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# STATES OF JERSEY



## **COMMISSIONER FOR STANDARDS: INVESTIGATION OF COMPLAINT OF BREACH OF THE CODE OF CONDUCT FOR ELECTED MEMBERS BY DEPUTY K.M. WILSON OF ST CLEMENT AND DEPUTY G.P. SOUTHERN OF ST HELIER CENTRAL**

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**Presented to the States on 22nd December 2023  
by the Privileges and Procedures Committee**

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**STATES GREFFE**

## REPORT

### Introduction

1. In May 2023, Deputy R.E. Binet submitted a complaint to the Commissioner for Standards against Deputy K.M. Wilson and Deputy G.P. Southern. Deputy Binet alleged that in a letter written by Deputy Wilson dated 3<sup>rd</sup> February 2023 to Deputy Southern, Deputy Wilson made untrue statements including anecdotal statements, about Deputy B. Ward and Deputy A. Howell. It was also alleged that Deputy Southern made untrue statements in his response to a Vote of No Confidence in him and in other statements made by him in relation to Deputy Wilson's letter. Deputy Binet alleges that much stress and unjustifiable reputational damage was caused to both Deputy Ward and Deputy Howell.

### Commissioner's conclusions

2. The Commissioner concluded that Deputy Wilson and Deputy Southern breached the requirements of Article 5 of the Code of Conduct for Elected Members. The Commissioner's view was that Deputy Wilson, in failing to acknowledge and rectify the inaccuracies in her letter following publication, failed to show respect to Deputy Ward and brought the States, and Members generally, into disrepute in breach of Article 5 of the Code.
3. The Commissioner's view was that Deputy Southern failed to listen, understand and act on Deputy Ward's concerns and the information contained in the Vote of No Confidence proposition. This includes his failure to inform Deputy Wilson of the concerns raised by Deputy Ward and his failure to show respect to Deputy Ward which has brought the States, and Members generally, into disrepute in breach of Article 5 of the Code.

#### **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.

4. In concluding the breach of Article 5, the Commissioner recommended that both Deputy Wilson and Deputy Southern should apologise to Deputy Ward. The Commissioner also recommended that both Deputies apologise to States Members in order to set the record straight, given that Deputy Wilson's letter and Deputy Southern's response were central to the Vote of No Confidence proposition and debate which led to much commentary by both Deputy Wilson and Deputy Southern, including to the press.

### PPC's conclusions

5. Standing Order 158 prescribes what PPC shall do on receipt of a report from the Commissioner for Standards:

#### **158 Outcome of investigation by the Commissioner for Standards**

- (1) When the Commissioner for Standards has reported the outcome of an investigation to the PPC under Article 9(1)(c) of the Commissioner for Standards (Jersey) Law 2017 in relation to the code of conduct for elected members of the States set out in Schedule 3, the PPC –
- (a) shall review the Commissioner's report;
  - (b) shall give the elected member whose act has been investigated the right to address the PPC, accompanied, if the elected member wishes, by a person of his or her choice;
  - (c) shall form an opinion, on the basis of the information before it, as to whether or not the elected member has breached the code of conduct and what action, if any, should be taken;
  - (d) shall inform the elected member of its opinion with reasons and what action, if any, it thinks should be taken; and
  - (e) may report its opinion and reasons, and any action it thinks should be taken, or which has been taken, to the States.
- (2) When the Commissioner for Standards has reported the outcome of an investigation to the States under Article 9(1)(c) of the Commissioner for Standards (Jersey) Law 2017 in relation to the code of conduct and code of practice for Ministers and Assistant Ministers referred to in Article 18(3A) of the Law, the PPC shall –
- (a) follow the procedure set out in sub-paragraphs (a) to (e) of paragraph (1) in relation to that report; or
  - (b) make the report of the Commissioner for Standards available to the States.
- (3) The report by the PPC referred to in paragraph (1)(e) may be presented to the States in writing or made orally by the chair of the PPC in a statement.

6. PPC invited Deputy Wilson to give her response to the report, and she attended, accompanied by her Private Secretary, upon the Committee on 23<sup>rd</sup> November 2023. Deputy Wilson acknowledged the Commissioner's findings and the breach of Article 5 of the Code of Conduct. Deputy Wilson also accepted the Commissioner's recommendations and confirmed that she would apologise to Deputy Ward and to States Members.
7. PPC invited Deputy Southern to give his response to the report, and he attended, accompanied by Deputy S.Y. Mézec, upon the Committee on 4<sup>th</sup> December 2023. Deputy Southern acknowledged the Commissioner's findings and the breach of Article 5 of the Code of Conduct. Deputy Southern also accepted the

Commissioner's recommendation that he should apologise to Deputy Ward. In relation to the recommendation to apologise to States Members, however, the Deputy had some reservations due to the fact that he had been unaware that the letter by Deputy Wilson had contained inaccurate information and anecdotal statements. The Committee acknowledges that this was despite Deputy Ward confirming this to him in person and in writing.

8. PPC accepts the Commissioner's finding that both Deputy Wilson and Deputy Southern breached Article 5 of the Code which specifies that 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.
9. PPC concurs with the Commissioner's recommendation that both Deputies should apologise to Deputy Ward. In relation to the Commissioner's recommendation that both Deputies apologise to States Members, the Committee believes that Deputy Wilson should apologise to members in order to set the record straight in light of the inaccurate information contained in her letter. In relation to Deputy Southern, the Committee considers that an apology to Members is not necessary. The Committee does, however, believe that Deputy Southern should write to Members primarily to set the record straight on this matter from his own perspective.
10. The Committee considers that an additional sanction should be made for Deputy Wilson in light of the factually incorrect information contained in her letter. In that regard, the Committee has concluded that she should also provide an apology to Deputy Southern. Although the Commissioner found that he also breached Article 5 of the Code of Conduct (which he accepted), Deputy Wilson's letter was heavily relied upon for the Vote of No Confidence proposition and debate. Therefore, the Committee has found that Deputy Wilson should apologise to Deputy Southern for sending/publishing the letter, which ultimately led to his demise as Chair of the Health and Social Security Panel.
11. The Committee requested both Deputies to take the necessary action accordingly.

**PAN-ISLAND**  
COMMISSIONER  
FOR STANDARDS



Report by the Pan-Island Commissioner for Standards on a complaint  
against Deputy Geoffrey Southern and Deputy Karen Wilson by  
Deputy Rose Binet

**States Assembly of Jersey-Confidential**

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## Summary

This is a report of my investigation following a complaint received on 3 May 2023 from Deputy Rose Binet against Deputy Karen Wilson, Minister for Health and Social Services and Deputy Geoff Southern, former Chair of the Health and Social Services Scrutiny Panel.

Deputy Binet alleges that in a letter written by Deputy Wilson on 3 February 2023 to Deputy Southern, Deputy Wilson made untrue statements including anecdotal statements about Deputy Barbara Ward and Deputy Andy Howell and that within Deputy Southern's response to a Vote of No Confidence in him and in other statements made by him in relation to Deputy Wilson's letter, made untrue statements. In so doing, Deputy Binet alleges much stress and unjustifiable reputational damage was caused to both Deputy Ward and Deputy Howell.

Deputy Binet alleges that through their actions, Deputies Wilson and Southern demonstrated a lack of integrity, honesty and leadership, that they were not acting solely in terms of the public interest and that they failed to maintain the integrity of the States in breach of paragraphs 3, 4 and 5 of the Code of Conduct for Elected Members.

I commenced my investigation on 28 June 2023. After considering all of the evidence in relation to this complaint, including all written responses, documentary evidence and interviews, I found that Deputy Wilson and Deputy Southern breached Paragraph 5 of the Code of Conduct for Elected Members.

## **Introduction**

1. I received a complaint from Deputy Rose Binet on 3 May 2023 against Deputy Wilson, Minister for Health and Social Services (“the Minister”) and Deputy Southern, then Chair of the Health and Social Services Scrutiny Panel (“the Panel”). The complaint relates to a letter written by Deputy Wilson on 3 February 2023 to Deputy Southern.
2. Deputy Binet alleges that:
  - 1) Deputy Wilson made untrue statements and used anecdotal evidence about Deputy Barbara Ward and Deputy Andy Howell;
  - 2) Deputy Southern made untrue statements in his response to a Vote of No Confidence (“VoNC”) in him and in other statements made by him in relation to Deputy Wilson’s letter.
3. Deputy Binet alleges much stress and unjustifiable reputational damage was caused to both Deputy Ward and Deputy Howell by Deputy Southern and Deputy Wilson’s untrue statements about the deputies, and that Deputies Wilson and Southern demonstrated a lack of integrity, honesty and leadership, that they were not acting solely in terms of the public interest and that they failed to maintain the integrity of the States in breach of paragraphs 3, 4 and 5 of the Code of Conduct for Elected Members (“the Code”).
4. The Code’s provisions relating to the allegations above are:

### **“3 Personal conduct**

Elected members should observe the following general principles of conduct for holders of public office.

