

# STATES OF JERSEY



## CODE OF CONDUCT FOR ELECTED MEMBERS: SENATOR S. SYVRET

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Presented to the States on 2nd March 2007  
by the Privileges and Procedures Committee

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STATES GREFFE

## **REPORT**

### **CODE OF CONDUCT FOR ELECTED MEMBERS: SENATOR S. SYVRET**

#### **Background**

On Friday 2nd February 2007 Senator Syvret circulated by e-mail to all members of the States and all chief officers an 'open letter' he had written to Mr. Richard Brocken that had originally been submitted to the Jersey Evening Post for publication but which the JEP had declined to publish in full.

The Chairman of the Privileges and Procedures Committee was approached informally by several members of the States who, whilst not submitting formal complaints about the letter, were curious to know if PPC would be considering whether the contents of the letter breached the Code of Conduct for Elected Members (set out in Schedule 3 of the Standing Orders). The Chairman of PPC decided that the matter should be placed on the Committee's agenda for consideration.

An investigation under the Code of Conduct must be initiated by the Privileges and Procedures Committee in one of 2 circumstances, as set out in Standing Order 157(1) which reads as follows –

#### **157 Investigation of breach of code of conduct**

- (1) Where the PPC has information, whether or not received from a complainant, that suggests that an elected member may have acted in breach of the code of conduct it shall, without undue delay, inform the member and investigate the act.

As can be seen an investigation must be initiated when PPC has information that leads it to believe that a possible breach of the Code has occurred. Standing Order 157(1) makes it clear that this information can either: (i) come from a complaint, or (ii) be information that the Committee received in another way.

Standing Order 156 prevents the Committee from acting solely on the basis of an anonymous complaint submitted. In this case, although there were initially no complaints, the Committee decided that the information it had received through the distribution of the 'open letter' to all members was such that it should investigate of its own volition whether a breach of Section 5 of the Code of Conduct had occurred. That Section reads as follows–

#### **5 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.

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.

Section 5 of the Code was agreed by the States on a standing vote on 1st November 2005 when amendments the new Standing Orders were approved. Section 5 of the Code exists because members of the States have collectively agreed that there are certain basic standards of courtesy and respect that the public have a right to expect from elected members, notwithstanding the fact (referred to in more detail below) that members must, of course, be free to express their views openly, freely and robustly at all times. The Committee hopes that all members would agree that it would be quite inappropriate for it to become the norm for members to use abusive, insulting or offensive language in their public utterances as it believes that the public have the right to expect higher standards of behaviour from those they have elected to represent them.

#### **Correspondence with Senator Syvret**

The Committee notified Senator Syvret on 8th February 2007 that it had decided to investigate the matter and that a Panel had been set up to conduct this investigation. Following this notification there was extensive correspondence between Senator Syvret and the Committee which did not make it easy for the Committee to deal with this investigation. Senator Syvret has been extremely critical of the manner in which the Committee has dealt with this issue and the correspondence, which is hopefully self-explanatory, is therefore reproduced in full in the Appendix to enable members of the States and others to judge for themselves whether or not they consider that criticism to be fair. The Committee's own view is that it has, at all times, tried to act reasonably, fairly and in accordance with Standing Orders.

The Committee would stress that it does not believe that the Code of Conduct is fundamentally flawed and has therefore no reason, at this stage, to seek to amend it as Senator Syvret has suggested although any member of the States is, of course, free to do that. In addition the Committee has been conscious throughout this process that it has a duty under Standing Orders to enforce the Code and investigate matters not only when it receives an actual complaint but also when it has information that suggests that the Code may have been breached and it cannot simply ignore that duty.

### **Meeting with Senator Syvret**

As can be seen in the attached correspondence PPC initially invited Senator Syvret to exercise his right to address the Committee on either 23rd or 25th February 2007. Senator Syvret indicated that he was unavailable on either of those days and the Committee therefore offered an additional date, namely Wednesday 28th February 2007, when Senator Syvret indicated he was free to attend.

The Committee has always considered that investigations into complaints under the Code of Conduct are matters that should normally be dealt with in private as, at the investigation stage, it seems inappropriate to the Committee for the matter to be discussed in public when there may be no substance to the complaint and a subsequent finding that no breach has occurred. Holding all meetings of this nature in public would, in the Committee's view, inevitably lead to investigations being conducted through the media. Standing Orders nevertheless make it clear that a member whose conduct is being investigated has the right to be accompanied by any person of his or her choice when addressing PPC and, despite his later claims that he had never been told that the meeting was being held 'in secret', the arrangements for 28th had been made very clear to Senator Syvret in the Chairman's letter of 15th February 2007 which stated –

“It is not the Committee's policy to publicise such meetings as 'public meetings' as our experience has shown some members who are the subject of a complaint prefer the meeting to be held in private. Nevertheless Standing Orders allow a person addressing the Committee to be accompanied by any person of his or her choice and for that reason the Committee is happy for you to bring anyone you wish to the meeting and 'publicise' it in any way you see fit”.

On 28th February 2007 Senator Syvret arrived at the Committee meeting and was followed into the Blampied Room by a JEP journalist, a JEP photographer and a member of the States. The Chairman made it clear, as stated in the letter of 15th February above, that the meeting was not a 'public' one but stressed that the journalist could remain if Senator Syvret invited him to do so. Senator Syvret explained that this would have breached the professional standards of journalism and, having read a statement to the Committee (attached in the Appendix), Senator Syvret and the others who had entered left the meeting.

### **Committee's conclusions**

The Committee is extremely disappointed that Senator Syvret chose not to exercise his right to address the Committee as throughout the correspondence he has expressed concern that PPC has ignored basic principles of free speech, as if the Committee had already made an adjudication which, as had been made very clear to him, was not the case.

Standing Orders require the Committee to enforce the Code of Conduct and to begin an investigation without undue delay if it considers that it is in possession of information that suggests that the Code might have been broken. It is nevertheless essential, using a parallel from the legal world, that it is made absolutely clear at every

stage in the process that a member whose conduct is under investigation is obviously ‘innocent until proved guilty’.

PPC takes its responsibilities under the Code very seriously but is equally conscious of its duty under Standing Order 128(f) “to champion and defend the privileges of members of the States”. Senator Syvret has made extensive reference in his e-mails to the need to defend and promote freedom of expression and PPC totally shares his view in this regard. It is not apparent to the Committee why Senator Syvret considered in correspondence that the Committee might not share this view.

PPC believes very sincerely that members must be able to express their views, concerns and opinions freely and without constraint. As has been made clear in correspondence with Senator Syvret this investigation has never been about the political views and judgments he expressed in the ‘open letter’. It is unfortunate that media reports have given the impression that this was the case.

PPC’s view is that the balance between the self-imposed restrictions of ‘courtesy and respect’ that members have agreed in the Code of Conduct and the need for freedom of expression will always be a difficult one for the Committee to judge in such investigations. PPC has received legal advice that the States were quite free to adopt self-imposed restrictions on members’ behaviour through the Code but it is clearly important that, in enforcing the Code, PPC has due regard to the importance of allowing all members to feel they can express their views freely.

The Committee has considered the language used in the ‘open letter’ to Mr. Brocken very carefully in the context of the balance referred to above. Members of the Committee consider that the tone used in certain parts of the letter was not one that they themselves would have adopted and it is perhaps surprising to some that a very senior member of the States wrote in the way that he did.

The Committee is nevertheless unanimous that the tone of the letter **did not breach Section 5 of the Code of Conduct**. The tone was clearly ‘robust’ and those who were criticised may feel somewhat aggrieved but the Committee believes that the language was not ‘discourteous’ or ‘disrespectful’ in a way that could be said to have breached the Code. In summary, in this case, the balance between freedom of expression and a breach of the Code must, in the Committee’s view, be decided in favour of the former.

**PPC therefore concludes that Senator Syvret did not breach the Code of Conduct in writing and circulating the ‘open letter’ in the way that he did.**

PPC has also considered the tone and content of the many e-mails and other documents received by the Committee from Senator Syvret over the last 3 weeks together with his reported comments in the media about the manner in which this matter has been dealt with. PPC does not intend to take any further action about these. It is satisfied that it has dealt with this matter fairly and properly and, as seen from the Committee’s conclusions, many of the concerns expressed by Senator Syvret were clearly unfounded. The Committee does not intend to make any response, or take any action, in relation to the ‘Complaint against the Privileges and Procedures Committee’ circulated to all members on 27th February. If any members of the States disagree with the manner in which the Committee has dealt with this investigation they are, of course, free to take whatever political action they wish against PPC. Similarly, if any member feels that the current Standing Orders and/or the Code of Conduct are inappropriate he or she is free to lodge amendments to seek changes.

## Privileges and Procedures Committee

Our ref: 1240/9/2(27)

Senator S. Syvret

5th February 2007

Dear Senator Syvret,

### **Code of Conduct for Elected Members**

Following our e-mail exchanges I am writing formally to set out the position in relation to a possible investigation under the Code of Conduct for Elected Members in connection with the open letter to Mr. Richard Brocken that you circulated last week. I have been contacted by a number of members asking whether the Privileges and Procedures Committee will be considering whether the contents of the letter might constitute a breach of the Code of Conduct.

