

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

**STATES' ASSEMBLY &
CONSTITUTION COMMITTEE**

REPORT BY THE GUERNSEY APPEALS COMMISSIONER ON THE FINDINGS OF
THE INVESTIGATION PANEL DATED 21ST APRIL 2023 RELATING TO THREE CODE
OF CONDUCT COMPLAINTS

The States are asked to decide:-

Whether, after consideration of the findings in the attached Report by the Guernsey Appeals Commissioner regarding Deputy Gavin St Pier's appeal against the findings of the Investigation Panel dated 21st April 2023 relating to three Code of Conduct Complaints, the Assembly agrees:

1. That Deputy Gavin St Pier be formally reprimanded pursuant to the Code of Conduct for Members of the States of Deliberation.

The above Proposition has been submitted to His Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

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The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

9th September 2024

Dear Sir

1 Executive Summary

- 1.1 The self-explanatory report of the Guernsey Appeals Commissioner, which is submitted to the States' Assembly in accordance with the requirements of the Commissioner for Standards, is appended to this policy letter. The Guernsey Appeals Commissioner's report considers Deputy Gavin St Pier's appeal against the recommendations of the former Code of Conduct Panel in respect of three complaints considered by the Panel in April 2023.
- 1.2 The Appeals Commissioner has not upheld the appeal. As the appeal was not upheld, he has gone on to consider the appropriateness of the recommended sanction and has decided that it should remain as a formal reprimand.

2 Proposition

- 2.1 The States are asked whether after consideration of the findings in the Report of the Guernsey Appeals Commissioner, they are minded formally to reprimand Deputy St Pier.

3 Compliance with Rule 4

- 3.1 Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States of Deliberation.
- 3.2 In accordance with Rule 4(1)(c), the Proposition has been submitted to His

Majesty's Procureur for advice on any legal or constitutional implications.

3.3 In accordance with Rule 4(2)(a), the Proposition relates to the duties of the Committee with respect to the requirements of the Commissioner for Standards.

3.4 In accordance with Rule 4(2)(b) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the above proposition has the support of those Committee Members who considered the matter, Deputy St Pier having recused himself from such discussions.

Yours faithfully

C P Meerveld
President

Y Burford
S Fairclough
L J McKenna



Appeal

Deputy Gavin St Pier – On the findings of the Investigation Panel dated 21st April 2023 relating to three Code of Conduct Complaints

Martin Jelley QPM DL
Guernsey Appeals Commissioner

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1. Background of the case

- 1.1 This case in summary stems from a speech that Deputy St Pier gave in the States of Deliberation on the 27th of April 2022 in support of a motion to debate of which he was the proposer. The motion was, that the States should debate The Committee for Health and Social Care's Responsible Officer for the Bailiwick of Guernsey - 2021 Annual Report.
- 1.2 At the start of his speech, Deputy St Pier disclosed a personal interest in this matter stating that a member of his family had in 2015 locally been misdiagnosed with a serious condition that if untreated would have caused organ failure. He went on to talk about a subsequent letter he wrote about his family member's misdiagnosis to the relevant body, triggering a "bizarre and Kafkaesque safeguarding investigation" (Hansard lines 2251-2263). During the speech, he named Doctor Sandie Bohin as being the safeguarding lead at the time, and the doctor in question (Hansard 2351-2355). The speech and issues raised were subsequently subject to local news headlines and social media posts. Doctor Bohin said she has suffered very particular, negative consequences as a result of being named in his speech in the manner that she was.
- 1.3 This appeal judgment should be read in conjunction with the report of the investigation panel into this matter. (Appendix 1)

2. Summary of Complaints and Findings from the Conduct Panel - 21.4.23

- 2.1 The three complaints considered and reported on by the Panel were from:
 1. The British Medical Association (BMA) complaint - based on section 21 of the Code of Conduct for Members of the States of Deliberation (public disclosure of personal confidential information) found not substantiated by the Panel.
 2. The Medical Specialist Group (MSG) complaint - which the panel found substantiated in relation to sections 3,6,8,9 and 11. A complaint about section 4 was not substantiated.
 3. Dr Bohin's complaint - which the panel found was substantiated in relation to sections 3,6,7 and 8.
- 2.2 The complaint from the BMA was after consideration found not substantiated by the original Conduct Panel. Only aspects substantiated by the panel for complaints 2 and 3 will be considered in this appeal.
- 2.3 For the avoidance of doubt all references in this appeal document to "the panel" mean the Code of Conduct Panel.

3. Summary of relevant Code of Conduct sections for Members of the States of Deliberation that relate to the Appeal.

3.1 In summary, the Misconduct Panel Chaired by the Very Reverend John A. Guille found breaches by Deputy St Pier covering 6 sections of the Code of Conduct that relate to members. The sections are listed below:

Section 3 - Acting in the public interest and in accordance with public trust. (complainant 2 and 3)

Section 6 - General Principles of Conduct for Public Office Holders, in this case, the “objectivity” principle in particular. (complainant 2 and 3)

Section 7 - Conflict between public and private interest, and the need to resolve such interests. (complainant 3)

Section 8 - Public trust and confidence in the integrity of The States of Deliberation and not bringing the States or its members into disrepute. (Complainant 2 and 3)

Section 9 - Treating other members, Civil Servants, or members of the Public with respect and courtesy and without malice. (complainant 2)

Section 11 - Acting in good conscience, exercising the privileges and discharge of duties in public office diligently, with civility, dignity care and honour. (complainant 2)

The Panel concluded that the breaches were “serious” and “were not of a minor nature” and that Deputy Gavin St Pier should be subject to a formal reprimand.