#### **Selflessness**

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family and friends, their business colleagues or any voluntary or charitable organization they are involved with.

#### **Integrity**

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organizations 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, holders of public office should make choices on merit.

#### **Accountability**

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

#### **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.

### **Honesty**

Holders of public office 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.

### **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."

## **"4 Conflict between public and private interest**

Elected members should 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."

## **"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."

## **Investigation**

5. During the course of my investigation, I carried out the following:
  - Reviewed the complaint and all evidence submitted<sup>1</sup>
  - Requested written responses to the complaint from Deputy Geoff Southern and Deputy Karen Wilson, Minister for Health and Social Services
  - Reviewed the written response<sup>2</sup> and evidence submitted by Deputy Southern
  - Reviewed the written response<sup>3</sup> and evidence submitted by Deputy Wilson
  - Reviewed media coverage
  - Interviewed Deputy Southern<sup>4</sup>
  - Interviewed Deputy Wilson<sup>5</sup>
  - Interviewed Deputy Sir Philip Bailhache<sup>6</sup>

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<sup>1</sup> Document 1 a-l

<sup>2</sup> Document 2

<sup>3</sup> Document 3

<sup>4</sup> Document 4

<sup>5</sup> Document 5

<sup>6</sup> Document 6

- Interviewed Deputy Barbara Ward<sup>7</sup>
- Reviewed evidence submitted by Deputy Ward<sup>8</sup>
- Interviewed Deputy Andy Howell<sup>9</sup>
- Interviewed Deputy Kristina Moore, Chief Minister<sup>10</sup>
- Interviewed former Chief Officer, Health and Community Services<sup>11</sup>
- Interviewed Committee and Panel Officer<sup>12</sup>
- Interviewed Management Executive Support (Contractor)<sup>13</sup>

6. Evidence relied upon to reach my conclusions is included in this report at Appendix A.

### **Background and Context**

7. A letter of complaint (“the letter”) about the conduct of two members of the Panel, namely Deputies Ward and Howell, was received by Deputy Southern on 3 February 2023 from Deputy Wilson, Minister for Health and Social Services.<sup>14</sup>
8. In the letter, the Minister made three complaints about Deputy Ward. Firstly, it was alleged that that the Deputy had revealed, in a public hearing, information about the appointment of Professor Mascie-Taylor which had emerged during a prior private meeting with the Minister. Secondly, it was alleged that the Minister was hearing “anecdotally” that the Deputy was relaying, to the Panel, information received in her capacity as a member of the States’ Employment Board (“SEB”). Thirdly, it was alleged that Deputy Ward was “routinely drawing the Panel away from its purpose” and raising employment matters.
9. The Minister also made an allegation in the letter against Deputy Howell. The allegation was that Deputy Howell had not, in the Minister’s view, “always acted in a professional manner towards the public servants responsible for Health and Community Services”. An instance was cited when, at a private meeting with the Minister and her officials on 2 February 2023, the Deputy’s behaviour was “wholly inappropriate” and that officials were subjected to what she considered to be “clear vitriol and disrespect”.
10. Soon after receiving the letter, Deputy Southern asked both Deputy Ward and Deputy Howell to resign from the Panel. Deputy Bailhache, then Vice-Chair of the Panel, advised both deputies not to resign as he believed they had done nothing wrong. Deputy Bailhache met with Deputy Southern on 15 February 2023 and informed him that the deputies would

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<sup>7</sup> Document 7

<sup>8</sup> Document 8 a-d

<sup>9</sup> Document 9

<sup>10</sup> Document 10

<sup>11</sup> Document 11

<sup>12</sup> Document 12

<sup>13</sup> Document 13

<sup>14</sup> Document 1e

not be resigning. They failed to agree a way forward which led to Deputy Bailhache lodging a proposition for a VoNC<sup>15</sup> in Deputy Southern which was debated on 28 February 2023<sup>16</sup>. The proposition was won resulting in Deputy Southern losing his role as Chair of the Panel.

11. Deputy Rob Ward was appointed as the new Panel Chair in March 2023, and upon his appointment invited both Deputies Ward and Howell to become members; they accepted his invitation.

## Evidence

12. On 1 December 2022, at the Health and Social Security Scrutiny Panel Quarterly Meeting which was held in public, the following exchange took place<sup>17</sup>:

**Deputy B. Ward:**

You have led me in beautifully then to talk about the Health and Community Services Board. The panel notes that the Chair has been appointed to the new Health and Community Services Board. Would the Minister please explain to the panel what process was used to ensure complete independence?

**The Minister for Health and Social Services:**

As I have already outlined previously, the process was conducted by officers in terms of the recruitment. At the final stage, both myself and the Assistant Chief Minister made a decision as to who was the most eligible candidate from that process. But what I am advised is that the recruitment process involved going out to recruitment companies to source eligible people. **As you have heard, because Professor Mascie-Taylor was here, I encouraged him also to consider whether or not he would be interested in it.** That was as far as my interest went. Officers then took that forward in terms of sourcing a number of people. I am told there was a short list from 50 down to 5, and both myself and the Assistant Chief Minister were presented with the final 2 candidates, and the decision was taken by myself to appoint Professor Mascie-Taylor.

**Deputy B. Ward:**

Could the fact, on your own admission, that you did encourage Professor Mascie-Taylor into applying for the post, that that maybe skewed the independence or your position as making that final decision?

**The Minister for Health and Social Services:**

I think there were enough stages in the process before it got to my decision to weed out any conflict in that regard. I think what I was satisfied with was, having been presented with 2 candidates, to compare that the candidate that was successful was the one that met the requirements of the job.

13. On 2 February 2023, in a private meeting with Deputy Wilson, the Chief Officer of Health and Community Services and other officers, Deputy Howell was questioning the Chief Officer and stated, "You are not talking to your consultants". Prior to providing a response,

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<sup>15</sup> Document 1g

<sup>16</sup> Documents 1j and 1k

<sup>17</sup> Document 1d

the Minister directed the Chief Officer to leave the room as she had become visibly upset upon questioning by Deputy Howell.

14. Deputy Howell acknowledged that she did not pose the question in the technically appropriate way – i.e., as a question “Are you talking to your consultants?” Deputy Howell stated at interview<sup>18</sup>:

**Deputy Howell**

So I asked the Chief Officer if she'd been listening to the concerns of the consultants, but unfortunately, I think I said, 'You haven't been listening to the concerns of the doctors,' Instead of saying have you, I missed that bit out, and I really feel bad that I missed that bit out. That was what the Minister, she said I was being accusatory, and so she touched the Director General on the arm twice and said, 'You have to go, you must go out, you must go out.' So I said, 'Gosh, I'm really sorry.' I really apologised and I didn't realise that it was being, well, I hadn't meant to be accusatory. I just was trying to get to the bottom of why this situation had arisen. I think that's the only thing I was accused of.

**Commissioner**

Yes. In her view, wholly inappropriate. So would you have categorised this as clear vitriol and disrespect?

**Deputy Howell**

Well, no, because I was just trying to find out why this was occurring, because it seemed really awful that a consultant who'd offered to operate on patients who needed their operations, was told to go and play golf instead of being able to operate. It was just awful. We're there to ask questions and I think there's so much that needs sorting out. It's just such a shame. It's so disappointing that - I know I made a mistake, and I should have made it into a question, and I'm really sorry about that, but the issue is quite a big, major issue.

**Commissioner**

Yes. At the same time though, you refute that it was vitriolic or disrespectful?

**Deputy Howell**

Yes, I do. I always try to get on with everyone, and I really just want the best for the island, and the best for islanders, and the best for the public.

**The Minister's Letter**

15. On 3 February 2023, Deputy Wilson wrote to Deputy Southern. The following are key excerpts from the letter<sup>19</sup>:

“I am writing to you regarding the conduct of two members of the Health and Social Security Scrutiny Panel (“the Panel”) – Deputies Barbara Ward of St Clement and Andy Howell of St John, St Lawrence and Trinity. I will outline my concerns for each member separately.”

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<sup>18</sup> Document 9

<sup>19</sup> Document 1e

**[In relation to Deputy Ward]**

“In our private meeting with Professor Mascie-Taylor on Thursday 1 December 2022 – which was held prior to a Quarterly Hearing that same day – you will recall that we discussed the Professor’s appointment to the newly created role of Chair of the Health and Care Board. During the private meeting I was asked about the appointment of Professor Mascie-Taylor and was asked if I had encouraged him to apply for the role. I confirmed that I had suggested that Professor Mascie-Taylor may wish to consider applying for the role considering his wealth of experience and knowledge of the global health system and the issues facing our health service.

