

Code of Conduct for Members of the Chief Pleas of Sark

PART I

Purpose and scope of the Code

1. The purpose of the Code of Conduct is to assist elected Members of the Chief Pleas of Sark [hereinafter referred to as “Members”] in the discharge of their obligations to Chief Pleas, their constituents and the public. All Members are required to comply with the provisions of this code in all aspects of their public life. Whilst it does not seek to regulate what Members do in their purely private and personal lives they must, however, be aware that some private and personal matters may impinge on their public roles. The Code upholds Members’ right to freedom of expression.
2. The obligations set out in this Code are in addition to those which apply to all Members by virtue of the ‘Chief Pleas of Sark Rules of Procedure’ and ‘The Constitution and Operation of Chief Pleas Committees’.
3. The conduct of Members during Meetings of the Chief Pleas of Sark is normally dealt with by the Speaker of Chief Pleas (known also as the Presiding Officer in this document) through application of the Rules of Procedure relating to maintaining order during proceedings. If, in the course of dealing with such a matter, the Speaker of Chief Pleas considers that the conduct requires further or fuller investigation, they may refer the matter to the Commissioner for Standards.

Public Duty

4. Members, before entering office, take an oath or affirm allegiance to be faithful and bear true allegiance to His Majesty the King, his heirs and successors, according to law.
5. The primary duty of Members is to act in the public interest and to represent the interests of those who they have been elected to serve conscientiously. In so doing Members have a duty on all occasions to act in accordance with their oaths, and in accordance with the public trust placed in them. The Code imposes ethical standards upon Members rather than service or performance standards.
6. Members have a duty to respect the rule of law and the administration of justice. In this context “law” includes such international law and treaty obligations as are for the time being applicable.

7. Elected members must give due priority to attendance at Meetings of the Chief Pleas of Sark and should be present in the chamber when the Chief Pleas of Sark are meeting except with reasonable excuse.

Principles of Conduct

8. Members shall observe the following general principles of conduct for holders of public office

- 1.1 Selflessness** Members must take decisions and act solely in terms of the public interest.
- 1.2 Integrity** Members must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
- 1.3 Objectivity** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, Members must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
- 1.4 Accountability** Members are accountable for their decisions and actions to the Chief Pleas of Sark and the public and must submit themselves to whatever scrutiny is appropriate to their office to ensure this.
- 1.5 Openness** Members must act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
- 1.6 Honesty** Members have a duty to be truthful.
- 1.7 Leadership** Members must exhibit these principles in their own behaviour and treat others with respect. They should actively promote and robustly support the principles and challenge poor behaviour wherever it occurs.

The Principles in Practice

Conflict between public and private interest

9. Members shall base their conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest. After leaving their official positions, they will not take improper advantage of their previous office.

Members' Conduct

10. Members shall 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 Chief Pleas of Sark and

never undertake any action which would bring the Chief Pleas of Sark, or its Members generally, into disrepute.

11. Members shall at all times treat other Members, civil servants 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 shall act in good conscience and exercise the privileges and discharge the duties of public office diligently and with civility, dignity, care and honour.
12. Members must not engage in unwanted behaviour, harassment, bullying or discrimination.

Relationship with the Civil Service

13. Members shall uphold the political impartiality of the Civil Service and shall not ask civil servants to act in a manner which would conflict with the Civil Service Code. Members should familiarize themselves with the contents of that Code. In reaching decisions they shall give fair consideration and due weight to informed and impartial advice from civil servants, as well as to other considerations and advice from other persons.

Possible inducements, including gifts and hospitality

14. The acceptance by a Member of a bribe, including any fee, compensation or reward, to influence his or her conduct as a Member, in connection with the promotion of, or opposition to, any matter submitted or intended to be submitted to the Chief Pleas of Sark, or any Committee of the Chief Pleas of Sark, and any trading in influence to secure undue advantage is contrary to law.
15. The acceptance of hospitality may be acceptable in appropriate circumstances as a means of effecting the Chief Pleas of Sark's business. However, Members shall not accept gifts, hospitality or services that might appear to place the recipient under any form of obligation to the giver. In receiving any gift or hospitality Members should consider subjectively whether they would be prepared to justify acceptance to the public.
16. Members must comply with the requirements of the Rules of Procedure of the Chief Pleas of Sark concerning declarations of interests in respect of gifts and hospitality. Any money or tangible gifts received by a Member which are required to be declared must not be retained but must be transferred or delivered into the ownership of the Chief Pleas of Sark.

