

STATES OF ALDERNEY

CODE OF CONDUCT FOR STATES MEMBERS



Approved by Resolution of the States of Alderney on 16 April 2014
pursuant to section 41(1) of the Government of Alderney Law 2004
Commencement Date: 17th April 2014

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INTRODUCTION

Purpose of the Code

1. The purpose of the Code of Conduct is to assist the elected President and Members of the States of Alderney (hereinafter referred to as “Members” and the “States”) in the discharge of their obligations to the States, the electorate and the population of Alderney. 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.

Public Duty

2. Members, before entering office, take an oath or affirm allegiance to be faithful and bear true allegiance to Her Majesty the Queen, her heirs and successors, according to law. (Section 36(1) of the Government of Alderney Law 2004). They also take an oath of office or make an affirmation in which they promise that “well and faithfully” they will perform the duties attaching to membership of the States of Alderney.
3. The primary duty of Members is to act in the public interest. 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.
4. 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.

PART I

Personal Conduct

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

- **Selflessness**
Members shall take decisions solely in terms of the public interest. They shall not do so in order to gain financial or other material benefits for themselves, their family or friends, their business associates or any voluntary or charitable organisation with which they are involved.
- **Integrity**
Members shall not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.
- **Objectivity**
In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, Members shall make choices on merit.
- **Accountability**
Members are accountable for their decisions and actions to the States and the public and must submit themselves to whatever scrutiny is appropriate to their office.
- **Openness**
Members shall be as open as possible about all decisions and actions that they take and must not knowingly deceive or mislead. They shall give reasons for their decisions and restrict information only when the wider public interest, or statutory provision, clearly demand.
- **Honesty**
Members have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest as indicated in the States Rules of Procedure 2010 (as amended).
- **Leadership**
Members shall promote and support these principles by leadership and example.

The Principles in Practice

Conflict between public and private interest

6. 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.

Members' Conduct

7. 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 States and never undertake any action which would bring the States, or its Members generally, into disrepute.
8. 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.

Relationship with the Civil Service

9. 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.

Gifts and Hospitality

10. The acceptance by a Member of a bribe to influence his or her conduct as a Member, including any fee, compensation or reward in connection with the promotion of, or opposition to, any matter submitted or intended to be submitted to the States, or any Department or Committee of the States, is contrary to law. (The Prevention of Crime (Bailiwick of Guernsey) Law 2003)
11. The acceptance of hospitality may be acceptable in appropriate circumstances as a means of effecting States' 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.
12. Members must comply with the detailed provisions regarding gifts and hospitality set out in Schedule 1 to this Code.

Use of States facilities

13. To avoid misrepresentation of the States and to avoid the improper use of States' 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, for electoral purposes.

Register and Declaration of Members' Interests

14. Members must fulfill conscientiously the requirements of Rule 22 of the 'Rules of Procedure of the States of Alderney 2010 (as amended)' in respect of the registration of their interests in the Register of Members Interests and must always draw attention to any relevant and material interest in any proceedings of the States, its Departments or Committees.

(Rule 21 of the Rules of Procedure of the States of Alderney 2010 (as amended))

15. 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 President, Law Officers, fellow Members and officials.

Payments from Third Parties

16. Members must not accept, from a third party, any payment or gift in respect of their participation in any proceedings of the States, its Departments or Committees.

Confidential Information

17. 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, media or any voluntary or charitable organisation with which they are involved.
18. In addition, Members shall not disclose publicly, including the media, 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.

PART II

Qualified Privilege for States Proceedings

19. The Government of Alderney Law confers *qualified* privilege on Members in respect of any words spoken in, or in any report to the States or any Department or Committee thereof. This includes requêtes, amendments, questions, reports and other written documents. Qualified privilege can be used as a defence to any legal proceedings arising as a result of what a Member has said or has been published provided the Member is acting in good faith and without any improper motive or malice when making any statement which is untrue and/or defamatory. It cannot be used as a defence in its own right.
20. Members are afforded this protection to enable them to air any matter, regardless of the power, wealth or status of those criticised.
21. The counter-balance to privilege, however, is responsibility; and Part V of this Code sets out the mechanism for the investigation of allegations of abuse of privilege and, where such an allegation is found to be substantiated, the penalties which may be imposed on the Member concerned.