In the public meeting that followed, Deputy Ward then referenced this discussion very clearly and the matter was then reported on in the media and led to questions in the chamber, While I have no issue with the above being known and reported on, it is how it came to be public with which I am concerned.”

....

“Another concern I have is that I am hearing, albeit anecdotally, that Deputy Ward is relaying information she is receiving in her capacity as a member of the States Employment Board to the Panel. I am concerned that if this were the case that the Panel would be privy to highly confidential employment information - information that I am not necessarily privy to considering the requirement in the ministerial code to avoid personal involvement in employment matters – and draws the Panel, whether intentionally or not, into matters that relate to ‘individual employee disciplinary/grievance’, which as you know should be avoided.”

**[In relation to Deputy Howell]**

“In meetings, both those in public and in private, Deputy Howell has not, in my view, always acted in a professional manner towards the public servants responsible for Health and Community Services. However, following the Deputy’s conduct yesterday, Thursday 2 February 2023, in a private meeting with myself and my officers, I feel bound to write to you and strongly convey my concerns as part of my own duties as a Minister and States Member.

As you know and for the sake of posterity, I requested that my Chief Officer withdraw from the meeting as I found the Deputy’s behaviour wholly inappropriate of a person holding public office, and that officers should not be subjected to what I consider to be clear vitriol and disrespect from the Deputy. I consider that the Deputy’s behaviour in no way upheld the requirement to maintain the integrity of the States nor did the Deputy fulfil the requirement to promote and demonstrate leadership. Instead, the Deputy felt it appropriate to talk to the Chief Officer in such a way that the Deputy disrespected the Chief Officer’s right to be treated with dignity and respect at work under the States of Jersey Codes of Practice. The Deputy’s behaviour also clearly infringed on those same rights of those more junior civil servants who accompanied me and the Chief Officer to brief the Panel.

As you know, one of my priorities is to address poor behaviour and culture within the HSC, and so when we as States Members are unable to act as standard bearers for model behaviour, it makes this challenge more difficult – accountability and scrutiny, in my view, can be conducted in a way that is respectful and dignified.”

16. On the 5 February 2023, Deputy Southern wrote to Deputy Wilson suggesting they meet.<sup>20</sup> He stated in his email to Deputy Wilson “Any decisions on how to proceed, either formal or informal, will of course include you as the originator of the complaint. When is a good time to meet up to discuss the next steps? G”. They met on 8 February 2023, but neither of the deputies were able to recall what they discussed at that meeting.<sup>21</sup>
17. Deputy Ward collected the letter from her pigeon hole in the Members room on 9 February 2023; Deputy Southern was in the room at the time. After reading the letter, Deputy Ward explained to him that there were factual inaccuracies in the letter. Deputy Southern told her he had had enough, asked her not to attend any of the forthcoming meetings and requested that she step down as a Member of the Panel.<sup>22</sup>
18. Deputy Ward had a meeting with the States Greffier, on 10 February 2023 to get advice regarding the factual inaccuracies in the letter, the process for resigning from the Panel and information on the complaint procedure. Deputy Ward was advised to write to Deputy Southern to explain the inaccuracies in the letter; Deputy Ward did so on the 12 February 2023. Deputy Ward received a response from Deputy Southern on 15 February 2023 saying that he would be grateful if she would advise him of her decision in relation to his request for her to resign and the timeframe of the same.<sup>23</sup>
19. Deputy Bailhache met with Deputy Southern on 15 February 2023 to try to find a way forward and advised him that the two deputies would not be resigning. As it transpired, they did not reach an agreement on the way forward. Deputy Bailhache suggested at that meeting that there were only two options available to break the deadlock; either Deputy Southern resigns as Chair or he would bring a VoNC in him as Chair of the Panel. In his VoNC proposition he described the meeting:

“We discussed the letter and went through the different allegations as set out above. Deputy Southern did not argue that any of the allegations against Deputy Ward were well founded but he was unwilling to reply to the Minister’s letter defending Deputy Ward’s position. I expressed the view that senior officials must expect to be challenged and that Deputy Howell’s questioning may have been firm but she did not treat the Chief Officer with disrespect. Deputy Southern saw matters differently and we eventually had to agree to disagree. I said that both deputies were new members of the States and had expressed a genuine willingness to learn from any mistakes and asked that the Chair should withdraw his request for them to resign from the Panel. Deputy Southern declined to do so and said that he could no longer work with either of them.”<sup>24</sup>
20. Deputy Ward met informally with Deputy Moore, Chief Minister, on 21 February 2023, while she was at a Council of Ministers meeting in St Clement’s Parish Hall. Deputy Ward explained in her submitted evidence:

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<sup>20</sup> Document 1e

<sup>21</sup> Documents 4 and 5

<sup>22</sup> Document 7

<sup>23</sup> Document 8a-d

<sup>24</sup> Document 1g

"I met with the Chief Minister during an opportunity to speak to her one to one and offer a way forward for this vote of no confidence to go away, which was based on the letter 3<sup>rd</sup> February 2023 written by the Health Minister –I asked her to consider the 3<sup>rd</sup> February 2023 letter to be withdrawn, a letter of apology from the Health Minister to me as the information contained was wholly incorrect, which I could evidence as all had been recorded. The resultant [sic] of this action by the Chief Minister and Health Minister would mean we can all move forward and concentrate on the real issues in hand – .....To date I heard nothing and was unsure if anything was done and the facts checked by the Chief Minister as I had suggested."<sup>25</sup>

21. Deputy Southern sent his VoNC response out to all States Members on 24 February 2023. In it, he made a number of statements that have been alleged by the complainant to be untrue or anecdotal. The following are direct quotes from Deputy Southern's VoNC response:<sup>26</sup>

1. *9<sup>th</sup> August 2022 – Teams Training - Complaint from ALX about Deputy Ward's "disruptive" and "combative" behaviour. The trainer concerned ended up in tears. The Greffier had words with Deputy Ward pointing out the need to pay attention to the Code of Conduct for elected members.*
2. *On 1<sup>st</sup> December 2022 at a private meeting with Minister and Officers regarding an amendment to the Government Plan 2023-2026, both Deputy Ward and Deputy Howell became disruptive and loudly spoke over one another. They were in effect shouting at the Minister. I was forced to have to step in, somewhat in the manner of a wrestling referee, to bring order back to the meeting. The behaviour was noted as being unprofessional and unacceptable to me.*
3. *On 19<sup>th</sup> January 2023 – at a Panel meeting I raised the issue of the code of conduct and the appropriate manner in which members should behave during meetings/hearings. I indicated forcefully that such behaviour is unacceptable to me and was not to be repeated.*
4. *On 2<sup>nd</sup> February 2023, in a Private Briefing on Waiting Lists with the Minister, Director General and HCS Officers. The Minister and the Director General were not happy with the way that Deputy Howell communicated with them – saying her behaviour was inappropriate and full of accusations. The Director General chose to leave the meeting which ended in an icy atmosphere.*
5. *But the major issue here is the reference to the appointment of Hugo Mascie-Taylor as Chair of the new HCS Board, and the manner in which the appointment came about. Following directly on a discussion of the number of HCS management posts, the Minister's words to the Panel given to a meeting beforehand were "I encouraged him (Hugh Mascie-Taylor) also to consider whether or not he would be interested in it (the Chairmanship)" This phrase was repeated in the public meeting along with a brief description of the process including the involvement of the Appointments Commission to wean the candidates list from 50 to 5 and finally to 2 from which the Minister made her appointment. Deputy Ward rephrased the Minister's words as follows: The use of the words "on your own admission" implies some guilt where none exists.*

*"Could the fact, on your own admission, that you did encourage the Professor into applying for the post, that that may have skewed the independence of your position as making that final decision?"*

6. *The letter of complaint from the Health Minister also makes reference to anecdotal information that Deputy Ward is relaying information received in her role as a member of the States*

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<sup>25</sup> Document 7

<sup>26</sup> Document 1h

*Employment Board to others. I cannot confirm or deny that, but I do note her question asked in January in the States of the Health Minister as follows:*

*6.4 Deputy B. Ward of St. Clement:*

*May I ask the Minister for Health and Social Services if she could update the Assembly in regard to the accommodation and its associated expense costs for the recently appointed chair of the Health Board and to confirm the proposal to rent a 3-bedroom flat at, I believe, over £3,000 a month, its refurbishment and other expenses?*

*This may be merely speculation, but if the figures have been sourced from the SEB, they would be a major breach in the rights an individual employee of the States. In fact I was surprised that the Bailiff permitted the details contained in this no-notice question, identifying the employment conditions of a named employee, as it does.*

22. Once the proposition for a VoNC and Deputy Southern's response to it was published, the Minister was asked by Deputy Bailhache and Deputy Southern to agree to her letter being published. Deputy Wilson agreed to its publication on 24 February 2023, with the request that both Deputies Ward and Howell be consulted prior to its publication.
23. The publication of the letter appears to have been assessed for risk by the government's legal officers, who deemed it low risk. On 27 February 2023, the letter was published and sent to all States Members.<sup>27</sup>

