
STATES OF JERSEY



COMMISSIONER FOR STANDARDS: INVESTIGATION OF COMPLAINT OF BREACHES OF THE CODE OF CONDUCT FOR ELECTED MEMBERS AND THE CODE OF CONDUCT AND PRACTICE FOR MINISTERS AND ASSISTANT MINISTERS BY SENATOR P.F.C. OZOUF

**Presented to the States on 6th March 2018
by the Privileges and Procedures Committee**

STATES GREFFE

INTRODUCTION

The Privileges and Procedures Committee has received a report from the Commissioner for Standards into an alleged breach of the Codes of Conduct for Elected Members and for Ministers and Assistant Ministers by Senator P.F.C. Ozouf, relating to certain transactions on his corporate credit card.

The Commissioner for Standards has not found that Senator Ozouf breached the Code of Conduct for Elected Members or the Code of Conduct and Practice for Ministers and Assistant Ministers.

Senator Ozouf made a personal statement to the Assembly in relation to the matter on 27th November 2017. The Privileges and Procedures Committee accepts the Commissioner's report, which is attached, and considers that no further action is necessary.

PRIVILEGES AND PROCEDURES COMMITTEE

REPORT OF THE COMMISSIONER FOR STANDARDS

Submitted on 19th February 2018

Introduction

1. Mr. John Richardson [Chief Executive, Chief Minister's Office] [the complainant] submitted a complaint by means of an e-mail dated 9 October 2017. I acknowledged the complaint on 12 October 2017.
2. On 22 November 2017, Senator Ozouf self-referred himself to my office and supplied a file of supporting evidence. I acknowledged receipt of the self-referral and advised him of the complaint submitted by Mr. Richardson on 23 November 2017.

Summary

3. Mr. Richardson's complaint was that Senator Ozouf might have breached the provisions of the Code of Conduct for Elected Members and/or the Code of Conduct and Practice for Ministers and Assistant Ministers. He highlighted two payments by Senator Ozouf using his 'States of Jersey Purchase Card' which formed the basis for a criminal investigation by the States of Jersey Police, but which did not result in any criminal proceedings.
4. I wrote to the States of Jersey Police on 12 October 2017 and eventually was granted electronic access to their investigation papers in December 2017. I then wrote to Senator Ozouf on 18 December 2017 setting out the alleged breaches and inviting him to provide a full and accurate account, specifically answering my questions, recognising that he had already provided much material with his initial self-referral.

The facts

5. The relevant States of Jersey Purchase Card transactions are as follows:
 - (a) Transaction 1 – a payment by credit card on 3 January 2017 in the sum of £362.76 to LIAT 1974 Ltd. [a Caribbean Airline].
 - (b) Transaction 2 – A Hotel Booking for 8 January 2017 at the Hampton Inn, Gatwick Airport in the sum of £82.00.

Senator Ozouf's response

6. Senator Ozouf responded to my specific questions, by endorsing my letter of 18 December 2017, integrating his answers after each question. I did not receive his response until 26 January 2018, but I believe he submitted his response for onward transmission on 15 January 2018. There was a delay occasioned by his use of an inaccurate e-mail address.
7. Senator Ozouf gave the background to Transaction 1 and stated that it was a mistake and that there was never any intention to utilise States of Jersey funds for a private trip. He attributed his error to problems with his iPad and the data it held on both personal and official credit cards.

8. In relation to Transaction 2, he highlighted that he worked extensively between Jersey and the Government of Jersey Office in London. He stated that in relation to claiming for travel expenses he “took a prudent view – favouring the public”. In my letter to him dated 29 January 2018, I pressed Senator Ozouf to explain why he felt the hotel stay at Gatwick on 8 January 2017 was a legitimate official cost. I have set out below in full the questions I posed and his response.

Transaction 2

A hotel booking for 8th January 2017 at the Hampton Inn, Gatwick Airport in the sum of £82.00.

Your account states that this booking was in connection with an overnight stay at Gatwick Airport linked to a meeting in Jersey on 9th January 2017 with a Rwandan delegation. You decided to fly to Jersey on the Monday morning [9th January 2017] as that would be more economic.

Q1. Please advise me as to whether or not you could claim reimbursement for flights to and from Jersey? I ask this question, as your account suggests you were returning to Jersey from holiday abroad, in this case from the Caribbean.

