment other vulnerable people for whom the States of Jersey has a duty of care.

There are practical difficulties with implementing the Care Inquiry’s recommendation as it stands. Firstly, as H.M. Attorney General confirmed in answer to an oral question asked by the Deputy of St. John on 11th December 2017: “*The concept of the corporate parent is not one currently recognised under Jersey law. Individual States Members, other than the Minister for Health and Social Services, do not have any specific responsibility towards children in care, rather for children generally.*”.

Secondly, there are 2 oaths, one sworn by Senators and Deputies, and the other by Connétables. The latter oath dates from 1771, is in French and principally relates to Connétables’ parish duties. Both oaths are set out in primary legislation in the Revised Edition of the Laws of Jersey (the [States of Jersey Law 2005](#) and the [Code of 1771](#)) and therefore would take some time to amend, as amendment requires Privy Council approval. It could be argued that, if these oaths were amended, other oaths, such as those sworn by Crown or Parish Officers, ought also to be reviewed. The oaths are expressed in general terms, and to include reference to one group – looked-after children – and to leave out other vulnerable groups, could lead to there being a messy and divisive approach to amending the oaths.

Senators and Deputies are required to swear that they “*will fulfil all the duties imposed upon you by virtue of the said office*”. The Connétables are similarly required to swear that they will undertake the duties or responsibilities (“*la charge*”) of their office. PPC therefore agreed that a simpler way of meeting the spirit of the Care Inquiry’s recommendation would be to set out the duties of elected States Members in a draft proposition and to invite the Assembly to debate and agree those duties.

PPC established a sub-committee comprising Deputies J.A. Martin and S. Wickenden of St. Helier to draw up the draft proposition. They reviewed material from other jurisdictions – principally the UK, Australia and New Zealand – which set out the duties and roles of parliamentarians. There is considerable consistency in terms of including both parliamentary and constituency responsibilities; representing the Public; debating the issues of the day; and contributing to the good governance of the jurisdiction. Work by the UK Senior Salaries Review Body in 2001 (Cm4997-II) was particularly useful. The draft proposition presented here has been agreed by PPC, but the Committee would encourage debate amongst both States Members and the Public so that the version adopted by the Assembly in due course commands widespread support.

Once adopted, the statement of elected Members' duties could be sent by the Presiding Officer to all newly-elected Members, and/or read out at the first meeting of the Assembly after an election. The Assembly would have the option of revisiting the duties to amend or add to them should the need arise in future.

Setting out elected States Members' duties in this way will improve the transparency and openness of the Assembly. The Public will know in broad terms what States Members are elected to do. We are not aware of other jurisdictions which have formally set out the duties of its parliamentarians. In this respect, Jersey has the opportunity to lead the way. The political accountability of elected States Members will be enhanced, but Members will retain the flexibility to perform their duties as they see fit, and to prioritise aspects of the duties as they decide. The statement of duties will not have legislative force, nor will it be part of the Code of Conduct for Elected Members, meaning that complaints about how States Members have carried out their duties will not be within the remit of the Commissioner for Standards. Ultimately, it will be for the electorate to decide whether a States Member has performed their duties adequately.

Financial and manpower implications

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