### **Findings of Fact**

24. In relation to the specific allegations of this complaint, and on the balance of probabilities, I have found the following facts:
  1. On 1 December 2022, at the public Health and Social Security Scrutiny Panel Quarterly Meeting, Minister Wilson's encouragement of Professor Mascie-Taylor's application for the post of Chair to the Health and Community Services Board was first put into the public domain by the Minister.
  2. On 2 February 2023, at a private meeting with Deputy Wilson, the Chief Officer of Health and Community Services and other officers, the Minister directed the Chief Officer to leave the meeting as she had become upset by Deputy Howell's questioning.
  3. On 3 February 2023, Deputy Wilson wrote a letter which contained factual inaccuracies in relation to alleged disclosures made by Deputy Ward.
  4. On 8 February 2023, Deputy Southern and Deputy Wilson met; neither recall any details of the meeting.
  5. On 9 February 2023, while collecting and reading a copy of the Minister's letter, Deputy Ward explained to Deputy Southern that there were factual inaccuracies in the letter. Deputy Southern told her there were trust issues with her and asked her not to attend upcoming Panel meetings.
  6. On 10 February 2023, Deputy Ward met with the States Greffier to discuss the matter, and based on the advice received, Deputy Ward wrote to Deputy Southern on 12 February 2023 outlining the factual inaccuracies in the Minister's letter.

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<sup>27</sup> Document 3



7. On 15 February 2023, Deputy Bailhache met with Deputy Southern to try to find a way forward and informed Deputy Southern that neither Deputy Ward nor Deputy Howell would be resigning.
  8. On 21 February 2023, Deputy Bailhache's proposition for a VoNC in Deputy Southern was sent to all States Members.
  9. On 21 February 2023, Deputy Ward informally met Deputy Moore at St Clement's Parish Hall where a Council of Ministers meeting was taking place and explained to Deputy Moore that there were factual inaccuracies in Deputy Wilson's letter and asked her to consider withdrawing the letter and issuing an apology.
  10. On 24 February 2023, Deputy Southern sent his response to the VoNC against him to all States Members.
  11. On 24th February 2023, Deputy Wilson wrote to Deputies Bailhache and Southern to advise of her agreement to the letter being published and that Deputies Ward and Howell should be consulted prior to its publication.
  12. On 27 February 2023, the Minister's letter was published and a copy was sent to all States Members.
25. Both Deputy Southern and Deputy Wilson were afforded an opportunity to challenge any of the above findings before I finalised my report. I did not receive any challenges to my findings of fact.

## **Analysis**

26. My investigation focussed on the allegations as set out in the complaint: that the Minister made untrue statements and anecdotal evidence in her letter to Deputy Southern, and that Deputy Southern made untrue statements and anecdotal evidence in his response to the VoNC proposition and other statements made by him – both of which, it is alleged by the complainant, led to much stress and unjustifiable reputational damage to Deputy Ward and Deputy Howell.
27. At the time to which this complaint relates, Deputy Ward, Deputy Howell and Deputy Wilson were relatively new members and would have been in their respective roles for approximately six months.

### **Deputy Wilson**

28. From the transcript of the public Quarterly Meeting of the Panel on 1 December 2022<sup>28</sup> (paragraph 13 above), it is evident that the Minister was the first to mention that she encouraged Professor Mascie-Taylor to consider the role of Chair of the new Health Board. Deputy Wilson stated:

“As you have heard, because Professor Mascie-Taylor was here, I encouraged him also to consider whether or not he would be interested in it. That was as far as my interest went....”

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<sup>28</sup> Document 1d

29. It was then that Deputy Ward questioned the Minister as to whether there was a possible conflict given that the Minister was the appointer; this is perfectly legitimate questioning. Deputy Ward stated:

“Could the fact, on your own admission, that you did encourage Professor Mascie-Taylor into applying for the post, that that maybe skewed the independence or your position as making that final decision?”

30. Deputy Wilson then went on to accuse Deputy Ward of this disclosure in her 3 February letter to Deputy Southern. In the letter she stated

“In the public meeting that followed, Deputy Ward then referenced this discussion very clearly and the matter was then reported on in the media and led to questions in the chamber, While I have no issue with the above being known and reported on, it is how it came to be public with which I am concerned.”<sup>29</sup>

31. It is reasonable to expect that a letter written by a Minister would be factually correct, especially as it contains a serious allegation against a fellow member, but it was not factually correct. Deputy Wilson’s assertion in her letter, that Deputy Ward disclosed confidential information in a public forum, was wrong and untrue. The transcript clearly demonstrates that it was the Minister herself who disclosed the information, not Deputy Ward.

32. I consider 21 February 2023, the date Deputy Wilson received Deputy Bailhache’s proposition for a VoNC (as did all States Members), to be the date that Deputy Wilson knew, or ought to have known, that her letter allegedly contained factual inaccuracies that accused Deputy Ward of disclosing confidential information in a public meeting. Deputy Bailhache stated very clearly that the allegations in the Minister’s letter were incorrect:

“First, it alleged that the Deputy had revealed in a public hearing information about the appointment of Professor Mascie-Taylor which had emerged during a prior private meeting with the Minister. That allegation was incorrect. In fact, as the record of the meeting clearly shows, the Minister’s encouragement of the Professor’s application for the post in question was first put into the public domain by the Minister herself. She was then questioned by Deputy Ward as to a possible conflict, given that the Minister was the appointor, but that was perfectly legitimate questioning.”<sup>30</sup>

33. Despite having received the 21 February 2023 VoNC proposition, Deputy Wilson asserts that she was still unaware of the allegation that there were factual inaccuracies in her letter on 24 February 2023. Our exchange at interview is as follows:<sup>31</sup>

**Commissioner**

So, at this point, 24<sup>th</sup> February, you still don’t realise that what you've put in the letter is inaccurate, is this correct?

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<sup>29</sup> Document 1e

<sup>30</sup> Document 1g

<sup>31</sup> Document 5

**Deputy Wilson**

That's right, yes.

**Commissioner**

You've agreed that objectively speaking, it is inaccurate, correct?

**Deputy Wilson**

Yes.

**Commissioner**

So, essentially what I'm saying and what I believe, is that the letter wrongly accuses Deputy Ward of disclosing confidential information in a public meeting and the Hansard [transcript] is crystal clear that she did not do that, and you accept that that is the case. So, I just want to get that on record.

**Deputy Wilson**

Yes. I think it's not - certainly had I had a chance to look at the Hansard and had I had a chance to review it and been notified that there were inaccuracies, then I could have actually addressed that at the time.

**Commissioner**

Yes. Now, in saying that, I understand your job's a busy job, etc., I get that, but in saying that it was a pretty - it was an important letter that you were sending. So, I suppose in a way, I'm a little bit - you do say in your statement to me that you also sent the letter to the Chief Minister.

**Deputy Wilson**

Yes.

**Commissioner**

I can't recall the date that you sent that, but it was obviously before you sent it on 3<sup>rd</sup> February, correct?

**Deputy Wilson**

Yes. I had a conversation with her which was to tell her that I was concerned about what had gone on and that I was actually going to write a letter to the Chair.

**Commissioner**

At no point do you realise that what you were saying was not true or was not accurate? At no point does Deputy Southern tell you that there's been flagged up some inaccuracies? At no point prior to the publication of this letter do either Deputy Southern, you, or in fact, the Chief Minister who I think you had said you sent the letter to...

**Deputy Wilson**

Yes.

**Commissioner**

Nobody refers back to the actual Hansard. That meeting happened on December 1<sup>st</sup>. So, we're now in February. I'm pretty certain you'd have had access to the Hansard.

**Deputy Wilson**

Yes.

**Commissioner**

So, that's a little bit concerning too, as of course you know somebody's reputation is on the line there.