Under Standing Orders the Privileges and Procedures Committee can begin an investigation under the Code in one of 2 ways. The Committee can do so in response to a complaint, but it can also initiate an investigation of its own volition if facts come to its attention that it believes might constitute a breach. Following the approaches I have received, and having read the letter myself, I will be asking the Committee on Wednesday to decide whether or not it believes that an investigation should be initiated. If the Committee agrees to do that the proper procedure under Standing Orders 157 and 158 will be followed (attached for convenience). I must stress that, at this stage, all that has been decided is that the Committee will be asked whether or not it thinks that there are grounds to begin an investigation. The Committee may decide that there are not, and it is possible that the Committee will wish to know what steps the Council of Ministers is taking in relation to the Ministerial Code before taking any final decision. If the Committee decides that the circumstances merit investigation, then the statutory procedure will be followed and, as you can see, you would be given every opportunity to put your point of view to the Committee and to any panel set up to investigate.

As no decision has been taken about whether or not an investigation should even be started it would not be right, at this stage, for me to enter into detailed exchanges with you about this matter. I would nevertheless reassure you that PPC has no interest in becoming involved in any policy differences that may exist between members of the Council of Ministers and I do not think that this case has anything to do with freedom of expression as such. Section 5 of the Code, which I would imagine is the Section that PPC will be considering in this case, reads as follows –

#### ***5 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.*

*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.*

If PPC should decide to look further into this matter it would be restricting itself to the tone and style of the

language used in your letter to see if there were any breaches of the Code. The views you express about States' policies, which you are, of course, quite free to do, are of no interest to PPC.

You have asked me if the investigation process would be conducted in an open and transparent way. If any decision is made to investigate I can assure you that you will be notified of the precise matters that the Committee wishes to consider and you will be given a full opportunity to respond. Traditionally such hearings have been treated as 'Part B' agenda items because the member concerned has wished it to be done in that way but I am sure PPC would be willing to consider whether a hearing could be held in public. I think it is somewhat premature to speculate about that at this stage as no decision has even been made about whether to pursue this further.

I will notify you of the Committee's decision after Wednesday's meeting. As I am sure you will know Standing Orders prevent you, as a member of the Committee, taking any part in a matter under the Code that involves you.

Yours sincerely,

A handwritten signature in cursive script that reads "Derek Gray".

**Derek Gray**  
**Chairman**

### **157 Investigation of breach of code of conduct<sup>[1]</sup>**

- (1) Where the PPC has information, whether or not received from a complainant, that suggests that an elected member may have acted in breach of the code of conduct it shall, without undue delay, inform the member and investigate the act.
- (2) The PPC may appoint a panel of 3 persons to investigate the act and report upon it to the PPC.
- (3) One of the persons appointed must be a member of the States, although he or she need not be a member of the PPC.
- (4) The other persons appointed may or may not be members of the PPC or of the States.
- (5) The PPC shall appoint a member of the panel who is also a member of the States to be chairman of the panel.
- (6) If the elected member whose act is to be investigated is a member of the PPC, he or she shall take no part in the investigation or the appointment of any person to undertake the investigation.
- (7) If a member of the PPC is the complainant, or is otherwise connected with or was involved in the act to be investigated, he or she shall take no part in the investigation or the appointment of any panel to undertake the investigation.
- (8) The fact that the PPC has appointed a panel to investigate the act shall not prevent the PPC conducting any part of the investigation itself.
- (9) The elected member whose act is being investigated shall have the right to address the persons conducting the investigation, whether they are the PPC or a panel, and, when doing so, to be accompanied by a person of his or her choice.

### **158 Outcome of investigation<sup>[2]</sup>**

- (1) When an investigation is complete and the panel (if any) appointed to conduct it has reported to the PPC –
  - (a) the elected member whose act has been investigated shall have the right to address the PPC and, when doing so, may be accompanied by a person of his or her choice; and
  - (b) the PPC shall review the matter and form an opinion as to whether or not he or she has breached of the code of conduct.
- (2) The PPC –
  - (a) shall inform the elected member of its opinion and of the reasons for it; and
  - (b) may report the opinion and reasons, and any action taken by the PPC, to the States.
- (3) A report may be presented to the States in writing or made orally by the chairman of the PPC in a statement.

# Privileges and Procedures Committee

Our ref: 1240/9/2(27)

Senator S. Syvret

7th February 2007

Dear Senator Syvret,

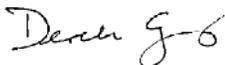
## **Code of Conduct for Elected Members**

Further to my letter of 5th February 2007 I am writing to notify you that the Privileges and Procedures Committee decided this morning that some of the content of your open letter to Mr. Richard Brocker merited investigation to assess whether or not you had breached the Code of Conduct for Elected Members. The Committee therefore established a Panel under Standing Order 157(2) comprising myself as Chairman and the Connétable of St. Mary and the Deputy of St. Mary as members.

The Panel will meet on Friday 9th February 2007 and, following that meeting, will notify you of the precise matters that it wishes to discuss with you. The Panel will be following the procedure established by Standing Orders to investigate possible breaches of the Code of Conduct and you will, of course, be given the full opportunity to address the Panel.

I will write again on behalf of the Panel following Friday's meeting. I must stress most strongly that, at this stage, the only decision taken by PPC is that this matter merits investigation. In addition, I would stress, as pointed out in my letter of 5th February 2007, that the Panel, and in due course the Committee itself, will only consider the style, tone and language used in your letter and has no intention of involving itself in issues relating to the policy matters you raise.

Yours sincerely,



**Derek Gray**  
Chairman

-----Original Message-----

From: Stuart Syvret  
Sent: 09 February 2007 12:06  
To: Derek Gray  
Cc: Kenneth Le Brun; Juliette G. Gallichan; Michael De La Haye (States Greffe); Petrina Horton  
Subject: RE: Code of Conduct for Elected Members

Dear Derek

I'm not sure at what time your panel is meeting. I'm sorry if this doesn't get to you in time but with all due respect, I received the e-mail yesterday afternoon and I still don't have a hard copy in my possession.

I'm afraid it isn't clear from your communications to me whether you are prepared to hold any hearing in public session. Could you confirm to me that you are?

Could I also make it plain, as I have in previous correspondence, that I require a detailed and clear description of what it is that is complained of; what words or passages are deemed problematic; why they are considered unacceptable; the relevance of any part of the code and an explanation as to why it may be thought that my article breached the code?

In order to assist, let me make my position clear. I reject utterly that what I wrote is in breach of any code. That if people think it is in breach of the code their interpretation of the code is wrong. Alternatively, if the interpretation of code was, hypothetically, correct, then the code is not compatible with democracy.

Under Article 10 of the ECHR people have a right to free speech. It is true that that right is qualified, but any state, entity or authority relying on such qualification in order to circumscribe free speech has a number of very high hurdles to cross. I will contend that - if - the view is taken my article breached the code, I will challenge such a finding as not being compatible with my Article 10 rights.

Any restriction on free speech has to be robustly shown to be "necessary" and that the views expressed are "proscribed" by law. In addition to this hurdle is the further test of whether any restriction is "proportionate". Any reasonable person could see that there are circumstances where a restriction on free speech might be "proportionate". It is perfectly justifiable that I, for example, should not publicly speak of the private affairs of patients or social service clients. It is perfectly reasonable that the Law Officers, given their need to be politically neutral and involved in the administration of justice, should be expected to refrain from joining public political discourse. And so on. Any number of examples could be given.

However, it is not remotely plausible or credible to attempt to argue that it is "proportionate" to seek to constrain the free speech of the elected representatives of the people. And most certainly not when we are considering an individual expression of views made by a member completely externally to the internal functioning of the legislative chamber. PPC really need to think very carefully about this. If a code approved by the majority of members can be interpreted and used to suppress the free speech of a minority of members out in the day-to-day world away from the assembly - then we have entered profoundly dangerous waters. Tyranny by the majority is a well established concept.

Nor is it credible to attempt to suggest that it is not "my views" you object to, rather "the tone" of their expression. There is ECHR case law that covers such attempted defences. The style and manner of a person's choice of expression is protected with as equal force as the meaning. Artistic and creative modes of expression are a keystone of free speech. ECHR case law repeatedly makes it plain that free speech is not confined to that which is polite or non-controversial. It also extends to that which may be offensive, controversial or shocking.

For what its worth, my view is that PPC should either decide that what I wrote does not breach the code for the reasons I give - or that if it does breach the code, then it is the code which is wrong for not being compatible with free speech and that it must be amended accordingly.

Should this not be the finding, the position will be legally challenged by both myself and members of the public. Not only will such a finding become a prior constraint on my free speech - it will also be an out-and-out constraint on the rights of my constituents to enjoy the right to "receive" "information and ideas" from me; and their right under Protocol 1, Article 3 which requires that "free elections.....ensure free expression of the opinion of the people in the choice of legislature." My constituent's rights will be constructively breached if their "free expression"

is effectively assaulted by attempts to constrain their elected politicians.

I hope it doesn't prove necessary to fight this, but I and some of my voters will should it become necessary. I intend to establish a blog sometime in the coming months and I am certainly not going to entertain going through this nonsense every time someone doesn't like 'my tone'. The age of forelock tugging deference ended in most places in the early 20 century.

Regards

Stuart

-----Original Message-----

From: Michael De La Haye (States Greffe)  
Sent: 09 February 2007 17:04  
To: Stuart Syvret  
Cc: Kenneth Le Brun; Juliette G. Gallichan; Petrina Horton; Derek Gray  
Subject: RE: Code of Conduct for Elected Members

Senator, the Chairman of the Panel has asked me to send you a short note on behalf of the Panel following its meeting at lunchtime.

The Panel will write to you early next week setting out its proposed way forward and giving details of the precise matters it intends to consider. You will be given a full opportunity to be heard by the Panel if you wish to exercise your right in Standing Orders to do that - in addition the Panel has no objection if you wish to invite anyone you choose (including for example the media) to be present when you come.

In its letter to you next week the Panel will address the matters you refer to below which it considered at lunchtime.