4. Grounds of Appeal.

4.1 Deputy Gavin St Pier submitted an appeal on the 21st of July 2023 on the findings of the investigation panel dated 21st of April 2023. In summary, his appeal was brought forward based on both appeal grounds available to him at that time, namely that there were procedural irregularities, and factual inaccuracies in the investigation panel process, considerations, and ultimately findings. The appeal grounds are summarised below and are taken from his appeals submission, which for ease of the reader I have numbered 1-9. For the avoidance of doubt, I have considered all the issues raised in the wider appeal letter.

1. The primary ground of appeal is that the Code Complaints were pursued in the incorrect forum, on the basis that all conduct protected by parliamentary privilege should be subject to Part V of the Code and not Part III. (Paragraph A) It would be perverse and inherently unjust that words spoken after the appointment of the Commissioner for Standards

in May 2023 are precluded from investigation under Part III of the Code, whilst the same words spoken before May 2023 were regarded by the First Panel as admissible as complaints under the same Part III of the Code, when this was clearly never intended in the 2003 or 2005 Policy Letters. (Paragraph A.6) If this ground is not accepted, then the Panel is asked to consider the alternative grounds which follow.

2. The parallel proceedings rule applies where the events which gave rise to each set of proceedings and the sanctions available, are the same. Both of those criteria are fulfilled in the present circumstances. Given the existence of parallel proceedings, as a matter of fact, the First Panel failed to recognise and dismiss the Code Complaints accordingly.
3. The finding in the Abuse of Privilege Complaint has been made and the Privileges Panel found that there had been no abuse of privilege. Accordingly, the matter has already been dealt with in the exclusive forum and the Code Complaints should not have proceeded any further upon the Abuse of Privilege Complaint being disposed.
4. Having not been provided with the reasons for the First Panel's findings in relation to the abuse of process points raised by me, I am not in a position to understand or properly respond to those points.
5. Substantial and material allegations in the Code Complaints were not supported by sufficient or in some cases any evidence whatsoever and accordingly, the Code Complaints do not meet the requirements of Paragraph 31 of the Code.
6. The First Panel failed to determine if each specific complaint had been substantiated by evidence. The Code does not provide discretion to consider generic complaints 'in the round.'
7. The First Panel did not have the discretion to decide whether or not certain allegations are substantiated "to the level required for the Panel's role". Rather, if any allegations in the Code Complaints did not meet the requirements of the Code, then the First Panel are precluded from considering those allegations.
8. The First Panel's finding in relation to conflict of interest barred me from being able to rely on public interest arguments in support of my response

to the Code Complaints, which should, conversely, be considered as a mitigating factor in my favour.

9. The First Panel's placing an additional obligation on me to provide further details regarding Dr Bohin was unfair and prohibited by the rules of procedure.

- 4.2 To assist me in responding to Deputy St Pier's appeal I took legal advice which is confidential and legally privileged. My response is informed by that advice. I am minded to comment here that the appeal in general terms is framed in a legalistic way as one might expect for a court. This process is of course not a court one, and I am not bound by rules that would be applicable in a court setting, in the same way that the Misconduct Panel was not.

- 4.3 **In relation to grounds 1-3**, which I have carefully considered, I disagree that the Code of Complaints was pursued in the incorrect forum. The rules in place at that time properly allowed the conduct allegations to be considered by the Panel whilst matters of privilege were correctly considered quite separately. A particular finding in one forum does not preclude the same facts being considered in another. A Conduct Panel test, and considerations, are quite different from what a privilege procedure would be looking at, thus, the parallel proceedings point made is not upheld in this appeal. Likewise, and for the same reasons to argue that because no breach of privilege has been found in one forum (Res Judicata) then the matter has been dealt with and it would be unfair to progress to a conduct panel is plainly wrong, they are distinct and separate processes.

Grounds 1-3 of the appeal are not upheld.

- 4.4 **In relation to grounds 4-6**, I would comment after consideration that it is for the Panel to determine how it responds and reports its findings. Its process is inquisitorial in nature and its ultimate test on the balance of probabilities is, whether alleged misconduct breaches are proven or not. From the Conduct Committee report, I believe they did respond sufficiently to the process points raised, so there was enough information available to Deputy St Pier to understand the Panel's thought processes. Additionally, I do not think it unreasonable or inappropriate that the Panel's confidential and legally privileged advice was not shared with Deputy St Pier, just as it would not be reasonable or appropriate for the panel to have sought copies of any legal advice he has received in the course of this process, irrespective as to whether or not he sought voluntarily to share such advice. In relation to grounds 5 and 6, I disagree. The report by the Panel does contain more than sufficient evidence to support their findings of the relevant individual

breaches. How a report is structured and presented is a matter for the Panel and to characterize it as too generic misses the wider points.