34. I am not at all convinced by Deputy Wilson's assertions at interview that she was unaware on 24 February 2023 of the fact that allegations were being made that there were inaccuracies in her letter. It would be unacceptable, in my view, for the Minister to not have read and understood the contents of the VoNC proposition on 21 February 2023 which clearly raises this issue.
35. Deputy Wilson did not seek to understand or correct the record at any time after 21 February 2023 VoNC proposition or prior to her providing consent for the letter to be published on 24 February 2023.
36. On 10 March 2023, the Minister's "Letter to the Editor" was published in the Jersey Evening Post. In it, she clarified for the readers that she had sent a letter on 3 February 2023 to Deputy Southern and further approved its wider publication on 24 February 2023.<sup>32</sup> She did not take the opportunity to correct the record.
37. Deputy Wilson stated that she consulted with Chief Minister Moore prior to sending the letter on 3 February 2023 and prior to consenting to the letter's publication on 24 February 2023. Deputy Moore did not mention the concerns raised with her by Deputy Ward on 21 February 2023 to Deputy Wilson. At interview, Deputy Moore told me she was unaware of the factual inaccuracies in the letter.<sup>33</sup> Further, Deputy Wilson stated that Deputy Southern did not at any time mention Deputy Ward's concerns about the factual inaccuracies in the letter.<sup>34</sup>
38. Deputy Wilson stated at interview:
- "At that moment in time, what I believed to be happening was reflected and it also reflected my concerns, which is why there is no content or no evidence around the fact that there were all sorts of anecdotal stuff being in the ether of this. I just needed to say to the Chair, can you please sort this out? This letter was never, ever to be - as you know, it was never, ever an intention to be used as a vote of no confidence. It was never the intention for it to be as part of a State Assembly debate. It was never the intention to, in my view, result in the actions that emerged around the Panel and its disintegration. It was purely an attempt to say to the Chair, can you address these behaviours with the members of the Panel? That was its intention and I stand by that. If there are some things that I, in the moment, have not correctly or accurately or succinctly reflected, then I - given where it went, I've had no opportunity to redress that until people have actually presented the observations of their interpretation of that letter now. So, therefore, the letter and its intent and its purpose at the time was to actually say, can you please sort this out Chair of the Scrutiny Panel? It was not intended to be anything else. If then, as part of that process, there would have been some process that would have said, 'Can we just talk about some of the issues that you've highlighted in your letter?' I would have been perfectly happy to do that with both Deputy Howell and Deputy Ward present. There was no opportunity to do that at all until the complaint letter came from my Assistant Minister, who wasn't actually present. She also has not had a chance - there's

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<sup>32</sup> Document 8d

<sup>33</sup> Document 10

<sup>34</sup> Document 5

been no chance for me to say to her let's talk about it, so that I can explain to you where I was at, at the time."

39. On the second allegation made by the Minister in her letter, that she was hearing "anecdotally" that Deputy Ward was relaying to the Panel information received in her capacity of a member of the SEB, Deputy Bailhache states that there was a discussion once at a private meeting of the Panel. During the discussion, the Panel's clerk warned Deputy Ward and Deputy Bailhache of the importance of maintaining the confidentiality of each body, and that was immediately acknowledged by both deputies. When questioned about this, Deputy Wilson stated at interview:<sup>35</sup>

**Commissioner**

On one side of it, having mis-recalled what you said in the meeting and writing it as if Deputy Ward has disclosed private information, you then on the other hand use anecdotal information which you say you have no idea was a confidential conversation arising from a confidential meeting in a panel that you shouldn't have been privy to. So, it's ironic that the first point you make is that Deputy Ward disclosed confidential information, but then on the second point, you are disclosing confidential information, but it seems to me you didn't even know it was confidential. Is that what you're saying?

**Deputy Wilson**

Yes. All I do is pick up the usual gossip around and that's the hard thing, is to know is it fact or fiction and when do you need to act on it. Until I've got real, tangible evidence, all it signals to me is that there is something that is being said about a situation that I was concerned about because there was a potential breach of somebody's confidentiality or somebody's confidential information. If I had known for definite or where there were examples or details, then clearly I could have actually expressed on this date and on this occasion this was said to who. Before I would say that, I would probably want to go and make sure that it was correct.

40. Deputy Wilson was unable to tell me where she had come across this information. Connétable Andy Jehan, Vice-Chair of the SEB, confirmed during my investigation that he informally looked into this issue and informed Deputy Ward that she did not disclose any confidential information sourced from the SEB.<sup>36</sup> Deputy Bailhache further confirmed this in his VoNC proposition, stating that "Deputy Ward has not been relaying information derived from the SEB and it is surprising that gossip of that kind should be included in a formal complaint."<sup>37</sup>
41. In the letter, Deputy Wilson relied on anecdotal gossip gleaned from what appears to have come from a confidential meeting which Deputy Wilson was not party to. Whilst Deputy Wilson cannot be responsible for the disclosure of the confidential and anecdotal information to her, she is responsible for deciding to disclose it in her letter.
42. Thirdly, it was alleged that Deputy Ward was "routinely drawing the Panel away from its purpose" and raising employment matters. It appears that several members, including the

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<sup>35</sup> Document 5

<sup>36</sup> Document 14

<sup>37</sup> Document 1g

Chair, have asked questions during Panel meetings about the difficulties in relation to employment issues in health and social care. However, I do not consider Deputy Wilson's assertion on this matter to be necessarily untrue, but rather a view she holds in relation to the purpose of the Panel.

43. In relation to the Minister's assertions about Deputy Howell's behaviour at the 2 February 2023 meeting, recollections vary. I hasten to add that Deputy Howell is not under investigation; I am investigating the truth of the Minister's assertion that Deputy Howell behaved in the way described in the letter, as "wholly inappropriate" and that officials were subjected to what the Minister considered to be "clear vitriol and disrespect".
44. Deputy Bailhache stated that he did not recognise the conduct of Deputy Howell as bearing any of those hallmarks in the Minister's letter:<sup>38</sup>

**Commissioner**

Okay. Then can you tell me, the time you were there, for that behaviour reference [2 February 2023], you stated you don't recognise that.

**Deputy Bailhache**

No. No, I don't. I think that Deputy Howell, in a very small technical way, was in error in asking a question which appeared to come across as a statement, and I can't remember exactly what it was about. It was something to do with consulting the doctors, I think.

**Commissioner**

Yes, you're not talking to the consultants, basically, is what she said.

**Deputy Bailhache**

Yes, right, and so that was not put in the interrogatory. It was put in the accusatory, if you like, and that was a technical mistake. I think she should have asked a question rather than making a statement, but in questioning witnesses, sometimes one makes statements of that kind, which are in effect questions, but don't come across on the record as being questions.

**Commissioner**

In your experience, and you've been a lifelong member pretty much, is this an egregious issue that anybody should really be asked to resign over?

**Deputy Bailhache**

No, absolutely not. I thought it was absurd, Commissioner, actually. I couldn't understand why Deputy Southern was getting so agitated about it, and I still don't understand.

**Commissioner**

No. It's something that has struck me as I speak to witnesses, that it has been very upsetting. A very upsetting time.

**Deputy Bailhache**

Well, there were some pretty nasty allegations made about Deputy Ward and Deputy Howell, actually. An accusation of bullying is not a nice accusation, and I don't think it was fair, and I don't think it was accurate.

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<sup>38</sup> Document 1g

45. Deputy Southern stated at interview in relation to conduct of the two deputies:
- “I'm sure it has upset them. Their behaviours, between them, have been inexcusable. Well, if somebody's deliberately trying to pervert scrutiny, because I spent time, and time, and time again going through. I mean, had won one ticket, one session, it was only the one session, basically telling them off, saying, 'I'm not tolerating this anymore. You're not doing things right. You're not looking for evidence. You're not asking questions, and you're making it very difficult to run the panel.' I've never seen behaviour that bad before. It could be put down to a lack of training and a misinterpretation of what politics is. Complete misinterpretation of what scrutiny should be, at its best, and this is way beyond. I've never met anything this bad.”<sup>39</sup>
46. Deputy Howell admitted that she did not ask the questions in the technically correct way as regards to proper scrutiny, but maintains she was never disrespectful. Deputy Howell was a newly elected member at the time, which likely contributed to her heightened emotions and failing to ask a question in the appropriate way. She says she apologised at the end of the meeting for causing any upset.
47. During my interview with the Chief Officer who was directed by the Minister to leave the 2 February 2023 meeting, she confirmed that she was upset by Deputy Howell's behaviour and said, “The whole behaviour was not how you behave in a professional meeting. Demeanour, questioning, it just was not the way that you would behave in a professional meeting.” She said she would not characterise it as “vitriolic”. It also appears that the Chief Officer may have been dealing with other issues at the time, so it is hard to know whether Deputy Howell's tone and style of questioning was the sole cause for her upset on the day or merely a contributing factor. Indeed, another officer present told me that she had witnessed the Chief Officer “take a lot more in the past”.
48. The Committee and Panel Officer I interviewed said that while Deputy Howell's tone at the meeting on 2 February 2023 could be described as passionate in relation to the topic of waiting lists being discussed, the questioning came across as “aggressive in terms of tone and body language”. The officer additionally stated that she was taken aback as she had not seen that side of Deputy Howell who she described as “lovely and polite”. The officer also stated that she had seen similar and worse behaviour and questioning in her time as a Committee and Panel Officer, and that perhaps the fact that Deputy Howell is polite in nature added to officers' surprise at her aggressive tone and body language.
49. Another officer at the meeting (Management Executive Support) described the meeting as “wildly unprofessional”; it had been his first ever scrutiny meeting and foray into politics, as such. He too thought that “vitriol” was too extreme a word to describe Deputy Howell's behaviour, but stated that he found the whole meeting shocking in terms of the lack of professionalism shown by Deputies Howell and Ward. This included speaking with each other while he was presenting his report.