Use of Chief Pleas of Sark facilities

17. To avoid misrepresentation of the Chief Pleas of Sark and to avoid the improper use of Chief Pleas of Sark's assets, Members must not use any goods, services or facilities provided for the functioning of government
 - (a) for private purposes; nor
 - (b) except where generally available in accordance with published arrangements to all Members.

Register and Declaration of Members' Interests

18. Members must fulfil conscientiously the requirements of the Rules of Procedure of the Chief Pleas of Sark in respect of the registration of interests in the Register of Members' Interests and must always draw attention to any relevant and material interest in any proceedings of the Chief Pleas of Sark, or its Committees.
19. A Member shall not knowingly or recklessly make a false statement in a Declaration of Unspent Convictions.
20. In any activities with, or on behalf of, any organisation with which a Member has a financial relationship, including activities which may not be a matter of public record such as informal meetings and functions, he or she must always bear in mind the need to be open and frank with the Speaker of Chief Pleas, Law Officers, Members and officials.

Payments from Third Parties

21. Members must not accept, from a third party, any payment or gift in respect of their participation in any proceedings of the Chief Pleas of Sark, or its Committees.

Confidential Information

22. Members must bear in mind that confidential information which they receive in the course of their duties may only be used in connection with those duties, and that such information must never be used for the purpose of financial gain or otherwise in their own personal interest or that of their families, friends, business associates or any voluntary or charitable organisation with which they are involved.
23. For the avoidance of doubt the 'confidential information' referred to in the previous section includes, but is not limited to, Committee minutes and other papers circulated to members thereof. The content of such minutes and other papers is not to be disclosed to any third party other than by resolution of the Committee concerned.
24. In addition, Members shall not disclose publicly, or to any third party, personal information about named individuals which they receive in the course of their duties, unless it is both lawful and clearly in the wider public interest to do so. Members must, at all times, have regard to all relevant data protection, human rights and other legislation when dealing with confidential information and must be aware of the consequences of breaching confidentiality.
25. For the avoidance of doubt, all correspondence, howsoever received, between a Committee and a Member of the Chief Pleas of Sark shall be treated as confidential unless expressed otherwise and shall not be disclosed to any third party, whether within the Chief Pleas of Sark or outside, in whole or in part, by any means, without the express consent of the author of that correspondence.
26. Members shall not disclose details in relation a Code of Conduct investigation except when authorised by law or by the investigatory authority. Information on complaints against Members for alleged breaches of the Code of Conduct is considered confidential information and should remain confidential from the point of submission until the complaint has been finally determined.

Members operating private office or administrative scheme

27. The obligations under section 24 not to disclose personal information publicly or to any third party, and under section 25 to treat correspondence as confidential and not to disclose correspondence to any third party, shall be treated as not having been breached or disregarded where the disclosure or treating takes place in accordance with arrangements approved for the operation and management of a private office or administrative scheme under section 28.
28. The senior Civil Servant may from time to time approve arrangements for the operation and management of any private office or administrative scheme that are proposed by any Member and are intended for the purpose of enabling that Member to deal with correspondence and information relating to the affairs or business of the Chief Pleas of Sark or any committee of the Chief Pleas of Sark.