-----Original Message-----

From: Stuart Syvret  
Sent: 09 February 2007 17:05  
To: Derek Gray; Michael De La Haye (States Greffe)  
Subject: PPC Meeting.  
Importance: High

Derek & Michael

Would it be possible to let me know what transpired at the PPC panel meeting this afternoon. I would like to know today if possible so I can begin preparing my case.

Thanks

Stuart

-----Original Message-----

From: Stuart Syvret  
Sent: 09 February 2007 17:11  
To: Michael De La Haye (States Greffe)  
Cc: Kenneth Le Brun; Juliette G. Gallichan; Petrina Horton; Derek Gray  
Subject: RE: Code of Conduct for Elected Members  
Importance: High

Michael & Derek

You will have seen the e-mail I sent just before I received this one. I would hope the letter could be e-mailed to me today sometime? I take it from this the Panel has decided it will proceed as though a breach of the code has occurred? If so what timetable is the panel working to? I ask this because I will be seeking advice from a member of the House of Lords and if he is able to assist, his time will be heavily constrained.

Thanks

Stuart

-----Original Message-----

From: Michael De La Haye (States Greffe)  
Sent: 09 February 2007 17:15  
To: Stuart Syvret  
Cc: Kenneth Le Brun; Juliette G. Gallichan; Petrina Horton; Derek Gray  
Subject: RE: Code of Conduct for Elected Members

Senator, the Chairman, Deputy Gallichan (and me although that is less important!) went straight from the panel meeting into a Machinery of Government Sub-Committee meeting which lasted all afternoon. In fact we have just finished and the e-mail to you was about the first thing I did on returning to my office.

I'm afraid it's just not feasible for the letter to come to you before Monday although I'm sure the Panel, whilst wanting to ensure that this issue doesn't drag on for too long, will make sure you have adequate time to consider the points that will be in the letter.

-----Original Message-----

From: Stuart Syvret  
Sent: 09 February 2007 17:32  
To: Michael De La Haye (States Greffe)  
Cc: Kenneth Le Brun; Juliette G. Gallichan; Petrina Horton; Derek Gray  
Subject: RE: Code of Conduct for Elected Members

Michael

The support I am seeking may not be available for some months. The point I am trying to make is that this will be a long and intensive process. Not some thing that could be cooked up in a week or two. You have to understand the gravity of the situation. I have written a letter which some people didn't agree with. I did so as an individual member from my own home. It was not said in the chamber or its precincts. But yet some politicians seem to imagine that they have locus and power and right to subject my words or those of others to a censorious 'disciplinary' procedure because they "don't like the tone". Last time I looked, this was the 21st century and we lived in a free and democratic society. If I wish to say that X or Y person is a complete fool and to mock them using satire - then I am entitled to do that. Anyone is entitled to disagree with my views and mock me in turn. What you can't do is say "you're not allowed to say that". My grandfather fought in world war 2 for such freedoms. Now, apparently, these freedoms no longer exist and I can't even be kept fully informed in a timely manner. The least I can do is fight such utter madness.

Thanks

Stuart

-----Original Message-----

From: Michael De La Haye (States Greffe)  
Sent: 09 February 2007 17:38  
To: Stuart Syvret  
Cc: Kenneth Le Brun; Juliette G. Gallichan; Petrina Horton; Derek Gray  
Subject: RE: Code of Conduct for Elected Members

Senator, I hope you'll appreciate that you don't need to convince or persuade me of anything!

The panel intends to follow the procedures set out in Standing Orders as agreed by the States which also set out exactly how such panels and the PPC must operate. The panel appreciated from your message this morning that you have serious concerns about the possible implications of the Code of Conduct but considered that it must work within the rules agreed by the States until they are changed by the Assembly.

-----Original Message-----

From: Stuart Syvret  
Sent: 09 February 2007 17:50  
To: Michael De La Haye (States Greffe)  
Cc: Kenneth Le Brun; Juliette G. Gallichan; Petrina Horton; Derek Gray

Subject: RE: Code of Conduct for Elected Members

Michael

I suppose its too much to ask why the Panel simply didn't consider the issue today and in the space of 3 minutes, decide "free speech". "And if the code doesn't allow that, the code is wrong and we will change it"?

Do I really have to fall back on Voltaire and Tom Paine? Does nobody read anything anymore? A bloody century of savage war for freedom behind us - yet still we have to fight simply to speak our mind?

Thank God I am getting out of all this. If I'm exposed to much more of this comically tragic ignorance I'll end up a having to sign a guardianship order for myself.

Thanks

Stuart

# Privileges and Procedures Committee

Our ref: 1240/9/2(27)

Senator S. Syvret

13th February 2007

Dear Senator Syvret,

## **Code of Conduct for Elected Members**

Further to my letter of 7th February 2007 concerning the investigation into the content of your open letter to Mr. Richard Brocken.

In my letter of 7th February 2007 I notified you that the Committee had established a Panel under Standing Order 157(2) to investigate this matter. Following the subsequent exchanges of e-mails the Panel decided that it would be appropriate to refer the matter back to the full Privileges and Procedures Committee for consideration. The Committee met this morning to discuss this issue. The Deputy of St. Peter, as you know, is taking no part in this matter and was not present at the meeting. Furthermore Senator Vibert considered that, as he had been involved adjudicating under the Ministerial Code, it would not be appropriate for him to participate. In addition, as you know, Standing Order 157(7) prevents you from having any involvement in the discussions. As a result the only members of the Committee dealing with the matter are myself, the Connétable of St. Mary, Deputy Baudains and the Deputy of St. Mary.

The Committee concluded that there was, in fact, little merit in delegating this matter to a Panel (bearing in mind particularly that the “full” Committee only consists, for these purposes of one additional member). The creation of Panels to investigate complaints was intended, under Standing Orders, to cover circumstances where there might be conflict over the factual basis of allegations. The intention was that a Panel could investigate to ascertain the full factual background surrounding a case and the Privileges and Procedures Committee could then adjudicate on whether there had been any breach of the Code of Conduct. Standing Orders do not, of course, allow a Panel itself to adjudicate only investigate.

The Committee has decided that it will deal with this matter itself as permitted by Standing Orders. The Committee noted the contents of the various e-mails you have sent and your concern about the Code, issues of freedom of speech and the possibility of litigation. I have to say that the Committee is taking a rather more straightforward view of this matter. The Committee’s view is that the States, by a significant majority, approved a Code of Conduct which imposes certain standards on members of the States. Such Codes are, of course, common now in many parliaments in the world. The relevant part of the Code, for these purposes, is Section 5 relating to **Maintaining the Integrity of the States**. That Section reads as follows –

“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.”

Members of the States are required by Section 9(d) of the Code to co-operate with any investigation and the Privileges and Procedures Committee is charged by the States under Standing Order 128(f) to “take the necessary steps for the enforcement of the Code of Conduct for members of the States and in this context to promote high

standards amongst members of the States". The Committee considers that it must fulfil its duty under Standing Orders to investigate and adjudicate on any alleged breach of the Code. The Committee cannot simply ignore States' decisions on the Code or on the Committee's own terms of reference until those are changed by the States.

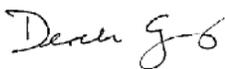
I must stress again that the Committee has not yet come to any decision at all on whether or not a breach of the Code has occurred. The Committee intends to go through the process set out in Standing Orders which involves allowing you to address the Committee, if you wish, to set out your response. The Committee will then adjudicate on whether or not, in its opinion, there has been a breach of the Code. The issue is therefore quite simple. The Committee, in accordance with its terms of reference, needs to decide whether the contents of your letter meet the standards expected of elected members.

If you choose to address the Committee in accordance with your right we would be grateful to know whether you consider that the tone and style of your letter breaches any part of Section 5 of the Code quoted above. The Committee has identified 3 particular parts of the letter that it believes should be addressed in particular. These are as follows –

1. The reference throughout the letter to Mr. Brocken as "Ritchie", particularly the repeated reference to this throughout the letter.
2. The references to Deputy Maclean on page 3 of the letter and the description of him as "a multi-millionaire property merchant with a country estate in England" on page 4.
3. The reference to editors of the Jersey Evening Post in the sentence "I used to think it was axiomatic that only weak and silly little men ever get to become editors of the JEP: tremulous poltroons who could be relied upon to service the interests of Jersey's landlords, bosses and used car salesmen".

The Committee believes it would be inappropriate to allow this matter to drag on unnecessarily. As mentioned above the Committee believes that the issue is straightforward and within the terms of reference of the Committee to deal with. The Committee is available to meet you either next Wednesday 21st February 2007 at 9.30 a.m. or on Friday 23rd February 2007 again at 9.30 a.m. Please indicate to Petrina Horton, the Committee Clerk, whether you wish to exercise your right to address the Committee and, if so, which time is more convenient for you. Standing Orders allow you to be accompanied by any person of your choice and the Committee is more than happy for you to invite any person or persons you wish to be present when you address the Committee although any subsequent adjudication by the Committee will be undertaken in private.

Yours sincerely,



**Derek Gray**  
Chairman

-----Original Message-----

From: Stuart Syvret  
Sent: 13 February 2007 17:54  
To: Derek Gray  
Cc: Juliette Gallichan; Kenneth Le Brun; Gerard Baudains; Michael De La Haye (States Greffe)  
Subject: PPC re Letter

Dear Derek

Thank you for the letter which I have just received from Petrina. As I think I made clear when I last wrote, I consider this to be a matter of fundamental principle, as do many members of the public. I therefore intend to mount a serious defence of free speech. I, and probably many others, don't want to go through this nonsense every time someone thinks that we've been 'impolite'. As I said, I will be establishing a blog in the coming months and absolutely nothing PPC can do will prevent me from speaking my mind in it. We really have to avoid 30 or 40 of these 'hearings' per annum.