- 4.5 Throughout the appeal, there is reference to flawed analysis of facts or factual inaccuracies which go to the core of the appeal. I have looked at this closely, but really these relate to how one interprets the evidence and what was said and meant. Deputy St Pier clearly has a different interpretation from that found by the Panel on a range of points. In my view, on the basis of what I have seen, the Panel takes a common sense view on the balance of probabilities about what was meant and the evidence before it.

Grounds 4-6 of the appeal are not upheld.

- 4.6 **In relation to Grounds 7-9**, I offer the following observations. I have seen nothing to suggest the Conduct Panel acted outside their role and responsibilities. I believe from what I have seen they acted appropriately and within the requirements of their role. The conflict of interest point to my mind is appropriately considered and balanced in the report. I don't see any significant detriment to Deputy St Pier that would materially alter the outcome of the Panel and would have stopped him from making his case. In relation to the Panel placing an alleged 'unfair additional obligation to provide further details regarding Dr Bohin', I do not feel this was unfair. Deputy St Pier named her in his speech, the Panel is inquisitorial in nature and is within its rights to ask questions and seek further information pertinent to the matters under consideration.

Grounds 7-9 of the appeal are not upheld.

5. Findings and Conclusion

- 5.1 It is relevant to acknowledge that the legislation and procedures have changed since 2023 to allow for a clear objective independent process for appeals to be put in place where appellants are not judged on an appeal by their peers but by an Independent Appeals Commissioner. This change should in my view be welcomed and in time I hope this will help build greater confidence in the overall misconduct complaints system. I recognise that for all parties, the delays in this particular case both in relation to the initial Conduct Panel, but in particular the appeal being allocated and heard will have caused additional stress and anxiety. I think this is very regrettable and would expect that the new process will ensure this does not happen again.
- 5.2 In addition to the specific appeal grounds raised by Deputy Gavin St Pier which I have considered carefully, but have found not to be substantiated, I have looked at more broadly if the evidence within the appeal documentation I have been provided with (in particular the twenty-three-page panel findings document) supports objectively the breach findings of the Panel. I have gone through this process to be fair to all parties, but also because as Appeals

Commissioner I have an additional responsibility to consider the sanction applied by the original Panel.

- 5.3 I would reiterate this has not been a court process, the tests in play can be characterised as what would a reasonable person think or find on the balance of probabilities given the circumstances of a particular case. In this case, I recognise that the Panel had a challenging role, but I am satisfied that their conclusions around the breaches are consistent with the evidence I have seen.
- 5.4 My conclusion therefore based on the balance of probability is that the evidence is consistent with the Panel's original findings of the six breaches of the Code of Conduct.

6. Sanction

- 6.1 As the Appeals Commissioner having now dismissed the appeal, it falls to me to consider if the original Panel's assessment on sanction was appropriate. It is worth at this juncture setting out that the Appeals Commissioner has it within their remit to uphold, reduce, or increase the sanction recommended by the original Panel.
- 6.2 It is clear to me that Doctor Bohin has suffered significantly both Professionally and personally from being named by Deputy St.Pier in the House on the 27th of April 2022. Subsequent media coverage and social media fallout has had a devastating impact on her and has undoubtedly damaged her professional reputation particularly locally on the island.
- 6.3 The Panel stated in their report that they considered the breaches “serious” and whilst they did not make a finding that Deputy St Pier deliberately misled the States and indirectly the public, they commented that “his statements were seriously and fundamentally misleading in several aspects”.
- 6.4 Given the seriousness of the breaches, the Panel concluded a caution was not an appropriate sanction as it was geared at minor not serious breaches of the code. They settled on the more serious sanction of formal reprimand. I have again considered the breaches, the mitigating and aggravating factors, and the impact on Doctor Bohin, which I believe has been considerable. I have considered if a suspension is a more appropriate sanction. Having given this matter careful thought I have concluded that whilst the breaches are serious, and the impact on Doctor Bohin is undoubtedly significant, in the circumstances it would be disproportionate to increase the recommended sanction which will therefore remain at formal reprimand.

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CODE OF CONDUCT COMPLAINTS AGAINST DEPUTY G ST PIER

FINDINGS OF THE INVESTIGATION PANEL

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1 The complaints

These findings cover three complaints made under the Code of Conduct for Members of the States of Deliberation (“the Code”) about the conduct of Deputy Gavin St Pier as a Member of the States of Deliberation.

At the core of the complaints is what Deputy St Pier said in speaking in the States of Deliberation on 27 April 2022 in support of a Motion to Debate of which he was the proposer. The motion was that the States should debate The Committee *for* Health & Social Care’s “Responsible Officer for the Bailiwick of Guernsey – 2021 Annual Report”. This report was one of two appended to Billet d’État No. VIII 2022 and is the report for 2021 of the Responsible Officer under The Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) Ordinance, 2015. We refer to it as “the Report” and to the debate about Deputy St Pier’s motion as “the Debate”.

The complaints are not limited to what Deputy St Pier said in the Debate, and include some social media postings afterwards, but the Debate is at the core of the complaints. The relationship between this Panel’s role and that of a Privileges Panel considering related matters arising from the Debate is covered in section 2 of these findings under “The Panel’s role”.

1.1 Complaint by British Medical Association

On 25 May 2022 the Guernsey and Alderney Division of the British Medical Association (“BMA”) complained that Deputy St Pier had breached section 21 of the Code by naming Dr Sandie Bohin as “the doctor in question” in the Debate on 27 April 2022 (we explain this in section 4.2).