PART III

Composition of the Members' Conduct Review Panel

22. There shall be established, , a Members' Conduct Review Panel, for the purpose of investigating any complaint, provided it has been made in accordance with the procedure set out in Part IV of this Code.
23. The **Members Conduct Review Panel** shall comprise the President, as Chairman, and up to five members of the population on the electoral role chosen by the Policy and Finance Committee and the President and appointed in writing by the President at the Annual meeting of the States each year. Members of the States and their spouses shall not be eligible to serve on this Panel. A person so appointed may at any time resign his appointment by notice in writing delivered to the President
24. The term of office of those appointed to a Conduct Review Panel shall end on the anniversary of the date of their appointment.
25. A member asked to serve on a Conduct Review Panel, who has any direct or indirect personal interest in the matter referred to the Panel shall immediately declare that interest to the Chairman of the Panel and may not serve.

PART IV

Procedure for considering complaints concerning Members Conduct

26. 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 as set out in Parts I and II must be addressed in writing to the Greffier and the President of the States requesting the President to direct that the alleged misconduct be referred to a Members Conduct Review Panel for consideration.
27. Complainants are required to supply the Greffier with supporting evidence. Unsubstantiated and frivolous allegations and anonymous complaints will not be considered. A complaint founded only upon a media report will not normally be treated as a substantiated allegation.
28. If the President is satisfied that there is sufficient evidence to support the complaint he shall alert the Conduct Review Panel, ask the Member concerned to respond to the complaint, and then ask the Panel to conduct an investigation. The Member concerned will at every stage be given full details of the nature of the complaint and will be invited to address the Panel.
29. All Members are required to co-operate fully and promptly with the Panel during any investigation even if the Member concerned considers that the alleged breach of the code is unsubstantiated. Failure to co-operate in any investigation will, in itself, be regarded as a breach of the Code.
30. The Panel may request (but has no authority to compel)
 - a) the production of papers and records
 - b) the attendance of any person before it, and
 - c) specific documents in the possession of a Member relating to its inquiries be laid before it.
31. If the Chairman, when considering the initial evidence or the Panel in the course of its investigation has cause to believe that a criminal offence may have been committed, he or the panel (as the case may be) shall immediately suspend the proceedings, consult the Greffier and if so advised refer the matter to the Chief Officer of Police. The investigation shall not be resumed until either judicial proceedings have been concluded or the Chief Officer of Police has certified to the Chairman that he has no further interest in the matter.
32. Where the Panel finds that a complaint has been substantiated a report of the investigation and the Panel's decision shall be forwarded to the Member under investigation and to the Greffier who shall make the said report available for public inspection whenever the Greffier is open for normal business.

Where the Panel finds that a complaint has been substantiated but is of the view that the breach of conduct was of a minor nature it may dispose of the matter by cautioning the Member concerned.

Where the Panel finds that a complaint has been substantiated and is of the opinion that the Member should be formally reprimanded or suspended, or, where a Member refuses to accept a caution in the circumstances set out in the previous paragraph, it shall report its findings to the States with appropriate recommendations.

PART V

Procedure for considering complaints concerning Abuse of Privilege

33. Conduct, including abuse of privilege, during Meetings of the States and its Committees should be dealt with by the President or the Chairman of the relevant committee according to the States Rules of Procedure 2010 (as amended).

A complaint from Members or a member of the general public alleging that a Member has abused privilege, as set out in Part II, outside an official States or Committee meeting must be addressed in writing to the Greffier and the President of the States including the full details of the basis on which the complainant alleges abuse of privilege and show that there is prima facie case for the matter to be reviewed by the States in Committee.

34. The alleged abuse shall only be considered by the States in committee if the President and Greffier, after taking any legal advice it requires, accepts that sufficient evidence of abuse of privilege has been presented.
35. The Member accused will be invited to address the States in Committee. All Members are required to co-operate fully during any investigation, even if the Member concerned considers that the alleged abuse is unsubstantiated. Failure to co-operate in an investigation will be regarded as a breach of the Code.
36. The States in Committee may request (but not compel)
- a) the production of papers and records
 - b) request the attendance of any person before it,
 - c) request that specific documents in the possession of a Member relating to its inquiries be laid before it.
37. When the investigation is concluded its findings shall be reported to a formal meeting of the States, and, if the allegation is upheld, with advice as to whether it should reprimand or suspend the offending Member. When a suspension is proposed the terms of the proposed suspension must be set out in the report.