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<sup>39</sup> Document 4

50. A private file note of the meeting was obtained during my investigation and did not include any reference to Deputy Howell's behaviour or the Minister directing the Chief Officer to leave the meeting.
51. The purpose of a scrutiny panel is to scrutinise; that is to "undertake careful and detailed examination of something in order to get information about it".<sup>40</sup> It is my view that Ministers and officers should be accustomed to robust and, at times, difficult questioning.
52. However, officers and officials should not be subject aggressive behaviour. Aggressive is defined as "showing anger and a willingness to attack other people".<sup>41</sup> There is a difference between robust and difficult questioning and angry questioning that leads to those being questioned feeling as if they are being attacked. I do not believe this was the perception by all parties present in relation to Deputy Howell's behaviour.
53. Vitriol is defined in the Oxford Dictionary as "extremely sharp, caustic or scathing; bitterly ill-natured or malignant".<sup>42</sup> It is my view that emotions were heightened at the meeting; Deputy Howell was upset by what she thought was an "awful" situation relating to waiting lists and asked a question in the accusatory form rather than in the interrogatory form. This came across as "aggressive" and "unprofessional", but not "vitriolic" by the officers I spoke with who were at the meeting.
54. On balance, "clear vitriol" appears to be an exaggeration, and by definition, inaccurately characterises Deputy Howell's behaviour at the meeting which potentially wrongly suggested to other Members and the wider public through the press that Deputy Howell's behaviour was definitionally caustic, bitterly ill-natured or malignant—none of which would accurately describe Deputy Howell's behaviour at the meeting according to the officers who were present. This choice of words in the Minister's letter likely led to Deputy Howell being portrayed as a bully when the letter was published.
55. Notwithstanding, behaviour is subjective in nature and I am conscious that Deputy Wilson was very concerned by what she viewed as vitriolic and disrespectful behaviour by Deputy Howell. I was informed by one of the officers that immediately after the 2 February 2023 meeting, Deputy Wilson informed all officers present that she was going to write a letter about this conduct to the Chair.
56. In her letter, the Minister stated that "she considered" the behaviour to be "clear vitriol and disrespect". Essentially, it was what the Minister thought of Deputy Howell's behaviour. Taking into account the context and the view of the officers present, on balance, Deputy Wilson's stated perception of Deputy Howell's behaviour, albeit an exaggeration in my view, was not true or untrue, but rather the Minister's opinion.

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<sup>40</sup> <https://dictionary.cambridge.org/dictionary/english/scrutiny>

<sup>41</sup> <https://dictionary.cambridge.org/dictionary/english/aggressive>

<sup>42</sup> <https://www.oed.com/search/dictionary/?scope=Entries&q=vitriolic>



## Deputy Geoff Southern

57. Following receipt of the Minister's letter, Deputy Southern made it clear to Deputy Ward that he had had enough and did not want her to attend future Panel meetings. He suggested to both Deputy Ward and Deputy Howell that they resign from the Panel. Deputy Southern had, at that point, served as Chair for six months with the Panel as constituted and was clearly frustrated by what he felt was less than appropriate scrutiny style and behaviour by both deputies:

"The list of how not to behave in a scrutiny hearing, I've produced something that's fairly extensive. I think there's a point there where I have to say, at least twice, 'Could you ask a question, please?' The minister says, 'Hang on, you just give me an opinion. Can I have some evidence?' That was happening time, and time, and time again. As soon as you do that, then you automatically, your minister, or whoever you're interviewing, their back goes straight. I'm on the defensive. I'm just getting criticism, opinion, and anecdote. Is such a practice safe? And you're doing it? No. Yes. I cannot say how fundamental this is to what we were doing. I did not see a way forward that we could salvage that panel. Given what I considered to be a total breakdown of the rules of behaviour. In particular, taking a politics hat off, and putting a scrutiny hat on, again, we're looking for evidence. Ask the questions that look for evidence, and pick up on them, feedback on them, by all means. Don't give the answers to the minister who's trying her best."<sup>43</sup>

58. Deputy Southern was aware that he could not expel the deputies from the Panel and instead asked them both to resign soon after receiving the letter. One could say that the Minister's letter appeared, in a sense, to serve his purpose as he had "had enough" and felt he could no longer work with the deputies. As Deputy Binet states in her complaint:

"It is my opinion that the Minister's letter lit a flame, which was enthusiastically fanned by Deputy Southern, resulting in causing great stress, an unedifying debate in the States Assembly and drew on both time and finite resources."<sup>44</sup>

59. Despite Deputy Ward alerting Deputy Southern, both in person and in writing, to the factual inaccuracies cited by the Minister in her letter, Deputy Southern did not listen and did not act to try to resolve the issue. This, it seems, was because he misinterpreted the facts of the matter from the start by believing the Minister's letter was factual.
60. Deputy Southern did not inform Deputy Wilson that Deputy Ward had raised concerns about the letter, not even prior to its publication. Had he done so, had he read, listened, understood and acted, it might have changed the trajectory of the situation.
61. While Deputy Southern expressed frustration with the deputies spanning six months, this does not excuse his failure to listen, understand and act on the concerns raised by Deputy Ward. At interview, Deputy Ward explained what she said to Deputy Southern on 9 February 2023 when collecting the letter in the Member's room:

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<sup>43</sup> Document 1h

<sup>44</sup> Document 1a

**Deputy Ward**

I said to him, on the 9<sup>th</sup>, I said, 'Geoff, it wasn't me that brought this up at the public hearing.' She's saying about, I put it out in the public arena. A private meeting is a private meeting. I said, 'I didn't bring that up in the whatever.' It was a response to she did. I said, 'Look at Hansard. It's all there.' I said, 'But...'

**Commissioner**

What was his response, then? This is what I'm confused about.

**Deputy Ward**

He said, 'Well, I've had enough of you.' I mean. He was just very rude to me. He just said, 'Well, I've had enough. I don't want you at any more meetings, especially next week.' There were four meetings coming up the following week and whatever. I said, 'Woah, woah, woah.' I said, 'Just a minute. 'You haven't looked into...' I gave him the evidence and went through each item, of which I will go through now, and each item I said, 'That's not true. It's not true. There is untruth here.' I said, 'To be honest, it's bordering on libel to be accused of something,' and the fact that she has put it in writing to you and to a third person. I said, 'Woah.' I said, 'I need to take advice. I'll answer briefly what I thought,' and I did it in writing and I got an email to that effect, or whatever. I said, 'I need to make an appointment to go and see the Greffier. Because I'm a newbie, I haven't a clue about these sorts of things and I want to take advice.'

62. Further, even when it was laid out clearly in Deputy Bailhache's VoNC proposition on 21 February 2023, Deputy Southern failed to act. I asked Deputy Bailhache at interview why he thought Deputy Southern would not address the concerns Deputy Ward had in relation to the letter's inaccuracies:<sup>45</sup>

**Deputy Bailhache**

I'm sorry, the question is why didn't Deputy Southern want to address the inaccuracies.

**Commissioner**

Well, you say that he wasn't willing to write to the minister.

**Deputy Bailhache**

No, he wasn't, because I think Deputy Southern had formed his own view of the conduct of Deputy Ward, and perhaps Deputy Howell, as well, which goes back further than the incident in question, which I witnessed. There were other occasions, I think, when Deputy Ward had been fairly brusque in her questioning of either officials or the minister, and Deputy Southern didn't think that was appropriate. I think this is really the nub of the problem. Deputy Southern had what I thought was a rather curious view of how members of the panel should conduct themselves, and he didn't seem to think that it was appropriate for firm questioning to take place. Which is curious, bearing in mind that Deputy Southern, in his experience and in his character, is somebody who is perfectly capable of being firm in his questioning.

63. During my interview with Deputy Southern, it appeared to me that it was the first he had understood that there were, in fact, inaccuracies in the letter. This was despite Deputy Ward confirming this to him in person and in writing and despite Deputy Bailhache outlining it to him both when they met and in his VoNC proposition.

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<sup>45</sup> Document 6

64. Deputy Southern seems to have not listened to either Deputy Ward or Deputy Bailhache when they met with him nor does it appear that he read and/or fully understood the written correspondence from Deputy Ward or the VoNC proposition; this is likely because he believed, or possibly wanted to believe, the Minister's letter was factually correct in relation to the allegation that Deputy Ward disclosed information.

**Commissioner**

I'm asking, do you recall her telling you that, firstly, that there's something wrong with the letter, that it's inaccurate? Do you recall that?

**Deputy Southern**

Yes, I think she did. I mean, she must have said, 'It wasn't me. I didn't release anything.' Without going straight to Hansard at the time, I formed that opinion that it was actually her that broke that particular item.

**Commissioner**

I know.