Section 21 of the Code provides:

In addition, Members shall not disclose publicly, or to any third party, personal information about named individuals which they receive in the course of their duties, unless it is both lawful and clearly in the wider public interest to do so. Members must, at all times, have regard to all relevant data protection, human rights and other legislation when dealing with confidential information and must be aware of the consequences of breaching confidentiality.

The BMA complained that naming Dr Bohin was unnecessary, undermined people working in safeguarding in Guernsey, and led to Dr Bohin’s successor as Named Doctor for Safeguarding resigning from that role and to Guernsey having no-one willing to take the role.

1.2 Complaint by Medical Specialist Group

On 30 June 2022 The Medical Specialist Group LLP (“MSG”) complained that Deputy St Pier’s statements in the Debate and his subsequent social media comments had breached the following Code provisions in addition to Section 21 quoted in 1.1 above:

Section 3:

The primary duty of Members is to act in the public interest and to represent the interests of those who they have been elected to serve conscientiously. In so doing Members have a duty to act in accordance with their oaths, and in accordance with the public trust placed in them.

Section 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.

Section 6:

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, and at no time improperly discriminate against or afford undue preferential treatment to any group or individual.*
- ***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.*
- **Leadership** *Members shall promote and support these principles by leadership and example.*

Section 8:

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

Section 9:

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.

Section 11:

Members shall act in good conscience and exercise the privileges and discharge the duties of public office diligently and with civility, dignity, care and honour.

The MSG is Dr Bohin's employer but its complaint extends to the impact of Deputy St Pier's conduct on healthcare professionals generally. (It is not necessary for complainants to have a connection to the conduct about which they complain, but we mention this to identify the MSG's actual connection.)

The MSG's complaint centred on these areas and allegations:

- That Deputy St Pier's statements in the Debate and subsequent social media comments were factually wrong and grossly unfair to the medical practitioners involved and had an extremely damaging effect on the trust and confidence of medical practitioners generally in Guernsey and a devastating impact on Dr Bohin as the individual medical practitioner maligned (using the MSG's expression) by Deputy St Pier
- That the day after the Debate Dr Bohin found her name splashed across the front page of the Guernsey Press and that, in breach of any sense of fairness, Deputy St Pier's actions left her condemned in the court of public opinion, resulting in immediate pariah status amongst several patients and wrecking her otherwise blameless professional reputation; and that Deputy St Pier reposted his speech and agitated for support amongst his substantial public following which was not a

proper or fair way to manage either a personal grievance or a complaint he regarded himself as pursuing on behalf of a constituent; and that he knew or should have known that Dr Bohin had no effective way of responding to his statements, being bound by patient confidentiality and data protection obligations

- That Deputy St Pier's allegations in the Debate were substantively wrong in that Dr Bohin had not seen or treated his daughter; that Deputy St Pier had suggested in the Debate that Dr Bohin had risked his daughter's life and this was also wrong; that Deputy St Pier also suggested an MSG consultant failed correctly to diagnose his daughter's medical condition, did not make an appropriate management plan, made no follow-up arrangements and concluded "nothing needed to be done" and that this was also factually incorrect and that Deputy St Pier knew that the key elements had been rejected on several occasions and that he gave a wholly misleading impression by not referring to investigations into the care provided to his daughter even if he continued to disagree with them
- That Deputy St Pier wrongly gave the impression in the Debate that Dr Bohin had been involved in the clinical management of his daughter when she had not been involved in her management and not seen her at any stage
- That Deputy St Pier suggested in the Debate that a complaint by himself and Mrs St Pier to the MSG about their daughter's treatment had triggered a "bizarre and Kafkaesque safeguarding investigation" and that this was inaccurate because there was no safeguarding investigation relating to his daughter; that the accusation of a safeguarding investigation has been raised by Deputy St Pier on multiple occasions and rejected each time. Specifically the MSG alleged that the Island's Child Protection Committee ("ICPC"), the Community Paediatrician for Child Abuse in Southampton and the Authorised Person commissioned by the Medical Director as Responsible Officer to investigate concerns of families about the use of child safeguarding processes in Guernsey had all confirmed that there was no safeguarding investigation in relation to his daughter
- That a reference in the Debate by Deputy St Pier to a three-page letter from the MSG having included an unequivocal apology was wholly misleading in that he suggested it related to his child's care and his belief that a safeguarding investigation had been triggered, whereas in fact it did not relate to clinical care in any way and rather than criticising what was done regarding safeguarding matters confirmed that the MSG had been correct in making routine enquiries including sharing information and consulting with other relevant parties. The MSG complaint acknowledges that the ICPC report had concluded that an enquiry made by Dr Bohin could have waited for two weeks for Deputy St Pier's daughter's General Practitioner to return from leave, rather than being made immediately without involving the GP, but states that the ICPC authors accepted that this conclusion was based on information not available to Dr Bohin at the time and does not support an assertion by Deputy St Pier of a serious failing of safeguarding processes. The MSG complaint states that its apology to which Deputy St Pier

referred had been for procedural failings in its complaints process including delays in obtaining external reports and in dealing with the patient's family during investigation of its complaint

- That Deputy St Pier had suggested in the Debate that a 2021 investigation commissioned by the Responsible Officer had found egregious failings in the MSG's safeguarding cultures and processes
- That the repercussions of Deputy St Pier's conduct have been serious and include a risk of damaging the Bailiwick's reputation and its ability to attract professionals (not just medical professionals) to work in Guernsey, especially in healthcare and the safeguarding function; that an already difficult job becomes seriously unattractive if at any point a Deputy can take a shot at the professional, with no right of reply. The MSG complain that Deputy St Pier's actions have jeopardised the safeguarding process in the Bailiwick of Guernsey.