PART VI

Suspension of a Member

38. The States may, in dealing with breaches of conduct or abuse of privilege, suspend a Member for a period not exceeding two months, either from all States service or from a particular office or function, e.g. from the membership of a particular Committee or Sub-committee.
39. A Member suspended from a particular office or function may not, during the period of his suspension, take any part in meetings or other matters relating to that office or function but may, in all other matters, continue to serve as a Member of the States.
40. A Member suspended from all States service shall not, during the period of his suspension:
 - enter the States Chamber or its precincts when the States are meeting;
 - take part in any meeting or other matter relating to the States or a Department or Committee of the States;
 - sign any report, requête or other document relating to the business of the States;
 - ask any question pursuant to Rule 18 of the Rules of Procedure.
41. The States shall, when resolving that a Member be suspended, specify in each case whether any or all of the allowances payable to the Member pursuant to the Rules for Payments to States Members should cease during the period of suspension.

PART VII

General

Applicability to Non-States Members of States Departments and Committees

42. This Code shall, where the context so permits, apply to Non- States Members of States Departments and Committees.

Definitions

43. In Part III reference to “the Chairman” includes “the Deputy Chairman” where the context so permits.

Commencement

44. This Code of Conduct shall come into force on 17th April 2014.

SCHEDULE 1

Gifts, Benefits and Hospitality

Any gift or material benefit received by a Member, or to the Member's knowledge by any of his close family or associates, must be declared in accordance with this schedule if it:

- a) in any way relates to membership of the States; and**
- b) is of a value greater than 1% of the average annual allowances for the time being payable to States Members.**

1. Declarations in accordance with this schedule must be made to the President not later than the 31st May each year in respect of the 12 months ending on the previous 30th April. Such declarations shall be available for public inspection at the Greffe during normal opening hours.
2. The specified financial value above which gifts of money or tangible items (e.g. jewellery, glassware), or other benefits (e.g. hospitality, tickets to sporting and cultural events, relief from indebtedness, loan concessions, provision of services, etc.) must be registered is 1% of the current average annual basic allowance payable to States Members. not be retained but must be transferred or delivered into the ownership of the States.
3. The rule means that any gift, or other benefit, which in any way relates to membership of the States and which is given gratis, or at a cost below that generally available to members of the public, shall be registered whenever the value of the gift or benefit is greater than the amount specified in paragraph 2. Any similar gift or benefit which is received by any company or organisation in which the Member and any of his close family jointly have a controlling interest must also be registered.
4. Gifts and other benefits from the same or associated sources in the course of the relevant 12 months which cumulatively are of greater value than the amount specified in paragraph 2 must be registered, even if each single gift or benefit is of lesser value.
5. Benefits, such as tickets to sporting or cultural events, received by another person together with or on behalf of a Member must be registered as if they had been received by the Member.
6. Gifts or other benefits from another Member of the States are to be registered in the same way as those received from other persons.
7. Excepted from the provisions of this Schedule:
 - a) are gifts and benefits known to be available to all Members of the States;
 - b) is attendance at a conference or a site visit within the Bailiwick, the United Kingdom, Jersey and the Isle of Man in the context of legitimate States business where the organiser meets reasonable travel and subsistence costs only;
 - c) is hospitality provided in the context of legitimate States business by the States of Guernsey, States of Alderney, Chief Pleas of Sark or the governments the United Kingdom, Jersey or the Isle of Man or the devolved institutions in Scotland, Wales or Northern Ireland.

Gifts and material benefits are exempt from registration if they do not relate in any way to membership of the States. Whether this exemption applies in any particular case is necessarily a matter of judgment. Both the possible motive of the giver and the use to which the gift is put have to be considered: if it is clear on both counts that the gift or benefit is entirely unrelated to membership of the States, and would not reasonably be thought by others to be so related, it need not be registered. If there is any doubt it shall be registered.