**Deputy Southern**

It's me not giving enough consideration to what she was saying. I mean, what the words are. Then, if that was my mistake, it was my mistake.

**Commissioner**

I mean, and I appreciate you.

**Deputy Southern**

Although, the surrounds, the background, and the issues were such that I thought our scrutiny panel could not work properly. Certainly, given that, I think, breakdown between the membership and the minister.

**Commissioner**

Would it be fair to say that perhaps that might have clouded you, looking into what she was saying at the time? No?

**Deputy Southern**

That may well have done. Yes.

65. It is my view that Deputy Southern's state of mind was a major contributor to his failure to understand and investigate Deputy Ward's concerns. He had, by that time, "had enough", he felt he could no longer work with the deputies due to their behaviour on the Panel and had "trust issues", presumably, in part, arising from the false assertions outlined in the Minister's letter.
66. Deputy Southern stated at interview, once he had fully understood the issues relating to the factual inaccuracies in the letter, that if he had misread or misunderstood this he would need to apologise. The following exchanges which took place over the course of our interview best illustrate the situation:<sup>46</sup>

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<sup>46</sup> Document 4

**Commissioner**

Okay. Had you understood at the time that it was inaccurate, and had you maybe understood what Deputy Ward was trying to explain to you on those two occasions, do you think you would have still wanted that letter published in its inaccurate form?

**Deputy Southern**

Had I recognised that that wasn't the first issue, the first exposure of this mechanism of choosing a chair, then yes. I would have had to move back from that position, and published the fact that actually there was no breach there. Sure.

.....

**Commissioner**

My main problem is the conduct. You see, I'm not breaching confidence in telling you that I saw two very upset deputies, when I saw them. That, to me, is what I can't believe you would have wanted, and I can't believe that you genuinely would have understood, when you looked at that letter, that you would have let that go out, published, in such a way that would undermine and discredit the integrity of at least Deputy Ward on one occasion. About her disclosing information, which she was not the one who disclosed. Also, any other anecdotal stuff that might also have undermined them. I just don't see that. Would you have done that intentionally, is my question?

**Deputy Southern**

No. If I've misunderstood, misinterpreted, the sequence in which that particular private piece of information was made public, now, then I wouldn't be able to support that. Again, based on evidence. As you're saying, the evidence is that it was the minister who breached. My impression was, it was around this, 'By your own admission.' Yes. By your own admission.

**Commissioner**

Seconds before.

**Deputy Southern**

Yes. If I made that mistake, then I can only apologise to those people, and I probably will have to.

67. A number of other items listed at paragraph 21 above were alleged to contain inaccuracies and/or anecdotal information. One item related to Deputy Ward's behaviour at an IT training event which took place via Teams in August 2022. Deputy Southern's inclusion of this in his VoNC response, including the fact that the States Greffier had to speak with Deputy Ward about her behaviour, further painted the picture of Deputy Ward as being disruptive. However, my understanding is that this was a confidential matter and one that was not in the public domain prior to Deputy Southern's disclosure.
68. Another issue is the 1 December 2022 private meeting with the Minister and officers regarding an amendment to the Government Plan 2023-2026. Deputy Southern stated:  
"I acted at these meetings to try and control the two members whose behaviours were very damaging to the scrutiny process. I stick by these actions. It was not I who

breached the code of conduct but the two deputies. Having a shouting match does not count as treating ministers or officers with respect in my book.”<sup>47</sup>

69. In relation to this meeting, Deputy Ward admitted that emotions were heightened, that she had raised her voice and that it had been heated. At interview she provided useful context:

**Commissioner**

Is it a truth that he had to step in somewhat in the manner of a wrestling referee, bring order back to the meeting?

**Deputy B Ward**

Not with Karen. I mean, Karen and I were having conversations in this private meeting, but it wasn't a screaming match. In fact, we were laughing and joking. She was laughing and joking when we left. If it was so, whatever...

**Commissioner**

Yes, okay.

**Deputy B Ward**

If I say, 'It wasn't heated,' or, 'I hadn't raised...' I would be lying. It may have come up a step or we may have been questioning a bit more deeply but that's what Scrutiny is about. I didn't feel that I was being so rude and out of order. What was rude and out of order was that Geoff was ignoring me and Andy to adjourn the meeting to have a conversation. We needed to have a private conversation about trying to do a deal on something that we'd already agreed to go forward and we debated in the States. We had to think very carefully about that, especially after all the work I'd done and the checks and balances and the money side of it.

70. Deputy Southern asserted that at the 2 February 2023 private briefing on waiting lists with the Minister, Chief Officer and HCS Officers, the Chief Officer “chose” to leave the meeting. This was incorrect. The Minister directed the Chief Officer to leave the meeting as she appeared upset by Deputy Howell’s questioning.<sup>48</sup> There is a difference between saying Deputy Howell’s questioning caused the Chief Officer to get so upset she chose to leave the meeting versus the Chief Officer being directed by the Minister to leave the room because she’d noticed Deputy Howell’s questioning had upset her. In the context of putting a VoNC response statement in the public domain, it should have been a carefully worded and factually accurate account.
71. A final issue in relation to Deputy Southern’s VoNC response relates to the Minister’s reference in her letter to anecdotal information that Deputy Ward was relaying confidential information received in her role as a member of the SEB to others. While Deputy Southern stated in his VoNC response that he cannot confirm or deny the Minister’s assertions, he went on to highlight a question Deputy Ward asked in the States regarding the accommodation and associated costs for the recently appointed Chair of the Health Board, giving further particulars (3-bedroom flat, £3,000/month etc). He speculated that “if the figures have been sourced from the SEB that would be a major breach” of confidential information. As it transpires, Deputy Ward had inside information from a friend who is the

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<sup>47</sup> Document 2

<sup>48</sup> Document 5

owner of the rental accommodation in question. Connétable Andy Jehan, Vice-Chair of the SEB, confirmed during my investigation that he informally looked into this issue and informed Deputy Ward that she did not disclose any confidential information sourced from the SEB; Deputy Bailhache also stated this in his VoNC proposition.

72. Publicly raising the possibility that Deputy Ward could be inappropriately disclosing information gleaned from the SEB, especially as it backed up the Minister's own factually inaccurate and anecdotal assertions in her letter, had a further negative impact on Deputy Ward and her reputation.
73. Another issue raised in the substantive complaint was Deputy Southern's assertion on summing up on the second day of the VoNC (1 March 2023), where he stated that "Although the Minister for Health and Social Services cannot talk today, I can talk on her behalf".<sup>49</sup> That was untrue; the Minister could talk, but confirmed at interview her reasons for choosing not to speak at the VoNC.

#### **Commissioner**

It says in the complaint, and I can read it in the Hansard, that Deputy Southern said, you're "not able to speak today". Deputy Binet says, you "chose" not to speak. So could you tell me what the reality of this is? Did you choose or did you decide - why didn't you speak on the day when relations...?

#### **Deputy Wilson**

So, there are two things. First of all, in terms of trying to protect the integrity and the dignity of individuals, you'll see in the correspondence that the letter could only have been made public in the context of everybody's agreement for that to happen. I wanted it to remain confidential within the bounds of the Scrutiny Panel. When it came to the Assembly, part of my idea was to remain neutral because it was important that I could maintain the relationship with the Chair as to whoever was going to be the chair of the Panel. It would not have been appropriate for me to make any comment there and then. I think the opportunity should have come sooner for me to redress any of the issues or the concerns that people had.

#### **Conclusions**

74. It is quite unbelievable to me that there was such a lack of willingness to listen, understand and put the record straight. Truth matters as do the facts, and it is my view that the truth should matter to everyone in the States Assembly; democracy depends on it.
75. The Minister's letter was heavily relied upon for the VoNC proposition and debate; it was put into the public domain, albeit that was not the Minister's intention when sending the letter – she never expected it to be made public. Nevertheless, the letter wrongly suggested that Deputy Ward cannot be trusted to keep confidence and that Deputy Howell is a bully. Being wrongly accused of these things, to the knowledge of States Members, the wider public and the press, was stressful and damaging to the deputies' reputations.

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<sup>49</sup> Document 1k

76. Deputy Wilson claims that she has had no chance to speak with the deputies and would have sat down with them had they brought the matter to her attention. It is my view that on receipt of Deputy Bailhache's VoNC proposition, a reasonable response by the Minister would have been to look into the matter, assess whether she had made a mistake and seek to rectify the matter. The Minister failed to do so.
77. The matter was brought to her attention at least on receipt by her of the 21 February 2023 VoNC proposition. Since that point, she has not found the time to speak with the deputies and missed a number of opportunities to rectify the matter, such as when she read the VoNC proposition, when she subsequently was asked to agree to publishing her letter (and did), and when she wrote a Letter to the Editor in the Jersey Evening Press in which she directly refers to the letter.<sup>50</sup>
78. Deputy Southern's failure to listen, understand and act when Deputy Ward highlighted her concerns to him, his failure to inform the Minister of the concerns raised by Deputy Ward as soon as he became aware of them on 9 February 2023, and in any event prior to the letter's publication on 27 February 2023, needlessly led to reputational damage to Deputy Ward and a VoNC proposition and debate.
79. It is my view that the imbalance of power that existed between the Minister and Deputy Southern as Chair of the Panel in relation to Deputies Ward and Howell enabled them to effectively ignore the matter. In this regard, it is my view that both Deputy Wilson and Deputy Southern misused the power of their positions.