In its complaint the MSG stresses that it is not complaining about Deputy St Pier raising issues in the States' Chamber about aspects of medical services in Guernsey. The MSG state that he is clearly entitled to do that, and that its complaint relates to a Deputy's duty to raise issues in a way which is fair, accurate and not misleading.

1.3 Complaint by Dr Bohin

On 1 July 2022 Dr Sandie Bohin herself complained that she had wrongly been named as the doctor who ought to be held accountable and that Deputy St Pier had made various misleading statements in the Debate. She also complained about social media posts by Deputy St Pier after the debate, including reposting a Guernsey Press article on Twitter and Facebook and posting his speech.

Dr Bohin complained that Deputy St Pier's conduct had had a catastrophic impact on her, including distress and damage to her health and reputation.

Dr Bohin alleged that Deputy St Pier had breached Code sections 3, 6, and 8 which have already been set out at 2.1 above, and section 7 which is as follows:

Section 7:

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

The level of overlap between the complaints and the factual background is such that we have investigated them together and reported on them in a single set of findings.

2 The Panel's role

Our role is to investigate complaints about Members' conduct under Part I of the Code and, where necessary, to report our findings to the States' Assembly & Constitution Committee which then puts those before the States for debate and decision. Completely separately from our role, Part IV of the Code refers to the absolute privilege conferred by law on Members in respect of words spoken in the States, and Part V provides for allegations of abuse of privilege to be investigated by a Privileges Panel. Unlike us, a Privileges Panel consists of Members of the States and considers complaints by other Members only.

In this case Deputy St Pier made us aware of an abuse of privilege complaint made against him by another Deputy and argued, through his Advocates, that both complaints arose from the same events, specifically Deputy St Pier's speech in the Debate and subsequent social media posts, and that the complaints to us amounted to an abuse of process and should be dismissed.

We considered these points carefully and sought legal advice (which remains confidential and legally privileged) and our conclusions are at 4.1 below. We noted the potential for Deputy St Pier to be sanctioned, in effect, twice for the same conduct to the extent it could be characterised both by the Privileges Panel as abuse of privilege and by us as misconduct under Part 1 of the Code. In our view that would be unfair but our understanding of the process and our role it is that:

- we have to consider the complaints made to us about alleged Part I misconduct without considering whether those might also be characterised as abuse of privilege, and
- it is for the Presiding Officer to address any issues of overlap or inconsistency between our findings and those of any Privileges Panel when those are considered by the States.

We understand that our role is limited to considering matters under Part I of the Code and that any issues of overlap and inconsistency are outside our remit and fall to the Presiding Officer and ultimately to the States.

Therefore, our report does not seek to exclude any of Deputy St Pier's conduct (specifically his words in the Debate) on the basis that it could also amount to an abuse of privilege. We have not liaised with the Privileges Panel and it is possible that our respective investigations follow different courses and/or receive different written or oral evidence. We may be reaching different factual conclusions but understand there is no mechanism for us to liaise with the Privileges Panel on our respective findings, for example to identify potential inconsistencies.

Although we have not treated Deputy St Pier's conduct in the States meeting as being exclusively a matter for a Privileges Panel, we have not investigated aspects of complaints to us which refer to abuse of privilege.

3 The investigation process

3.1 Nature of investigation

The Code of Conduct sets out a process established by States Members collectively for the consideration of their own conduct. Part III of the Code sets out the procedure for complaints relating to Part I (conduct) matters such as these. Some implications of the procedure are that:

- it is inquisitorial rather than adversarial, meaning the Panel is an investigating body which may have discussions with or seek documents from various parties, rather than a court or tribunal which hears a case made by one party and then another party's counter-case before making a decision on the original case. As a result, our investigation is not litigation and does not require legal submissions or argument, although a Deputy may choose to have legal advice; and
- court rules of evidence do not apply, so we do not take evidence under oath or require documents to be in any specific form. We factor into our investigation and decision any areas where we consider that what is said or provided to us might be unreliable, but our role is to decide matters on the balance of probabilities i.e. whether we consider something is more likely than not to be the case. To avoid multiple repetitions of "on the balance of probabilities", we note here that all aspects of our decision are on that basis.

The MSG complaint suggests that a higher standard of conduct might be expected of a former Chief Minister such as Deputy St Pier than of other States Members. We understand why complainants or the public might consider this appropriate but have not applied any higher standard as the Code does not provide for it.

3.2 Investigation timing

The interval between the complaints being made and our investigation concluding has been much longer than we would have liked, the issues being mainly in the initial and final months.