A1. I had originally intended to return to London on Sunday from the United States after having attended CES 2017. Instead, as explained earlier, I returned earlier on the Saturday morning to prepare for the impending crisis of the Jersey Innovation Fund which had been inflamed by the resignation of the Accounting Officer of Economic Development on 3rd January 2017. In addition, I had to prepare to lead the reception and arrangements for the Rwandan Finance Minister’s visit. This visit was a reorganised version after a previous cancellation. I spent the weekend working and preparing for the visit of the Hon. Rwandan Finance Minister Gatete and his delegation. The importance of the visit cannot be understated as it was the key to Jersey engaging with the African Union which, with the personal endorsement of the Chief Minister, my officers and other senior officials, I had spent a huge amount of time and energy to secure and I felt an intense responsibility to ensure the arrangements of the visit would run smoothly. For this reason I took as a precaution, and instead of staying free-of-cost at my partner’s and my London private accommodation, the decision to book a hotel at Gatwick. I recall checking the weather and establishing that the forecast was showing a risk of icy conditions, potential fog and generally inclement weather. Being an experienced traveller I knew the implications of bad weather and the risk of traffic delays on the M25 in the morning. Hence I made the decision to take the precaution of staying at Gatwick, so as to avoid early travel on Monday morning. The [sic] was in order to reduce flight costs (cheaper Monday morning than Sunday evening), get greater certainty of my ability to get back to Jersey and to receive the Rwandan delegation – and if necessary be on-hand for the Rwandan delegation who might have been delayed at Gatwick due to missed flights or because of inclement weather. In summary: I booked the £82 hotel at Gatwick at the States rate on the States Card to do whatever it took to get to Jersey. I was ‘on duty’ for this period. My concerns were proven correct. After having stayed at Gatwick I learnt there had been travel chaos on the M25. Even though the Minister had arrived, there was a delay in some members of the Rwandan delegation getting to Jersey. I did get to Jersey on time and the visit was a huge success. I did not investigate whether or not it was appropriate to claim reimbursement of the flights to and from Jersey. Generally, I took a very prudent view in relation to the claiming of expenses and

therefore did not seek to claim for these flights. In my view, the need to stay at Gatwick arose solely for a business purpose and it was appropriate for this expense to be met by the States.

Q2. Did you claim reimbursement for the flight to Jersey on 9th January 2017?

A2. No. This is explained further in the above answer.

Analysis and findings

9. In relation to Transaction 1, I am satisfied that Senator Ozouf made a genuine mistake in utilising his States of Jersey Purchase Card for what was clearly a private matter. I can accept that he had various cards loaded on to his iPad and that in this instance technology wasn't of great assistance in maintaining a clear separation between personal and public/official transactions. However, I do feel that the requirement to 'insert' the security or CVV code should have alerted him to the official status of the card he was using for this personal transaction. Thus, I feel he was unduly casual in his approach, but I do not feel that his actions amounted to a breach of the relevant codes. The public of Jersey have a right to expect all their elected representatives to handle public financial transactions with due care and attention.
10. In considering Transaction 2, I sought to establish what guidance and/or instructions cover official travel expenditure by elected members, such as Senator Ozouf. I was advised that the Chief Minister's Department's view was that "Ministers are generally outside the scope of Financial Directions, and therefore, any assessment of expenses and ministerial conduct should be founded on the Ministerial Code of Conduct rather than the Public Finances Law".
11. When the Chief Minister's Departmental view was shared with Senator Ozouf together with a copy of the *Financial Direction – Travel and Accommodation [effective from 14 August 2017]*, he responded. It should be noted that the Financial Direction came into force after the relevant dates of Senator Ozouf's transactions and I am quite clear that its provisions do not apply to Ministers and Assistant Ministers in any case.
12. Senator Ozouf's response to my questions portrays an extremely busy individual who, in addition to his ministerial responsibilities, also regularly split his time between Jersey and London. He appears to have relied heavily on his Personal Assistant to help him manage his travel expenses and to ensure that he gave priority to the public interest. He specifically justified his overnight stay at Gatwick and thus the use of public funds for the hotel accommodation by stating "I considered it to be a justified States expense given the work I was undertaking and the uncertainty surrounding the Rwandan visit".
13. I am concerned at the apparent lack of guidance covering ministerial expenses, but recognise that the real test is that of the public interest. However, having said that, a process whereby such expenditure was signed off by a senior official, or senior minister, would provide a degree of scrutiny and independent assessment. I do not believe Senator Ozouf consciously sought to abuse his position by utilising public funds to cover his hotel stay at Gatwick. I believe he acted in good faith, albeit this use of his ministerial discretion might be thought questionable by some taxpayers.

14. It is sometimes said that if you want something done, look for a busy man or woman. Public service is fortunate when it can engage the interest and participation of busy and committed men and women. However, the public have an absolute right to expect elected members to handle scarce public resources with care and due attention.
15. I have not found Senator Ozouf to have breached the Code of Conduct for Elected Members or the Code of Conduct and Practice for Ministers and Assistant Ministers. I do remain concerned that his approach detailed in the two instances above was unduly casual and that there appears to be no clear framework within which Ministers' expenses are independently scrutinised. I appreciate that there is a balance to be struck between intrusive bureaucracy and a system which permits too much personal discretion. It is for others to judge if the current system governing Ministers and Assistant Ministers is appropriate to the contemporary needs of Jersey. I simply note that the Financial Direction which applies to staff specifies that no officer can authorise his, or her, own travel.
16. Senator Ozouf has, in the course of his representations, complained about his treatment by 'the former Chief Executive Officer of the States of Jersey'. However, I have no remit in relation to such matters. Senator Ozouf's self-referral mentioned 'more generally the expense process, including all matters concerning the administration, authorisation and publication of ministerial expenses'. I have taken the view that these more generic policy matters fall outside my remit. However, it will be noted that I have commented as appropriate in relation to specific points, if they arose during my investigation.

Paul Kernaghan, C.B.E., Q.P.M.

Commissioner for Standards