In light of the above, I have to say that the dates you give are far too soon. Unlike PPC, I do not have ready access to legal advice. Seeking and taking such advice will take me some time. I have no funds to pay for such advice so will be on the mercy of lawyers prepared to help me pro bono. PPC, surely, respects the basic principles of natural justice?

It should also be noted that PPC are, in effect, acting as complainant, jury and judge in this matter. Not a credible position.

It is not clear from your letter whether you agreed to my request for any hearing to be in public, though this could be construed from your last paragraph when you state that I can bring people of my choice to attend. Could you confirm a public hearing please?

Please note that I and some members of the public will shortly submit a formal complaint against the Privileges & Procedures Committee on the grounds that the Committee is in breach of the following part of the Code:

“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.

A detailed case will be submitted in due course, but in summary it will be argued that, in the absence of actionable libels or use of obscenities, PPC is bringing the States into disrepute by seeking to engage in a censorious action against an elected representative of the public, attacking his freedom of speech, limiting his - and by example and extension others - ability to express the concerns of his electorate and generally failing to recognise the importance of free speech.

I would also be grateful if you could state to me whether you believe the statements in my letter of which you complain are untrue?

If you could let me have your response as soon as possible, I would be grateful.

Thanks

Stuart

-----Original Message-----

From: Stuart Syvret  
Sent: 14 February 2007 09:43  
To: Derek Gray; Juliette Gallichan; Kenneth Le Brun; Gerard Baudains; Michael De La Haye (States Greffe)  
Subject: RE: PPC re Letter  
Importance: High

Dear All

You will have received the e-mail below already. In addition to the points raised in the e-mail, I would be grateful for answers to the following questions.

Could each of you respond directly to me stating whether you have discussed my letter with members of the public or other States members? What was the nature of each conversation? Have you been lobbied to get PPC involved in this issue, and if so, by who?

I would be grateful if Derek could state whether PPC has received complaints concerning the issue and if so, from who?

You state in your letter that you do not wish this matter to "drag on". That being so, you will need to respond to my communications swiftly. Unless and until, I have answers to me queries, I will not be in a position to know what it is I am defending myself against, and thus agree a date with you for a hearing.

I must emphasise again that free speech is a matter of the utmost importance. I am, therefore, going to fight for freedom of expression without compromise.

As a motto of the International Brigade who fought Franco's fascists said, "If you tolerate this your children will be next."

In your letter you cite three passages from my letter and it is these passages, I assume, that you are complaining of? If so I am unable, on the basis of the furnished information, to know what it is I am supposed to be defending myself against. Could you please give me a precise explanation of what it is you consider worthy of 'investigation' in the three cited passages?

In particular, I am extremely curious to know why you should even dream that the factual statement "a multi-millionaire property merchant with a country estate in England" to describe Deputy MacLean provides any locus standi?

Likewise, I am immensely interested to learn precisely why it should be considered objectionable to refer to a man as "Ritchie" when he is a man commonly known as "Ritchie"?

I would also like you to acknowledge that the letter was written against a background of two letters accusing me of being a communist sympathiser.

A couple of weeks ago a former States member phoned up Radio Jersey and suggested that I was a communist. He was actually a studio guest last Sunday, and during the programme he likened me to Adolph Hitler. By way of contrast, I point out that a States member owns a country estate in England, and refer to a member of the public as Ritchie - and my words suddenly become some immense crises of intolerable expression and a threat to good order.

I don't suppose there is much purpose in pointing out the absurdity of all this to PPC? No, I didn't think so somehow.

I look forward to your answers.

Thanks  
Stuart

-----Original Message-----

From: Stuart Syvret  
Sent: 15 February 2007 10:38  
To: Derek Gray; Kenneth Le Brun; Gerard Baudains; Michael De La Haye (States Greffe); Juliette G. Gallichan  
Subject: RE: PPC re Letter  
Importance: High

Dear All

With the exception of Michael, who has rightly told me it isn't for him to get involved in political matters, I have heard from none of you so far. PPC will, no doubt, be pressing me to agree a date for a hearing at some point. This being so, I really must ask for far swifter communication. I, and I imagine PPC, will wish for total clarity as to what it is we will be discussing and why, when we meet. This will avoid a great deal of time wasting and deliver for us clarity of focus. There are, therefore, likely to be a number of issues on which we will need to correspond prior to any hearing.

Could I ask that my e-mails are responded to rapidly?

Thanks

Stuart

# Privileges and Procedures Committee

Our ref: 1240/9/2(27)

Senator S. Syvret

15th February 2007

Dear Senator Syvret,

## **Code of Conduct for Elected Members**

I refer to your e-mails of 13th and 14th February 2007 concerning PPC's investigation under the Code of Conduct for Elected Members.

I do not think it is appropriate at this stage in our investigation to continue to enter into extensive correspondence about this matter and I do not therefore intend to do so. It is nevertheless only right that I respond briefly to certain matters raised in your messages.

As you know the Privileges and Procedures Committee is investigating whether your letter breaches Section 5 of the Code of Conduct for Members. This is a collective Committee decision and the views and actions of individual members are immaterial. For this reason, Committee members have decided not to respond to you individually on this matter but rather to direct all correspondence through me as Chairman.

The investigation has been instituted under Standing Order 157(1) which reads as follows –

### **157 Investigation of breach of code of conduct**

- (1) Where the PPC has information, whether or not received from a complainant, that suggests that an elected member may have acted in breach of the code of conduct it shall, without undue delay, inform the member and investigate the act.

I must stress again that no decision has been reached on whether the Code has been breached but the extracts quoted have been given as examples of parts that the Committee believes should be considered alongside Section 5. The factual basis or otherwise of the extracts is not an issue – the only matter to be investigated is whether or not the letter meets the standards of courtesy and respect required of members by Section 5 of the Code.

As I have already mentioned Standing Orders set out a very clear process that must be followed in these cases. We intend to adhere strictly to those procedures and we must therefore proceed without undue delay as required. If you have concerns about the implications of the Code, the procedures set out in Standing Orders or the manner in which the Privileges and Procedures Committee is fulfilling its terms of reference in investigating alleged breaches there are, of course, avenues open to you to pursue your concerns.

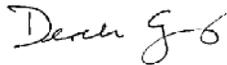
The Committee intends to meet next week to adjudicate on the matter. One of the dates offered to you is one of the 'standby' dates agreed for additional PPC meetings and may therefore already be in your diary. You are invited to exercise your right to address the Committee when we meet. The meeting is not a 'hearing' but, quite properly, Standing Orders allow you to be heard and I hope you will want to exercise your right to do that and give us your point of view before we adjudicate on whether we consider there has been a breach. It is not the Committee's policy to publicise such meetings as 'public meetings' as our experience has shown some members who are the subject of a complaint prefer the meeting to be held in private. Nevertheless Standing Orders allow a person addressing the Committee to be accompanied by any person of his or her choice and for that reason the

Committee is happy for you to bring anyone you wish to the meeting and 'publicise' it in any way you see fit.

I would be grateful if you could indicate whether you intend to exercise your right to address the Committee next week and, if so, whether Wednesday or Friday is more convenient for you. We are not prepared to delay the matter any further as we consider that the issue is quite simple. In summary, the States have agreed a Code by a large majority and charged PPC to investigate alleged breaches without undue delay. The Committee must therefore adjudicate on whether or not it considers that any of the contents of your letter breach the Code. If you are unhappy with the manner in which the Committee does that you are, of course, free to take whatever action you wish in due course.

I look forward to hearing from you.

Yours sincerely,

A handwritten signature in cursive script that reads "Derek Gray".

**Derek Gray**  
Chairman

-----Original Message-----

From: Stuart Syvret

Sent: 15 February 2007 16:14

To: Derek Gray

Cc: Kenneth Le Brun; Gerard Baudains; Juliette G. Gallichan; Petrina Horton; Michael De La Haye (States Greffe)

Subject: RE: Emailing: 2007.02.15 Syvret S. from Chairman.doc

Dear Derek

Thank you for your letter. As I have to point out, it contains many inadequacies. I will address just a few of them here.

Firstly, you and PPC collectively refuse to answer my questions in which I asked whether members of PPC have discussed my letter with members of the public or other States members, and whether PPC collectively or its individual members have been lobbied to take action over this matter.

It as an obvious feature of the delivery of natural justice that a person accused of some offence, or facing some form of disciplinary action, has a right to know who their accusers are. This principle shouldn't really need re-stating but I do so for the record.

You rely upon the code of Conduct for States members in justifying the involvement of PPC. Let me cite some of that Code.

156 Complaint about conduct of an elected member [26]

- (1) Any person may complain to the PPC that an elected member has breached the code of conduct.
- (2) The PPC shall not accept any complaint –
  - (a) which is made anonymously;
  - (b) which, in the opinion of the PPC, is frivolous, vexatious or unsubstantiated;

Firstly, the refusal of PPC collectively, or in the person of its individual members, to state unambiguously whether lobbying has occurred over this matter, is a prima facie breach of Standing Order 156 (2) which I quote above. Any such lobbying is de facto an anonymous complaint. In order to comply with this part of the Code, PPC itself and each of the involved members, must either give their solemn word of honour that no such lobbying, conversations or complaints have taken place - or if such conversations have taken place, abandon the process on the grounds that PPC must not act on anonymous complaints, this in order to comply with 156 (2) (a).