By early July 2022 all three complaints had been made but this Panel was not formed until late October 2022. Deputy St Pier informed us that there was also an abuse of privilege complaint against him, and as far as we are aware that is the first ever such complaint and therefore the first time the potential had arisen for privilege and conduct complaints to be considered in relation to connected matters and/or at the same time. Another unusual factor was that, even where the conduct complaints before us were not about abuse of privilege, they arose largely from conduct during a States Meeting. As a result of these factors, we understand that it took some time for clarification to be received that the complaints could be considered under the terms of the Code of Conduct.

At the latter end of the investigation, we attempted to obtain Deputy St Pier's written comments on the complaints in mid-November 2022 and to meet him to discuss those in December 2022. These stages did not happen until the end of February and mid-April

2023 for various reasons outlined below. We do not suggest that Deputy St Pier failed in his duty to cooperate with us, but the timeline needs some explanation.

Reverting to the start of our investigation, the Chairman undertook an initial assessment of the complaints and determined that prima facie evidence had been submitted to support them. An Investigation Panel to consider the complaints was therefore established, comprising The Very Reverend John Guille as Chairman, Dame Mary Perkins DBE and Mr Stephen Trevor.

On 27 October 2022 the Chairman notified Deputy St Pier of the BMA and MSG complaints, and on the following day of Dr Bohin's complaint, and in each case that he had determined there was prima facie evidence to support the complaint.

The Chairman asked for Deputy St Pier's response to the complaints by 18 November 2022 and later agreed to extend this to 2 December 2022. On that date the Chairman received a response from Advocates acting on behalf of Deputy St Pier, referring to the three complaints to the Panel and also to an Abuse of Privilege Complaint having been made against Deputy St Pier in June 2022 by a States Deputy. This letter ran to 10 pages of mainly legal argument and had attachments running to 225 pages. It explicitly did not comment on the details of the complaints about Deputy St Pier's conduct and argued that the Panel was legally required to dismiss the complaints for various procedural reasons (covered in section 4.1 below) and that it would be premature to meet Deputy St Pier.

The Panel considered this material, met on 13 December 2022 and decided not to dismiss the Code complaints at that stage as requested by Deputy St Pier. The Chairman communicated this to Deputy St Pier on 15 December 2022 and asked Deputy St Pier to engage substantively with the allegations and provide written responses by 9 January 2023. On 21 December 2022 the Panel Secretary asked Deputy St Pier to meet the Panel on 19 January 2023.

Deputy St Pier responded through his Advocates, Ogier (Guernsey) LLP, on 22 December 2022 asking the Panel to detail its reasons for deciding to continue with the investigation and "reserving his rights" to "seek alternative remedies, including a potential judicial review" should the Panel not do so. This letter also referred to a close family bereavement recently suffered by Deputy St Pier, with the funeral taking place in January, and said he would be unable to meet the 9 January deadline or attend a meeting in January. On 12 January 2023 the Panel responded, having taken legal advice which remains privileged, that it would be proceeding to consider the complaints but that, should Deputy St Pier wish to maintain his procedural objections, those would be considered before coming to any final decisions. Deputy Pier was reminded of his duties to cooperate with the Panel and to respond to the complaints. The Panel accepted, in view of Deputy St Pier's bereavement, that a meeting would not take place in January and asked when he would be able to respond.

On 18 January 2023 Ogier stated that Deputy St Pier would respond by 28 February 2023. On 26 January the Panel requested a written response by 24 February and that was agreed on 3 February at which point Ogier stated that Deputy St Pier maintained his procedural

objections, made a further request that the Panel defer consideration of the complaints, and stated that Deputy St Pier would be off the island from 24 February to 20 March and unavailable to meet during that period. On 10 February the Panel declined to defer the complaint process.

On 24 February we received 26 pages of written comments from Ogier together with a further 136-page bundle of documents. We considered those and on 2 March 2023 Deputy St Pier confirmed, at our request, that statements by Ogier were factually correct and represented his views.

We met the complainants as follows:

- 16 January 2023 – Dr Sandie Bohin accompanied by [REDACTED]
- 16 January 2023 – BMA represented by [REDACTED] and [REDACTED] and [REDACTED]
- 19 January 2023 – MSG represented by [REDACTED] [REDACTED] [REDACTED] [REDACTED].

Having done so, we considered whether there were further matters any complainant had raised on which we should seek Deputy St Pier's comments. We decided that the only such matter was a chronology which we had requested the MSG to provide following our meeting with them. We had requested this to help us understand the sequence and nature of the various reports or reviews to which the MSG had referred. The MSG provided a Chronology of Key Events and Deputy St Pier provided his comments on that.

We then met Deputy St Pier, accompanied by [REDACTED] [REDACTED] Ogier (Guernsey) LLP, on 13 April 2023. Deputy St Pier made a statement to us and we asked questions and had a general discussion about the matters covered in the complaints.

3.3 Data protection considerations

Deputy St Pier referred in the Debate to one of his children in a way which might enable her to be identified, and to potentially sensitive matters relating to her health. As a Panel we can do nothing about this having become a matter of public record but we have attempted to keep the aspects of our investigation involving individuals' health and medical care proportionate to our role. Specifically we are here to investigate and report on the conduct of a States Member, not on anyone's medical care, on the conduct of any healthcare professionals, or on the governance of any healthcare organisation.

Deputy St Pier provided us with some documents containing sensitive personal information about other individuals, not limited to his daughter, which we did not consider relevant to our role. We will redact those so that the Panel's future records do not identify the individuals.

