
STATES OF JERSEY



COMMISSIONER FOR STANDARDS: INVESTIGATION OF COMPLAINT OF BREACH OF THE CODE OF CONDUCT FOR ELECTED MEMBERS BY SENATOR K. L. MOORE

**Presented to the States on 30th April 2021
by the Privileges and Procedures Committee**

STATES GREFFE

REPORT

The Privileges and Procedures Committee has received a report from the Commissioner for Standards regarding a letter of complaint, submitted by Senator Le Fondré [the Chief Minister], against Senator K. Moore.

Senator Le Fondré's complaint was that Senator Moore had breached the provisions of the Code of Conduct for Elected Members by reason of her remarks broadcast by ITV Channel News on 17 March 2021.

The Commissioner for Standards found that Senator Moore did not breach the Code of Conduct for Elected Members.

The Committee accepts the Commissioner's report, which is attached, and considers that no further action is necessary.

PRIVILEGES AND PROCEDURES COMMITTEE

COMMISSIONER FOR STANDARDS:
**INVESTIGATION OF COMPLAINT OF BREACH OF THE CODE OF
CONDUCT FOR ELECTED MEMBERS BY SENATOR K MOORE**

Introduction

Senator Le Fondré [the Chief Minister] submitted a letter of complaint, dated 30 March 2021. His letter contained a link to an ITV Channel TV item, and I obtained a transcript of that item on 31 March 2021. I acknowledged receipt of the complaint on the same date.

Summary

Senator Le Fondré's complaint was that Senator Moore had breached the provisions of the Code of Conduct for Elected Members by reason of her remarks broadcast by ITV Channel News on 17 March 2021. Senator Le Fondré advised me that the States Employment Board, which met on 25 March 2021, felt that the matter should be brought to my attention and, if appropriate, warrant a ruling from me.

Senator Le Fondré highlighted the provisions of the Code of Conduct for Elected Members, specifically Section 6 - the guidance on 'Public comments regarding a States' employee or officer' and Section 5 – 'Maintaining the integrity of the States'. He went on to question the factual accuracy of some of Senator Moore's comments and suggested that her comments could give rise to potential claims against the Board.

I advised Senator Le Fondré that I would accept his complaint for investigation and accordingly advised Senator Moore of my decision to formally investigate the complaint against her in a letter, dated 31 March 2021.

The facts

The facts in this complaint are not in dispute, a transcript based on the TV link supplied by Senator Le Fondré was copied to Senator Moore and she does not dispute its accuracy.

Senator Moore's response

Senator Moore responded to my request for a full and accurate account of the matters in question in a twenty-two page [plus attachments] email, dated 22 April 2021.

I note that Senator Moore has highlighted Senator Le Fondré's failure to raise with her, his concerns arising from the TV item in question. The recommendation that Members raise concerns with their peers prior to a formal complaint to my office, is just that a recommendation and not an obligation required by legislation.

Senator Moore goes on to query whether she was advised of the behaviour that gave rise to the complaint and what law, rule, or regulation it may have breached. I do not accept that point, as she was provided with the relevant transcript and advised that

Senator Le Fondré believed her comments breached Sections 5 and 6 of the Code of Conduct for Elected Members. Section 6 is specific in its meaning and intent. In relation to Section 5, Senator Le Fondré believed her comments breached the obligations set out. Thus, Senator Moore was able to defend her position and rebut the allegation that her comments breached the provisions of section 5 and 6 of the Code of Conduct.

Turning to the TV item which Senator Moore describes as an ‘interview’ and I will use that term moving forward. The interview was apparently initiated following the publication [17 March 2021] of a Corporate Services Scrutiny Panel interim report entitled ‘Covid 19 Response and Recovery, interim Report’. The section of the interview which formed the basis of Senator Le Fondré’s complaint was, according to Senator Moore, made in response to the question, “How do you feel about Charlie Parker’s departure?”

Senator Moore highlights that she was expressing personally held view/opinions and references her right to freedom of expression. She then suggests that I should not have investigated the complaint against her, given that in my ‘statement’ setting out how I investigate complaints I specified that a Member’s views or opinions fall outside my remit. It is true that general expression of views and opinions are not matters I would investigate. However, the Code of Conduct sets out provisions which make it clear that in certain circumstances there are constraints on the ‘freedom of expression’ of Members. Equally, comments which undermine the integrity of the States are deemed to be breaches of the Code of Conduct. Thus, an allegation that views and opinions have breached the Code of Conduct are certainly capable of being investigated. Free speech is indeed ‘a normal part of the political process’ but the States have collectively agreed that there are limitations on it designed to facilitate political debate and public service.

In relation to the alleged breach of Section 6 of the Code of Conduct, Senator Moore highlighted that Mr Charlie Parker had already resigned from his post and was availing of annual leave up to the end of his contractual period of employment. She then sets out in detail, interactions related to Mr Parker’s performance as the Chief Executive.

In relation to the alleged breach of Section 5 of the Code of Conduct, Senator Moore set out her perspective on Mr Parker including details of an external cultural review of the service he presided over.

Senator Moore concludes her response by highlighting her view that she and Senator Le Fondré do not enjoy ‘a good relationship’ and her impression that his complaint is ‘sadly, politically motivated’.

Analysis and findings

My role is to investigate complaints alleging that an individual has breached the Code of Conduct for Elected Members. The motivation behind a complaint is not a matter for me unless there is clear evidence of malice.

I was satisfied that Senator Le Fondré’s complaint *prima facie* deserved investigation and accordingly advised Senator Moore. I note her queries in relation to the information supplied to her but am confident that she was able to respond appropriately to the allegations against her and her response validates that judgement.

Section 6 of the Code of Conduct is designed to ensure that Members raise concerns about States' employees [of all grades] in an appropriate, professional manner. The section focusses on disciplinary or capability procedures, but I have no doubt that *inter alia* there is also a desire to rectify failures of service and/or of miscommunication.

In her interview comments I find that Senator Moore expressed her personal opinion on Mr Parker's tenure as Chief Executive in measured terms. The comments were not overly personal or prejudicial. I am quite clear that her comments did not breach the requirements of Section 6.

Section 5 of the Code of Conduct is all about upholding the integrity of the States. Again, I find that Senator Moore's comments in her TV interview did not breach the Code of Conduct. Her language was measured and professional. I cannot conceive how it could have negatively impacted on the public's trust or confidence in their elected representatives. Respect and courtesy do not preclude the expression of contrary or challenging views.

Paul Kernaghan CBE QPM
Commissioner for Standards