Secondly, you state in your latest letter that "This is a collective Committee decision and the views and actions of individual members are immaterial." No they are not. As already stated, a person subject to disciplinary processes has a right to know who their accusers are. And, as far as PPC are concerned, let me cite Standing Order 157 (7) "If a member of the PPC is the complainant, or is otherwise connected with or was involved in the act to be investigated, he or she shall take no part in the investigation or the appointment of any panel to undertake the investigation." If the processes you are adopting are not to fall into ridicule, every reasonable step must be taken to attempt to demonstrate transparency, impartiality and to avoid people coming to the conclusion that what PPC is undertaking is merely a de facto party political act of oppression.

Article 6 of the European Convention on Human Rights guarantees that "In determination of his civil rights and obligations.....everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal". PPC fails this test on two grounds. Firstly, it fails to meet the necessary appearance of objectivity and impartiality, given its collective refusal to state what a priori discussions or lobbying its members have been a party to. Secondly, PPC is a group of politicians. No group of politicians - especially when dealing with political opponents - could ever be remotely regarded as qualifying as an 'independent and impartial tribunal'. PPC argues that such considerations do not apply as it, and its ability to control elected representatives, is covered by parliamentary privilege. This would be the case if the matter under investigation had taken place within the States chamber or its precincts. The communication under investigation by you was not undertaken from a position of - or under the protection of - parliamentary privilege. It was a statement of my views using the device of satire. It was issued by me as it might have been by any ordinary member of the public.

Let me put it to you that neither PPC, nor any other member of the States, has any locus standi to take disciplinary action that is non-compliant with the European Convention on Human Rights in respect of a matter that took place away from the legislature and outside the protection and bounds of parliamentary privilege.

Moving on to 156 (2)(b); I asked in earlier correspondence for a detailed explanation of what, precisely, it is that PPC deems worthy of investigation. You cited that I had described Deputy MacLean as a multi-millionaire property merchant who owned a country estate in England. You also cited that I had referred to a man as Ritchie - this notwithstanding the fact he is commonly known as Ritchie. The failure of PPC to cite substantive and credible reasons for the investigation is de facto a breach of Standing Order 156 (2)(b) in that that which is complained of is 'frivolous'.

In one of your earlier letters, after requests from me to know precisely what it was that was deemed to form the core of the investigation, you cited three passages from my open letter. Each of the three passages is entirely within the bounds of democratic political discourse and investigation concerning them is, therefore, a 'frivolous' matter. Nevertheless, in your earlier letter you unambiguously stated "The Committee has identified 3 particular parts of the letter that it believes should be addressed in particular" before going on to cite the three passages. But now, however, you renege from this clear statement of what it is I am under investigation for - thus throwing my ability to defend myself back into chaos. Your letter of the 15th moves the goal posts in that you attempt to retreat from your earlier statement by saying that the "extracts quoted" have been merely given as "examples". I am, therefore, forced back into the position of not knowing what, precisely, is under investigation. Do you really consider this to be a professional or reasonable way to conduct things? Let me put it to you that absolutely no credible or civilised disciplinary procedure would function in this manner.

Let me further put it to you that by adopting a chaotic process in which the basic principles of natural justice have been clearly cast aside, by refusing to co-operate with my reasonable requests to know what, precisely, is going on, by refusing yourselves to obey parts of the Code, you and PPC are acting in breach of the Code of Conduct where it 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." Your conduct of this investigation will be seen by many members of the public as vexatious, frivolous, anonymous and oppressive; an attempt to suppress by censure and example the ability of elected members to properly represent their constituents. Your actions will weaken the public's trust and confidence in the States, and will bring the States into disrepute.

Of further concern to any democrat must be your truly quite extraordinary statement that "The factual basis or otherwise of the extracts is not an issue". In a free democratic society, free speech is curtailed only on the most clear and extreme of circumstances and where such curtailment is 'proportionate'. If a person wishes to litigate for defamation - a ground on which the courts might limit free speech - it will usually be sufficient for the defendant to prove that what he said is true, and he thus pleads justification and fair comment. Moreover, a plaintiff would have to demonstrate some 'harm' or 'loss'. PPC is casting aside both this standard of free speech and of the reasonable standard of proof in civil cases which is 'on the balance of probabilities'. You are adopting an approach which embodies and imposes a greater restriction on the free speech of elected representatives than that which applies to the general public. This is absolutely counter to democracy and the public good. Many of the people I represent elect me precisely because of what I say, how I say it and the attributes I bring to political discourse. They want me to speak on their behalf. By engaging in a censorious disciplinary process against me - or any other elected representative - on the grounds that you don't like the "tone" of what we express, you are oppressing the public's right to free representation.

In a democratic society the accountability of politicians for what they say is via the ballot box. I am answerable to, and judged by, the public. If they do not like my "tone" they will remove me from office by casting their votes elsewhere. What I say in the public sphere away from the legislature is, frankly, absolutely no business of yours nor any other politician. To seek to interpose yourselves as some kind of judgemental apparatus between elected representatives and the public who choose them is to obstruct democracy. When one group of politicians seeks to say to other politicians "you're not allowed to say that" it is the public and their free choice of representation you are oppressing. Remember - none of us in the States are our own agents, there for our own purposes. We hold office to represent the public. If any of us are intimidated or browbeaten into silence it is the public who are, in effect, gagged.

PPC, other politicians, members of the public - all are entitled to say that they do not like what I said, that they do not agree with it, that my views are all wrong. What you cannot do - at least what no self-respecting democrat can do - is say "you're not allowed to say that", and then invoke some kind of some kind of censorious disciplinary

process every time someone in the oligarchy decides we're getting a bit too uppity and not tugging our forelocks sufficiently.

The very bedrock of the importance of free speech is precisely that minority views and opinions can be expressed. You have entirely abandoned free speech the instant you decide that the majority can determine what it is the minority are, or are not, permitted to say. The moment you decide the powerful can decide what is "acceptable" for the not so powerful to say, you are travelling down the path towards mob rule, tyranny by the majority and Hitlerian plebiscites. I would, therefore, like to know what, exactly, you are referring to in your letter when you say that if I am unhappy with PPC and its conduct I am "free to take whatever action" I "wish in due course"? What action might this be? Are you suggesting going over the head of PPC to the States or, perhaps, bringing a vote of no confidence in PPC? Obviously, no minority view politician has any prospect of success against the majority. To imagine such actions as adequate remedies for misfeasance on the part of PPC is to say that it is acceptable for the majority to determine what is, or is not, acceptable for the minority to say. No thinking democrat could endorse such a state of affairs.

I have to say again, given the gravity of these matters, that the time frame you suggest is wholly inadequate. I need to seek advice and do research on the subject if I am to stand any chance of defending the principle of free speech.

When a hearing does take place, could you say where it will be? Whilst you still refuse to give me a straight answer on whether the process will take place in public, I will proceed on the basis that it will. Therefore any venue will require public access and sufficient seating for those who attend.

I look forward to your response to the points I make here.

Regards

Stuart

# Privileges and Procedures Committee

Our ref: 1240/9/2(27)

Senator S. Syvret

16th February 2007

Dear Senator Syvret,

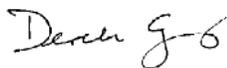
## **Code of Conduct for Elected Members**

I refer to your e-mail of 15th February 2007.

In my letter yesterday I stated that I did not think it was appropriate to enter into extensive correspondence and I repeat that I do not therefore intend to do so. It is clear that we will not agree on the approach that PPC is taking to this matter. From our perspective the matter is quite straightforward. Following the circulation of your open letter the Committee believed, in accordance with Standing Order 157(1), that it had information that suggested that you may have acted in breach of the code of conduct. It therefore had a duty to investigate. There is no 'complainant' and your references to Standing Order 156 are therefore not relevant.

The Committee intends to fulfil its statutory duty to deal with the matter without undue delay and will therefore be meeting in the **Blampied Room at 9.30 a.m. on Friday 23rd February 2007**. If this time is not convenient for you we could meet on Wednesday 21st February, also at 9.30 a.m. – please let me know your preference. You are invited to attend to exercise your right to address the Committee, accompanied by any person of your choice, in accordance with Standing Order 157(9). I very much hope you will choose to do that as if you decide not to address us we will have to proceed to adjudicate without the benefit of your views.

Yours sincerely,



**Derek Gray**  
Chairman

-----Original Message-----

From: Stuart Syvret

Sent: 16 February 2007 14:56

To: Derek Gray

Cc: Kenneth Le Brun; Gerard Baudains; Juliette G. Gallichan; Petrina Horton

Subject: RE: Emailing: 2007.02.16 Syvret S. from Chairman.doc

Importance: High

Dear Derek

I must note that you are still refusing to state what a priori discussions PPC or its members may have been involved in.

I must note your refusal to state whether members of PPC have received de facto anonymous complaints.

I must note that you still refuse to give a straight answer as to whether members of the public will be permitted to observe proceedings.

I must note that you still refuse to state precisely and in detail what words in the letter under investigation are to be the focus of your examination.

I must note that you resile from your original statement of what it was that was under investigation.

I must note that your refusal to define clearly what it is I am under investigation for deprives me of the right to a proper defence and fair hearing.

I must note that you refuse PPC itself to be bound by Standing Orders.

I must note your refusal to explain why you believe PPC has locus standi to disregard ECHR convention rights in respect of actions that took place away from - and outside the protection of - parliamentary privilege.

I must note that the general conduct and approach of PPC in this matter has been inimical to both free speech and the right to a fair hearing.

Our must now ask you this question: In the event of PPC finding that I, in fact, had breached the Code of Conduct for States members, what are the full range and spectrum of penalties at the disposal of PPC?