4 Investigation – procedural points and Deputy St Pier's conduct

In this section we address firstly in 4.1 the procedural points raised by Deputy St Pier, then in 4.2 onwards what we see as the key areas of Deputy St Pier's conduct. Whilst the Code

requires us to decide whether a complaint is substantiated, we decided to look at what we consider the main areas of alleged misconduct arising from the complaints taken together, rather than following the structure of each of the three complaints separately.

4.1 Findings on Deputy St Pier's procedural objections

We outline below Deputy St Pier's procedural objections, without repeating the full text which we have considered, followed by the Panel's findings on each. The first five objections are taken from Ogier's letter of 2 December 2022 and the sixth was raised by Ogier in their letter of 24 February 2023 and by Deputy St Pier at our meeting on 13 April 2023:

4.1.1 Unsubstantiated allegations

Deputy St Pier considers that some allegations about his conduct are not sufficiently substantiated for the Panel to consider them. Our position is that we should consider, as part of our review of complaints but not as a prior exercise, whether they are substantiated to the level required for the Panel's role.

4.1.2 Factually incorrect allegations

Deputy St Pier argues that some allegations are factually incorrect and should be dismissed before we move on to consider his conduct. Similarly to the last point, we decided not to undertake such a separate exercise but that any instances of factually incorrect assertions should be picked up through the Panel's substantive consideration of the complaints and his conduct. On this and the previous objection, we need to keep in mind that although our involvement results from the complaints, we are an investigative panel looking at Deputy St Pier's conduct, not a court or tribunal trying a legal case brought by the complainants.

An example of why it would not be appropriate for us to accept Deputy St Pier's objection on this point is that one of the matters he cites as being factually incorrect is "the fact that I referred to Dr Bohin only on the basis that she was the Named Doctor for Safeguarding" (our underlining). But the natural meaning of his words about Dr Bohin is a substantive matter which we need to decide, not something we can exclude as a preliminary point because Deputy St Pier asserts that a particular meaning is factually incorrect.

4.1.3 Requirement of prima facie evidence

Deputy St Pier objects that the Chairman should not have decided, under Code section 32, that there was prima facie evidence to support the complaints. Section 32 creates a preliminary stage in which the Chairman does an initial assessment on this point, before forming an Investigation Panel. The Panel considered this objection on 13 December 2022 and informed Deputy St Pier on 15 December that it (not limited to the Chairman) was satisfied there was sufficient evidence to proceed. Court rules of evidence do not apply to the Panel and it takes a common-sense view in deciding on the adequacy of evidence. What the complainants say in their letters of complaint is evidence of a form, as is what Deputy St Pier has said to us.

4.1.4 Abuse of process – parallel proceedings

This objection is that the Code of Conduct and privileges investigations should not proceed in parallel because they arise from the same events and could result in very similar outcomes. Deputy St Pier refers to the burden on him in dealing with more than one set of proceedings, and to the risk of inconsistency between them.

This is a legally complex area and not a matter for the Panel’s discretion and having taken advice, which remains confidential and legally privileged, we decided not to defer our investigation until the abuse of privilege matter has been determined. However, we could see the potential unfairness if Deputy St Pier were to be subject to two sanctions for the same conduct. Our understanding of how the States of Deliberation would avoid that was explained earlier, in section 2, as it is so critical to the scope of our role.

4.1.5 Abuse of process – procedural exclusivity

This objection is that another form of abuse of process is that the Code complaints arise from conduct protected, in Deputy St Pier’s view, by privilege so the only appropriate investigation is under Part IV of the Code, on privilege matters. The points in 4.1.4 above apply to it.

4.1.6 Unparticularised allegations or lack of particularity

Deputy St Pier objects that the MSG’s and Dr Bohin’s complaints are “scattergun” and should not be considered because this makes them difficult to respond to. We note that not all complainants have linked every point they have raised to a specific Code section, but do not consider it essential that they do so. Deputy St Pier has been able to respond fully to the complaints, including providing us with a schedule of comments on “unparticularised allegations” which we have considered. We do not see the fact that complainants have given a general outline of the conduct they are complaining about as a barrier either to Deputy St Pier responding or to the Panel’s role.

We therefore decided to continue to consideration of Deputy St Pier’s conduct.

4.2 Avoiding and resolving conflict of interest

Although this is only raised by one complainant, Dr Bohin, it seems to us to be a key issue. It arises from what Deputy St Pier said in opening the motion to debate the Report:

“Deputy St Pier: Sir, I can and I shall be relatively brief in speaking to this motion to debate. However, before I do so, having regard to Rule 17(15), I must disclose that my wife and I have a direct or special interest in this matter and, pursuant to Rule 17(16), I wish to declare the extent of that interest. To do so requires a very brief chronology of events, from which I will then explain the interest in this motion and, through that, why the Annual Report needs to be debated.”

This appears at lines 2204 – 2208 of the final Hansard record. After an exchange with the Bailiff, Deputy St Pier added (Hansard lines 2251 – 2263):

“As I said, it is a brief chronology of events, but I think it does best explain the interest in the motion and, through that, why the Annual Report does need to be debated and what is referenced in the Annual report, which obviously would be the subject of the debate.