**Allegation 1: Personal conduct, Paragraph 3 of the Code of Conduct**

80. Paragraph 3 of the Code of Conduct states that elected members should observe the general principles of conduct for holders of public office, the Seven Principles of Public Life.
81. In relation to honesty, the Code states that "Holders of public office 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. The principle of objectivity requires holders of public office "In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit". The principle of Leadership provides that "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." The principle of integrity requires holders of public office not to "place themselves under any financial or other obligation to outside individuals or organizations that might influence them in the performance of their official duties".
82. Based on the above descriptors, I do not believe these principles are engaged.

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<sup>50</sup> Document 8d

83. It is important to note that the descriptors in the Code are out of date and not reflective of the current descriptors used by the Committee on Standards in Public Life (“CSPL”). The principle of honesty is currently defined by CSPL as “Holders of public office should be truthful.”<sup>51</sup> The principle of objectivity requires holders of public office to “act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias”.<sup>52</sup> The principle of Leadership requires that “Holders of public office should 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”.<sup>53</sup>
84. Had the principles in the Code of Conduct been up-to-date, both Deputy Southern and Deputy Wilson would have been found in breach of Paragraph 3 in relation to failing to observe the principles of objectivity and leadership as currently defined by the Committee on Standards in Public Life.

**Allegation 2: Conflict between public and private interest, Paragraph 4 of the Code of Conduct**

85. It could be argued that it is not in the public interest to get things wrong, but we can all get things wrong on occasion. However, failing to acknowledge when you have made a mistake and put things right that you have gotten wrong is not in the public interest, especially when it leads to a vote of no confidence and unjustifiable reputational damage for other elected members.
86. In regards to paragraph 4, Deputy Wilson’s untrue statements and use of anecdotal evidence did not relate to a financial interest or material benefit to her; that is, in the spirit of paragraph 4, I am not aware of any private financial or material interest that she prioritised over the public interest when making false statements in her letter. Deputy Southern’s untrue statements and used of anecdotal evidence similarly do not appear to relate to a financial interest or material benefit to him, other than the possible removal of the deputies from the Panel (which could be argued was a private interest). However, in the spirit of paragraph 4 as written, I am not convinced it could be said to be a material benefit.
87. For the above reasons and interpretation, it is my view that neither of the deputies breached paragraph 4 of the Code of Conduct.

**Allegation 3: Maintaining the integrity of the States, Paragraph 5 of the Code of Conduct**

88. Paragraph 5 states that “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

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<sup>51</sup> <https://www.gov.uk/government/publications/the-7-principles-of-public-life/the-7-principles-of-public-life--2>

<sup>52</sup> *ibid*

<sup>53</sup> *ibid*



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.”

### **Deputy Wilson**

89. It is my view that Deputy Wilson, in failing to acknowledge and rectify the inaccuracies in her letter as outlined clearly in the VoNC proposition and in agreeing to her letter’s publication with the inaccuracies included, failed to show respect to Deputy Ward and brought the States, and Members generally, into disrepute in breach of paragraph 5 of the Code.

### **Deputy Southern**

90. In failing to listen, understand and act on Deputy Ward’s concerns and the information contained in the VoNC proposition, including his failure to inform Deputy Wilson of the concerns raised by Deputy Ward, Deputy Southern failed to show respect to Deputy Ward and brought the States, and Members generally, into disrepute in breach of paragraph 5 of the Code.

### **Recommended Sanctions**

91. It is my view that both Deputy Wilson and Deputy Southern should apologise to Deputy Ward.
92. Given that the Minister’s letter and Deputy Southern’s response were central to the VoNC proposition and debate which led to much commentary by both Deputy Wilson and Deputy Southern, including to the press, the Committee may wish to consider that an apology that sets the record straight should also be provided by Deputy Wilson and Deputy Southern to States Members.

### **Other recommendations**

93. A Code of Conduct review by the PPC should include the updating of the principle descriptors in line with the current CSPL descriptors.

24 October 2023

Dr Melissa McCullough

Pan Island Commissioner for Standards

## Annex A: Document List

| Document | Description   |
|----------|---|
| 1a       | Complaint from Deputy R Binet (1a-l)                          |
| 1b       | News release re Chair of the Board                            |
| 1c       | JEP article re Professor Hugo Mascie-Taylor                   |
| 1d       | Hansard Scrutiny Panel Meeting 1 December 2022                |
| 1e       | Ministers Letter 3 February 2023                              |
| 1f       | Extract from Minister's letter                                |
| 1g       | Vote of no confidence 21 March 2023                           |
| 1h       | Deputy Southern response to VoNC 24 February 2023             |
| 1i       | Deputy Southern response to VoNC with Deputy Rose Binet edits |
| 1j       | Hansard VoNC debate 28 February 2023                          |
| 1k       | Hansard VoNC debate 01 March 2023                             |
| 1l       | Index from R Binet complaint                                  |
| 2        | Written response from Deputy G Southern                       |
| 3        | Written response from Deputy K Wilson                         |
| 4        | Interview transcript Deputy G Southern                        |
| 5        | Interview transcript Deputy K Wilson                          |
| 6        | Interview transcript Deputy P Bailhache                       |
| 7        | Interview transcript Deputy B Ward                            |
| 8a       | Evidence 1 submitted by Deputy B Ward                         |
| 8b       | Evidence 2 submitted by Deputy B Ward                         |
| 8c       | Evidence 3 submitted by Deputy B Ward                         |
| 8d       | Evidence 4 submitted by Deputy B Ward                         |
| 9        | Interview transcript Deputy A Howell                          |
| 10       | Interview transcript Deputy K Moore                           |
| 11       | Interview transcript Chief Officer                            |
| 12       | Interview Note Committee and Panel Officer                    |
| 13       | Interview Note Public Servant                                 |
| 14       | Evidence from Connétable A Jehan re SEB                       |

## Annex B: Timeline of events

|               |  |
|---------------|--|
| 18 Nov 2022   | News Release announcing appointment of Professor Mascie-Taylor   |
| 23 Nov 2022   | News article relating to Professor Mascie-Taylor remuneration  |
| 01 Dec 2022   | Private meeting with Panel, Minister and Professor Mascie-Taylor   |
| 01 Dec 2022   | Public Quarterly Meeting Health and Social Services Scrutiny Panel   |
| 03 Feb 2023   | Deputy Southern receives letter of complaint from Minister for Health and Social Services  |
| 08 Feb 2023   | Deputy Southern meets with Deputy Wilson   |
| 09 Feb 2023   | Deputy Ward collects letter from pigeonhole and speaks with Deputy Southern in Members room. Deputy Ward explains there appears to be inaccuracies in the letter. Deputy Southern tells Deputy Ward he did not want her to attend any more meetings and that there were “trust issues” |
| 10 Feb 2023   | Deputy Ward meets with States Greffier, for advice regarding the letter and its inaccuracies, resignation procedures and complaints procedures   |
| 12 Feb 2023   | Deputy Ward writes to Deputy Southern in response to the letter outlining its inaccuracies   |
| 15 Feb 2023   | Deputy Ward receives letter from Deputy Southern requesting she advise on her decision to resign from the Panel  |
| 15 Feb 2023   | Deputy Bailhache meets with Deputy Southern informing him that neither Deputy Ward or Howell would be resigning  |
| 21 Feb 2023   | Deputy Bailhache proposes vote of no confidence in Deputy Southern   |
| 21 Feb 2023   | Deputy Ward informally meets the Chief Minister and asks her to consider withdrawing the letter and issuing an apology   |
| 22 Feb 2023   | Deputy Southern issues press release   |
| 23 Feb 2023   | Legal advice is sought regarding the letter and its wider publication  |
| 24 Feb 2023   | Deputy Southern sends his VoNC statement/response to all States Members  |
| 24 Feb 2023   | Minister gives approval to publish 3 Feb 2023 letter   |
| 27 Feb 2023   | Minister’s letter sent to all States Members   |
| 27 Feb 2023   | Deputy Southern gives statement to JEP   |
| 28 Feb 2023   | States debate VoNC   |
| 2 March 2023  | Deputy Southern interview, JEP   |
| 9 March 2023  | Letter to Editor, Deputy Southern  |
| 10 March 2023 | Letter to Editor, Minister Wilson  |