**PLEASE NOTE THAT UNLESS I HEAR FROM YOU WITHOUT DELAY TO THE EFFECT THAT YOU ACCEPT THAT PPC HAS NO LOCUS STANDI TO DISREGARD CONVENTION RIGHTS IN RESPECT OF MATTERS OCCURRING OUTSIDE THE BOUNDS OF - AND WITHOUT THE PROTECTION OF - PARLIAMENTARY PRIVILEGE, AND THAT YOU CONSEQUENTLY ABANDON THE CURRENT INVESTIGATION I WILL BE ISSUING AN ORDER OF JUSTICE AGAINST PPC EARLY NEXT WEEK.**

I hope you will appreciate there is some urgency attached to this matter.

I look forward to your swift response.

Thanks

Stuart

-----Original Message-----

From: Stuart Syvret

Sent: 19 February 2007 10:00

To: Derek Gray

Cc: Kenneth Le Brun; Gerard Baudains; Juliette G. Gallichan; Petrina Horton; Michael De La Haye (States Greffe)

Subject: RE: Emailing: 2007.02.16 Syvret S. from Chairman.doc

Importance: High

Dear Derek

I note that I have not yet received a reply to this e-mail. Will you be able to respond this morning?

Could I also point out that - entirely setting aside any dispute as to what PPC thinks it is doing - I simply could not make either of the dates you have suggested for this week. It is short notice and I am already booked up. If - and it is if - a hearing is to take place I'm afraid it just isn't practical for me to do it this week.

Regards

Stuart

-----Original Message-----

From: Petrina Horton

Sent: 19 February 2007 10:24

To: Stuart Syvret

Cc: Derek Gray; Kenneth Le Brun; Gerard Baudains; Juliette G. Gallichan; Michael De La Haye (States Greffe)

Subject: RE: Emailing: 2007.02.16 Syvret S. from Chairman.doc

Dear Senator Syvret,

The Committee has asked me to send a short message on its behalf.

The Committee feels that all the issues that you raised in your e-mail of 16th February 2007 below have been covered in previous correspondence from the Chairman and it has nothing further to add.

The Chairman is somewhat surprised that you are not free at either of the times as the Wednesday date was specifically chosen to correspond with the additional PPC 2007 dates and the Friday date was only suggested to give an alternative.

The Chairman is seeking the Committee's views on the manner in which this matter should be progressed in view of your comments about your own availability and we will revert to you as soon as possible.

Kind regards

Petrina

-----Original Message-----

From: Stuart Syvret

Sent: 19 February 2007 10:51

To: Derek Gray

Cc: Kenneth Le Brun; Gerard Baudains; Juliette G. Gallichan; Michael De La Haye (States Greffe); Petrina Horton

Subject: RE: Emailing: 2007.02.16 Syvret S. from Chairman.doc

Importance: High

Dear Derek

In respect of this e-mail I make the following observations.

Firstly, the issues I raised in previous correspondence have not, in fact, "been covered in previous correspondence". I have put a number of questions - all of which are entirely reasonable and of the kind that any person facing disciplinary procedures could reasonably ask. Rather than "covering" my questions you have simply chosen to ignore them. I do not believe any reasonable person could regard this as a civilised or respectable way of doing these things.

Secondly, I note your surprise that I am not available this week. I don't know what it is you do day in and day out, but the work associated with running my department is extensive, multi-faceted and often very demanding. I simply do not have the luxury of keeping dates in my diary free on the off-chance something will turn up. It is quite bad enough that you and PPC seem to attach no importance to the principles of natural justice; to give insufficient time adds insult to injury.

Regards

Stuart

# Privileges and Procedures Committee

Our ref: 1240/9/2(27)

Senator S. Syvret

20th February 2007

Dear Senator Syvret,

## **Code of Conduct for Elected Members**

I refer to your recent e-mails and in particular your e-mail of 10.00 a.m. on 19th February 2007 in which you mention that you are not free to address the Committee at either of the times this week suggested in my previous letters.

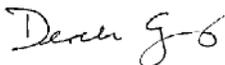
The Committee is keen to bring this matter to a conclusion without undue delay and is disappointed that you are not willing to rearrange your diary to meet this Wednesday or Friday. We are not prepared to allow the matter to remain unresolved for too long but we are nevertheless willing to offer one additional time to you, namely **Wednesday 28th February 2007 at 2.00 p.m.** in the **Blampied Room**, if you wish to exercise your right to address the Committee. As this is a scheduled States' day, but it looks unlikely that the States meeting will continue into Wednesday afternoon, we take it that it is safe to assume that you have no other prior commitments.

I must stress that if you are not willing to come to give your views by next Wednesday we will have to proceed without the benefit of hearing you. I very hope that does not happen.

Although you have raised a number of issues in your e-mails the Committee has decided, as the Committee Clerk has already passed on to you, that we have nothing further to add to my previous letters. It is clear that there are significant differences of opinion between us about the approach that PPC is taking in this matter and if you remain unhappy with our actions when we complete our work you will, of course, be able to take whatever action you consider appropriate.

I must also notify you that yesterday afternoon the Committee received the attached letter of complaint from Mr. Richard Brocken concerning your open letter to him. You will note that Mr. Brocken raises a number of concerns, for example in relation to the manner in which your letter was distributed and the comments made by Senator Walker. PPC's role is restricted to considering your letter against Section 5 of the code of conduct as it is already doing and I have therefore notified Mr. Brocken that the matter is already under investigation. The Committee does not believe there is scope under its terms of reference to widen the investigation any further at this stage.

Yours sincerely,



**Derek Gray**  
Chairman

Mr M De la Haye  
Greffier  
States of Jersey  
Morier House  
Halkett Place  
St Helier  
Jersey JE1 1DD

19<sup>th</sup> February 2007

Dear Mr de la Haye

I write regarding the open letter to me from Senator Stuart Syvret dated 1<sup>st</sup> February 2007 – consequently published, at his request, by the JEP and widely distributed by hand throughout the Island by unknown people.

The letter contains a personal attack upon my business integrity and attempts, by using innuendo, to bring my honesty into question.

This letter was distributed in the first instance to all State's Members, Chief Executive Officers and numerous civil servants. The method of delivery of the letter was, I believe, by using government funded resources, such as [www.gov.je](http://www.gov.je). This is an abuse of privilege and if such a method of delivering personal attacks were used by anyone employed in the private sector, they would face instant dismissal. I am a fully paid up Jersey taxpayer and I object strongly to my tax payments being used to attack myself and other members of the public.

Contrary to Chief Minister Frank Walker's statement that Senator Syvret regrets the use of language in certain parts of his letter to me, it has been widely publicised in the media that Senator Syvret states that he does not regret any part of the letter or the language he used in it and would indeed send it to me or publish it for Public consumption again.

He appears to think that he is above the law and I appeal to the Privileges and Procedures Committee to take the appropriate action to prevent him carrying out such scurrilous and unfounded attacks.

If you wish to call me to appear before the Privilege and Procedures Committee, I will be only too willing to do so.

Yours sincerely,

**Richard Brocken**

-----Original Message-----

From: Stuart Syvret

Sent: 20 February 2007 16:50

To: Derek Gray

Cc: Kenneth Le Brun; Gerard Baudains; Juliette G. Gallichan; Michael De La Haye (States Greffe); Petrina Horton

Subject: RE: Emailing: 2007.02.20 Syvret S. from Chairman.doc, Letter from Mr Brocken 19th February.doc

Dear Derek

Thank you for this communication. I believe I will be able to attend on the revised date you now offer.

I feel I should further explain to you that I have, as I suggested in previous correspondence, drafted an Order of Justice against PPC. I hope to receive guidance on its format tomorrow at some point. Once the draft is in a finished form I will send it to you for your consideration along with a request that you recognise that PPC is not beyond the rule of law when it come to matters taking place outside the walls of the legislature, and thus abandons these misguided proceedings. Should PPC not do so, I will seek service of the Order of Justice.

As far as the letter from Mr Brocken is concerned, he is at perfect liberty to litigate against me for defamation if he believes he has a case as my letter was issued - please note - outside the purview and protection of parliamentary privilege. As far as I am concerned PPC is perfectly welcome to take into consideration the complaint from Mr Brocken - however, all of the caveats and concerns I have expressed about PPC's alleged powers to interfere with free speech and PPC's failure to adhere to the rules of natural justice apply to the handling of his complaint also.

Regards

Stuart

-----Original Message-----

From: Stuart Syvret

Sent: 22 February 2007 15:45

To: Derek Gray

Cc: Kenneth Le Brun; Gerard Baudains; Juliette G. Gallichan; Michael De La Haye (States Greffe); Petrina Horton

Subject: RE: Emailing: 2007.02.20 Syvret S. from Chairman.doc, Letter from Mr Brocken 19th February.doc

Dear Derek

I'm afraid I have been very busy with H & SS stuff so I have not yet had the chance to complete the draft Order of Justice. I will though get it to you soon, Monday hopefully.

Regards

Stuart

-----Original Message-----

From: Stuart Syvret  
Sent: 27 February 2007 15:46  
To: Derek Gray; Kenneth Le Brun; Gerard Baudains; Juliette G. Gallichan; Michael De La Haye (States Greffe); Petrina Horton  
Cc: Ben Shenton; Alan Breckon; Judith Martin; Shona Pitman; Geoffrey Southern  
Subject: Letter of Complaint to PPC  
Importance: High

Dear Derek

For your convenience, I attach a copy of the letter of complaint, of which I handed a signed copy to you this afternoon.

On behalf of my co-signatories, I would ask that you keep us all informed as to how PPC proposes to handle the complaint.