PART II Complaints to the Commissioner for Standards

30. Any person may complain to the Commissioner for Standards (the Commissioner) that an elected Member has breached the Code of Conduct relating to Part I matters.
31. Complaints, whether from Members or from members of the public, alleging that the conduct of a Member is in breach of the Code of Conduct set out in Part I must be addressed in writing to the Commissioner.
32. In the interests of natural justice, a complaint submitted to the Commissioner must remain confidential from the point of submission until the complaint has been determined, unless disclosure is authorised.
33. Whilst a complaint will normally be submitted by a third party, the Commissioner may initiate an investigation if they believe that a breach of the Code may have occurred. A Member can also request that their own behaviour is investigated by the Commissioner to establish if a breach of the Code has taken place.
34. Members must not make frivolous, vexatious or manifestly unfounded complaints to the Commissioner for Standards and where the Commissioner is of opinion that a complaint is frivolous, vexatious or manifestly unfounded, the Commissioner shall not initiate an investigation into the complaint.
35. Immediately upon receipt of a complaint, or notification that the Commissioner is initiating an investigation, the Commissioner shall notify the Member concerned that a complaint has been made and the nature of the complaint.
36. All Members are required to co-operate fully and promptly with the Commissioner during any consideration and/or investigation, even if the Member concerned considers that the alleged breach is unsubstantiated. Failure to co-operate in any investigation will, in itself, be regarded as a breach of the Code.
37. If the Commissioner, in the course of the investigation, has cause to believe that a criminal offence may have been committed, he or she shall immediately suspend the proceedings and forthwith refer the matter to the Police. The investigation shall not be resumed until either judicial proceedings have been concluded or the Police have certified to the Commissioner that they have no further interest in the matter.
38. The Commissioner may decide to agree remedial action with the Member. Remedial action may be agreed if the complaint, though justified, is minor and is acknowledged by the Member concerned. Remedial action involves “putting the record straight”, for instance by making an amendment to the Register of Interests. The Member will normally be expected to make a formal apology, either in writing or by means of a formal statement to the Chief Pleas of Sark. If the Commissioner and Member agree remedial action, the Commissioner will report the matter and remedial action direct to the Policy & Finance Committee. The Commissioner will inform the complainant of the action taken in response to the complaint.
39. Where the Commissioner finds that a complaint has been substantiated but is of the view that the breach of conduct was of a minor nature he or she will normally dispose of the matter by cautioning the Member concerned. A report of the Commissioner’s decision in such cases shall be forwarded to the Presiding Officer and to the Greffier who shall make the said report available for public inspection whenever the Greffe is open for normal business.
40. Where the Commissioner finds that a complaint has been substantiated and is of the opinion that the Member should be formally reprimanded, suspended, removed from a particular office or expelled, or, where a Member refuses to accept a caution in the circumstances set out in the previous section, he or she shall report their findings to the Policy & Finance Committee which, in turn, shall submit that report to the Presiding Officer for

inclusion in the next Chief Pleas of Sark meeting agenda with the recommendations of the Commissioner. Notwithstanding a Member's refusal to accept a caution, the Chief Pleas of Sark may resolve that the Member be cautioned.

41. A Member has a right of appeal against a decision of the Commissioner for Standards in accordance with the provisions of The Reform (Sark) Law, 2008 and the mechanism established by the Commissioner for Standards thereunder.
42. For the avoidance of doubt mediation between the complainant and the accused Member is not permitted in the processing of complaints made pursuant to this Code of Conduct.

Definitions

43. In this Code

- "Members of the Chief Pleas of Sark" and "Members" means the Seigneur and Speaker of Chief Pleas (and any deputies thereof), and Conseillers.
- "bullying" means offensive, intimidating, malicious or insulting behaviour; or an abuse or misuse of power in a way that intends to undermine, humiliate, criticise unfairly or injure someone, whether through persistent behaviour or a single grossly unacceptable act;
- "discrimination" includes behaviour that discriminates against any person on grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation, political opinion and language preference;
- "harassment" means unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual and includes sexual harassment;
- "unwanted behaviour" means behaviour which is not encouraged or reciprocated by the recipient, regardless of whether it was meant to cause offence, and whether it is repeated or an isolated incident.
- In interpreting and applying the definitions of "bullying", harassment", "discrimination" and "unwanted behaviour":
 1. the intention of the person complained about is irrelevant.
 2. the test is whether a reasonable and impartial person would consider the conduct would fall within one of the definitions having regard to the context of the behaviour complained about.
 3. the respective rights under the Human Rights (Bailiwick of Guernsey) Law, 2000 of both the person complained about and the person subject to the conduct in question must be respected.
- the disciplines and standards of behaviour prescribed are also applicable in the context of electronic communications.

Appendix 1

COMMISSIONER FOR STANDARDS

Commissioner for Standards Dr Melissa McCullough

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