Thanks

Stuart

-----Original Message-----

From: Stuart Syvret  
Sent: 27 February 2007 15:59  
To: All States Members (including ex officio members)  
Subject: Complaint Against PPC for Failing to Promote Free Speech, Democracy, Natural Justice and the Privileges of Members.

Dear Colleague

I attach a self-explanatory formal letter of complaint against PPC.

It is signed by Senator Shenton, Deputy Breckon, Deputy Martin, Deputy Pitman, Deputy Southern and myself.

I think it would be helpful for all members to read the letter and reflect upon its contents. The year is 2007 and we are supposed to be a free, civilised, just and democratic society.

Should any member wish to add their support to the letter of complaint, please feel free to e-mail me.

Regards

Stuart

# **COMPLAINT AGAINST THE PRIVILEGES AND PROCEDURES COMMITTEE**

**Submitted to**

**THE PRIVILEGES AND PROCEDURES COMMITTEE**

**In the name of**

**THE UNDERSIGNED ELECTED MEMBERS OF THE STATES**

We, the undersigned elected members of the States, hereby make a formal complaint against the Privileges and Procedures Committee of the States of Jersey. (Hereafter known as PPC)

PPC is currently pursuing a disciplinary investigation against Senator Stuart Syvret in connection with a satirical article, written and published by him as an 'open letter'.

The signatories to this complaint are concerned that the actions of PPC against Senator Syvret may not be compatible with free speech, democracy, the basic right to a fair hearing and the Standing Orders of the States of Jersey.

This complaint does not concern itself with the merits or de-merits of the 'open letter'. Instead the complaint is concerned with certain specific aspects of PPC's handling of the investigation against Senator Syvret and, more generally, the appropriateness of current Standing Orders, the Code of Conduct for members of the States and the interpretations being placed thereon by PPC.

We are concerned at the broader implications of both the startling lack of regard PPC has exhibited for the basic principles of natural justice, and the harmful effects on Jersey democracy which arise from attempts by PPC to interfere with the freedom of expression of the public's elected representatives in the public sphere away from the chamber.

## **In its treatment of Senator Syvret, PPC:**

Has acted on the basis of de facto anonymous complaints, contrary to Standing Orders.

Has denied Senator Syvret the opportunity to develop a proper defence by refusing to be specific.

Has thrown his ability to defend himself into chaos by initially defining 3 sections of the 'open letter' it wished to enquire into, but, in subsequent correspondence, resiling from such specificity.

Has refused to explain to Senator Syvret just how, precisely, it considers the 'open letter' to merit investigation.

Has refused Senator Syvret an appropriate amount of time to prepare a defence.

Members of PPC may be acting on their own de facto complaints, contrary to Standing Orders.

Has sought to interfere with Senator Syvret's right to free expression, by placing an extremist construct on the meaning of the Code of Conduct.

Has sought to deny Senator Syvret the accepted standards of natural justice.

Has sought to interfere with his human rights.

**In its general conduct in connection with this matter, PPC:**

Has placed an interpretation upon the Code of Conduct for elected members which is simply not compatible with functioning democracy.

Has placed an interpretation upon the Code and of Standing Orders that is simply not compatible with basic human rights.

Has engaged in the employment of a censorious disciplinary process which will have a “chilling” effect upon free speech by the public’s elected representatives.

Has paid absolutely no regard for the basic principles of natural justice.

Has acted as complainant, jury and judge in their own cause and have thus not exhibited credible behaviour.

Is having the effect of, through precedent and example of the case against Senator Syvret, intimidating other elected representatives of the people from speaking their mind.

Has itself shown scant regard for Standing Orders and the Code of Conduct.

Has acted in a manner likely to harm the standing of the States in the eyes of the public and to bring the States into disrepute by seeking to interfere with free speech.

**THE COMPLAINTS:**

By acting in the manner described above, PPC is: -

**1: Breaching Standing Order 128 (f) (Terms of Reference of PPC) which requires PPC:**

‘To take the necessary steps for the enforcement of the code of conduct for members of the States and in this context to promote high standards amongst members of the States and to champion and defend the privileges of members of the States;’

This by:

(a) Failing to observe and enforce Standing Order 156 (2) which states:

‘The PPC shall not accept any complaint –

(a) Which is made anonymously;

(b) which, in the opinion of the PPC, is frivolous, vexatious or unsubstantiated;’

(b) Failing to champion and defend the privileges of members of the States, Instead engaging in actions which actually suppresses members’ rights and erode their privileges.

(c) Failing to observe high standards amongst members of the States by acting on de facto anonymous complaints and failing to defend members’ privileges and in so doing breaching Standing Order 128 (f).

**2: Breaching Standing Order 156 (2) which requires PPC to not act upon anonymous complaints, and to not act upon complaints which are frivolous or vexatious.**

This by:

(a) Acting on de facto anonymous complaints as evinced by the Chairman's letter to Senator Syvret, dated 5<sup>th</sup> February 2007, in which the Chairman stated:

"I have been contacted by a number of members asking whether the Privileges and Procedures Committee will be considering whether the contents of the letter might constitute a breach of the Code of Conduct."

The chairman's letter went on to state:

"Following the approaches I have received, and having read the letter myself, I will be asking the Committee on Wednesday to decide whether or not it believes that an investigation should be initiated."

Given this admission of lobbying by members and "approaches" by members, Senator Syvret wrote to the chairman and members of PPC in the following terms:

"Could each of you respond directly to me stating whether you have discussed my letter with members of the public or other States members? What was the nature of each conversation? Have you been lobbied to get PPC involved in this issue, and if so, by who?"

I would be grateful if Derek could state whether PPC has received complaints concerning the issue and if so, from who?"

The Chairman of PPC and its individual members refused to comply with Senator Syvret's reasonable request to know who his accusers were. The Chairman wrote:

"As you know the Privileges and Procedures Committee is investigating whether your letter breaches Section 5 of the Code of Conduct for Members. This is a collective Committee decision and the views and actions of individual members are immaterial. For this reason, Committee members have decided not to respond to you individually on this matter but rather to direct all correspondence through me as Chairman."

Senator Syvret again sought to point out to PPC both the relevant Standing Order and the importance natural justice, writing:

"Thank you for your letter. As I have to point out, it contains many inadequacies. I will address just a few of them here.

Firstly, you and PPC collectively refuse to answer my questions in which I asked whether members of PPC have discussed my letter with members of the public or other States members, and whether PPC collectively or its individual members have been lobbied to take action over this matter.

It is an obvious feature of the delivery of natural justice that a person accused of some offence, or facing some form of disciplinary action, has a right to know who their accusers are. This principle shouldn't really need re-stating but I do so for the record.

You rely upon the code of Conduct for States members in justifying the involvement of PPC. Let me cite some of that Code.

- (1) Any person may complain to the PPC that an elected member has breached the code of conduct.
- (2) The PPC shall not accept any complaint –
  - (a) Which is made anonymously;
  - (b) Which, in the opinion of the PPC, is frivolous, vexatious or unsubstantiated;

Firstly, the refusal of PPC collectively, or in the person of its individual members, to state unambiguously whether lobbying has occurred over this matter, is a prima facie breach of Standing Order 156 (2) which I quote above. Any such lobbying is de facto an anonymous complaint. In order to comply with this part of the Code, PPC itself and each of the involved members, must either give their solemn word of honour that no such lobbying, conversations or complaints have taken place - or if such conversations have taken place, abandon the process on the grounds that PPC must not act on anonymous complaints, this in order to comply with 156 (2) (a).”

To date, Senator Syvret is still facing de facto anonymous complaints because of the refusal of PPC to tell him which people “approached” PPC about the subject.

### **3: Breaching the Code of Conduct for States members through the above described behaviour; specifically:**

#### **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.

By failing to be open with Senator Syvret in respect of “approaches” made by others, by failing to give clear reasons for its decisions and by restricting information through denying Senator Syvret the information he has sought, PPC is breaching this requirement.

#### **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.

By failing to uphold the principles by the actions described above, by exhibiting poor leadership, by failing to observe Standing Orders and the Code itself, by setting a poor example and thus harming the public’s trust and confidence in the integrity of the States, and by acting in a manner inimical to free and functioning democracy PPC is breaching this requirement.

#### **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.

By acting in the manner described above, including denial of natural justice, interference with free speech and failing to protect the rights of minority elected members, PPC is conducting itself in a manner which will harm the public’s trust and confidence in the integrity of the States and by such conduct bring the States into disrepute.

## Summary

The signatories to this letter are:

- Concerned at the consequences of the actions of PPC for the free, honest and open representation of the people.
- Concerned at the implications and consequences for minority members.
- Concerned at the failure of the States to both function as, and give the appearance of a modern, pluralistic functioning democracy.

Consequently, we call upon PPC to:

- Recognise the serious deficiencies in its own conduct;
- Recognise that the present action against Senator Syvret is both ill-founded and, more importantly, a threat to functioning democracy;
- Recognise that the present Standing Orders and Code of Conduct are deficient and flawed and to bring to the States amendments to rectify such flaws.

Finally we ask PPC and others to recognise the wisdom of the words of Pennsylvania state legislator, Mark B. Cohen when he said:

**“Freedom of speech which is limited to freedom to say whatever a majority of the Pennsylvania legislature agrees with is not real freedom of speech.”**

## **SIGNATORIES:**

Senator Ben Shenton  
Deputy Shona Pitman

Deputy Alan Breckon  
Senator Stuart Syvret

Deputy Judy Martin  
Deputy Geoff Southern

----- Original Message -----

From: Derek Gray

To: Stuart Syvret; Kenneth Le Brun; Gerard Baudains; Juliette G. Gallichan; Michael De La Haye (States Greffe);  
Petrina Horton

Cc: Ben Shenton; Alan Breckon; Judith Martin; Shona Pitman; Geoffrey Southern

Sent: Tue Feb 27 21:09:40 2007

Subject: RE: Letter of Complaint to PPC

Dear Stuart

I acknowledge receipt of your letter. I should however point out, yet again, that the content of the open letter to Mr Brocken is not an issue just the tone and language. What surprises me is that when the Council of Ministers examined these very same issues you apparently raised no complaint or circulated a letter of complaint against them. The meeting set for tomorrow will go ahead.

Regards

Derek

-----Original Message-----

From: Stuart Syvret

Sent: 27 February 2007 21:33

To: Derek Gray; Kenneth Le Brun; Gerard Baudains; Juliette G. Gallichan; Michael De La Haye (States Greffe);  
Petrina Horton

Cc: Ben Shenton; Alan Breckon; Judith Martin; Shona Pitman; Geoffrey Southern

Subject: Re: Letter of Complaint to PPC

Dear Derek

Two basic points you seem to be missing from what you say in this e-mail.

Firstly, the CoM is an external executive body. It never sought to invoke the cloak of parliamentary privilege; it never sought to create an oppressive precedent to be used against back benchers; and most significantly it never flew in the face of its duty to protect the rights of free speech and the privileges of members - unlike PPC. The conduct of PPC in this matter is astonishing.

Secondly, - and could I really suggest that you take some sensible advice on this subject, as you appear to be in a state of complete ignorance as to case law on the extent of free speech - freedom of expression is not confined simply to that which is deemed acceptable or uncontroversial. I have explained this before but I am beginig to wonder if you have actualy read any of it.

The most striking feature of your e-mail is that you totally ignore the profound charges against PPC. You are perhaps accepting that PPC has broken standing orders - but you just don't care? The "might is right" theory. You should get someone to explain that to you as well.

We go into tomorrow's meeting with you still refusing to reveal who is behind the anonymous complaints - and thus ignoring the very standing orders you are supposed to uphold. Do you seriously consider your position to be credible?

Regards

Stuart

-----Original Message-----

From: Stuart Syvret

Sent: 28 February 2007 08:21

To: Derek Gray; Kenneth Le Brun; Gerard Baudains; Juliette G. Gallichan; Michael De La Haye (States Greffe); Petrina Horton

Cc: Ben Shenton; Alan Breckon; Judith Martin; Shona Pitman; Geoffrey Southern

Subject: Re: Letter of Complaint to PPC

Dear Derek

When do you think you may be in a position to let us know how PPC proposes to handle our complaint.

Thanks

Stuart

-----Original Message-----

From: Derek Gray

Sent: 28 February 2007 09:00

To: All States Members (including ex officio members)

Subject: Letter of Complaint

Dear colleagues,

Yesterday Senator Syvret circulated to all members a complaint against PPC signed by Senator Syvret and 5 other members.

PPC does not consider it would be appropriate to enter into any public discussion on this matter at this stage as there is an on-going investigation and no conclusions have been reached on whether or not a breach of the Code of Conduct for Elected Members has occurred. PPC nevertheless wishes to make it clear that it is entirely satisfied that it has acted properly, reasonably and in accordance with Standing Orders in this matter. We will, of course, be happy to demonstrate that if required in due course.

If members are unhappy with the manner in which PPC is fulfilling its responsibilities the normal political courses of action are, of course, available to them

Regards

Derek

-----Original Message-----

From: Stuart Syvret

Sent: 28 February 2007 10:09

To: Derek Gray; All States Members (including ex officio members)

Subject: RE: Letter of Complaint

Dear Derek

I think it extremely important - if the States is to salvage any tatty remnant of credibility from this Kafkaesque episode - that PPC speedily explain what they intend to do to investigate the complaint against PPC. At risk of stating the obvious, the complaint is made. It must now be objectively enquired into. You do not imagine, surely, that a simple assertion and appeal to a majority of members can discharge the matter?

Just let me remind members how you have conducted this matter.

You have repeatedly refused to explain precisely what is under investigation.

You have resiled from a previous commitment as to what passages of the open letter you wished to focus on, thus again leaving me unable to mount a defence.

You have repeatedly refused to tell me who the anonymous complainants are.

You have committed a prima facie breach of Standing Orders by acting on such anonymous "approaches".

You have denied me a proper period of time to prepare a defence.

Is any reasonable man in the street expected to regard this as civilised and just behaviour?

To add insult to injury - I am told by the media just now that PPC intends to hold the meeting in secret when all along I have asked that PPC follow its normal practice and hold the meeting open. It really is pretty feeble that PPC should be so weak and uncertain of its position that it has to make an already Kafkaesque situation even worse by adding secrecy into the equation.

I have agreed to come to the meeting and I will do so. But please note, if PPC seek to hold the meeting in secret I will leave and take no part. This will be a further denial of my right to natural justice.

Regards

Stuart

-----Original Message-----

From: Stuart Syvret  
Sent: 28 February 2007 15:33  
To: Derek Gray; All States Members (including ex officio members)  
Subject: RE: Letter of Complaint and PPC Hearing.

Dear Colleague

I thought it might interest you to know that I attended upon PPC at 2.00 this afternoon in respect of its "enquiry" into alleged breaches of the Code arising from my satirical piece of writing. However, the Chairman immediately stated that the meeting was to be closed. Some members of the media were present and they were required to leave as being 'members of the public'. It would have conflicted with the professional standards of journalism for any one of them to have remained as accompanying me, as this would have effectively involved them in the case.

I pointed out to the Chairman that, up to that point, I had received NO official notice from PPC that they wanted the meeting to be secret. I only learnt of this via the media this morning. If PPC were contemplating holding the meeting in secret, why did they not inform me of this fact some time ago - especially as I had repeatedly raised this very point in correspondence?

This conduct is shabby, unjust and discreditable.

I was prepared to engage in the process, but only in public as some faint safeguard against unreasonable and unjust behaviour by PPC, the preceding weeks of correspondence having provided evidence that PPC were not interested in natural justice. For example, acting on anonymous complaints and refusing to explain properly what was being enquired into.

This one single safeguard - public scrutiny - having been removed by the decision of PPC to carry out the hearing in secret, I had no choice other than to decline to take part.

Consequently, my participation in the process was largely confined to the reading out of the attached 1 page statement, a copy of which I handed over to the Chairman before leaving the room.

Regards

Stuart

## STATEMENT TO THE PRIVILEGES AND PROCEDURES COMMITTEE

### BY SENATOR STUART SYVRET

The Privileges and Procedures Committee, having decided that this hearing shall take place in secret, and having done so without any prior warning to Senator Syvret, has forfeited any claim of criticism against Senator Syvret for his decision to decline to take part in this meeting.

In any event, PPC, has no power or justification in respect of attempting to interfere with free expression by the elected representatives of the people, at least when such expression takes place in the public sphere and outside the bounds of, and protection of, parliamentary privilege.

PPC is, when involving itself in events which have taken place outside the bounds of parliamentary privilege, bound by the same rule of law as the rest of society. Thus PPC has no locus standi to disregard human rights, natural justice, freedom of expression and the right to a fair hearing when examining events that take place in the public sphere.

Therefore this procedure has no credibility, is illegitimate, and is unlawful.

My presence here in no way grants or implies acceptance on my part of the vires of this procedure.

My presence here in no way grants or implies the assigning of my human rights.

PPC has, inter alia:

- 1: Repeatedly refused to explain precisely what is under investigation.
- 2: Resiled from a previous commitment as to what passages of the open letter it wished to focus on, thus again leaving me unable to mount a defence.
- 3: Has repeatedly refused to tell me who the anonymous complainants are.
- 4: Has committed a prima facie breach of Standing Orders by acting on such anonymous "approaches".
- 5: Denied me a proper period of time to prepare a defence.

The actions of PPC are not compatible with democracy human rights, natural justice and freedom of expression.

I therefore reject any claim that PPC's conduct and this procedure is legitimate.

Senator Stuart Syvret

# Privileges and Procedures Committee

Our ref: 1240/9/2(27)

Senator S. Syvret

1st March 2007

Dear Senator Syvret,

## **Code of Conduct for Elected Members**

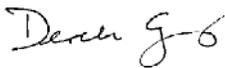
The Privileges and Procedures Committee was disappointed yesterday that you decided that you did not want to exercise your right to address the Committee in connection with our investigation under the Code of Conduct. The Committee nevertheless concluded its investigation and adjudication after you had left and I am writing as required by Standing Order 158(2)(a) to notify you of the outcome.

I attach a full report setting out the Committee's decision. You will see that the Committee's conclusion is that the tone of your 'open letter' to Mr. Brocken **did not** breach the Code of Conduct for Elected Members and this obviously brings the matter to a conclusion.

I must nevertheless point out that the Committee is disappointed that a matter that could have been resolved without undue difficulty caused you to criticise the Committee's actions in such a public way before we had even reached any conclusion on the matter. We have therefore decided to present the report to the States tomorrow as we feel that States members are entitled to see the correspondence that has passed between us and make their own judgement on the way this investigation has been handled.

You will see from the report that PPC does not intend to take any action in response to the 'complaint' that you and five other members circulated on Tuesday. It is self-evident that PPC cannot investigate itself and there is, in fact, no mechanism for a complaint of this nature against a Committee of the States to be investigated. The correct course of action to follow if any member is dissatisfied with the Committee's performance is, of course, to lodge a vote of no confidence.

Yours sincerely,



**Derek Gray**  
Chairman

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[1] SO 157 inserted by R&O.152/2005

[2] SO 158 inserted by R&O.152/2005