In April 2015, seven years ago tomorrow, our youngest daughter became profoundly ill and the local specialist paediatric service, to whom she was referred, concluded nothing needed to be done. But we sought a second specialist opinion from a paediatric endocrinologist at Great Ormond Street Hospital for Children, who immediately diagnosed a serious but rare condition and prescribed treatment. Untreated, she would have eventually gone into organ failure.

A few months later, we wrote to the Medical Specialist Group, as we felt that clear lessons could be learnt in relation to our daughter’s misdiagnosis that might assist other children with medical conditions rarely seen by the local paediatric service. Much to our surprise, this triggered a bizarre and Kafkaesque safeguarding investigation, which our GP described at the time as the ‘weaponisation’ of the safeguarding service.”

Later in the Debate Deputy St Pier stated (Hansard lines 2331 – 2333):

“I have explained our direct and special interest in this motion and that is clearly, as I think you have now understood, sir, that we are connected with the informal investigation that is referred to on the face of the Report”.

So at the start of the Debate Deputy St Pier acknowledged and explained that he had a direct and personal interest in urging other Members to support the motion that the Report be debated, and that he was doing so in compliance with The Rules of Procedure of the States of Deliberation, which are separate from the Code. However, what section 7 of the Code additionally requires is that Members *“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”*. Recognising and declaring that a conflict exists is a first step but does not in itself avoid or resolve the conflict.

Put simply, Deputy St Pier was alerting other Members to the fact that his actions in relation to the motion, including logically what he might say in support of it, could be influenced by an experience which he and his family had understandably found very distressing. The purpose of declaring a personal interest is generally to make others aware that the judgement or behaviour of the person having the interest might be affected by it.

Deputy St Pier’s position is that he acted solely in the public interest and *“Accordingly, his personal interest has been resolved”* and that he would have taken the same course of action even if he had had no personal interest.

In our view this approach glosses over a critical point, that if the effect of someone's personal interest is that they may not be able to think or act objectively on a matter, then they are not in a position to judge objectively where the public interest lies in that matter.

The Code is clear that it requires Members to take action to resolve any conflict between personal and public interest. Deputy St Pier made a detailed declaration of his interest, which he described as direct and personal, and in our view it is not enough to make a declaration followed by an assertion that one's actions were all in the public interest. That feels like an after the event rationalisation, rather than actually resolving the conflict at the time. It also ignores the fact that, for any of us, a personal interest may be affecting what we perceive as being in the public interest.

4.3 Reference to Dr Bohin as “the doctor in question”

This aspect of the complaints arises from these words used by Deputy St Pier in the Debate (Hansard lines 2351 – 2355):

“It is only by debating this Annual Report that this Assembly can begin the process of holding the Responsible Officer at Health & Social Care and the Medical Specialist Group, through their publicly funded contract, and the specialist paediatric team and the safeguarding lead and the doctor in question, Sandie Bohin, to account to implement these recommendations - ”

The complaints cover both the fact that Deputy St Pier named Dr Bohin at all, and the alleged implication that she had been involved in his daughter's care. We considered the latter aspect first because the context in which Dr Bohin was named is material – to put that another way, she was not “named” in the abstract or in a neutral way but in a specific way which is alleged to have created a wholly misleading impression of her role.

Deputy St Pier's position is that:

- he acknowledges that Dr Bohin had no involvement in the care of his daughter, including diagnosis
- he did not allege in the Debate, or intentionally seek to create the impression or imply, that Dr Bohin saw, treated, or was involved in the clinical management of his daughter, or risk his daughter's life
- he did not name Dr Bohin as the MSG paediatrician and doctor in need of being held to account, and
- he referred to Dr Bohin only on the basis that she was the Named Doctor for Safeguarding at the time that the Authorised Person's Report was commissioned by the Responsible Officer, and that this was a public interest reason.

We discussed this with Deputy St Pier and he did not seem to accept that his words could be understood to mean that Dr Bohin had been involved in his daughter's diagnosis and/or care in any way.

However, in our view the most obvious and natural meaning is that Dr Bohin had been professionally involved in the traumatic events he had described in relation to his daughter. His words might not be understood in that way by everyone, but that is how the Panel members would have understood them and we consider it the most obvious meaning for several reasons:

- Deputy St Pier’s declaration of his interest, starting “In April 2015 ...” opened with the dramatic point about his daughter which was bound to stick in people’s minds when they heard “doctor in question” later in the speech
- even if, as Deputy St Pier suggests, people hearing or reading the words “... safeguarding lead and the doctor in question, Sandie Bohin, ...” would understand that Dr Bohin was being referred to as safeguarding lead, the words they would be likely to link most closely to her are “the doctor in question” which was most likely to be understood as relating to his daughter’s diagnosis and/or care, and
- we agree with Deputy St Pier’s suggestion when we met that the context of the words is important, but because Deputy St Pier opened with the points about his daughter and did not refer to other families until much later (Hansard line 2315), the “subject in the air” was most likely to be understood as his daughter’s care.

Therefore, we consider the way in which Dr Bohin was named to have been seriously and fundamentally misleading.

We discussed with Deputy St Pier why Dr Bohin was the only individual named, and he referred to a convention under which civil servants are not named in the States; hence he did not name the Responsible Officer (although named in the Report Deputy St Pier was seeking to have debated, and public information) but named Dr Bohin as the only non-States employee.

Deputy St Pier argued forcefully that naming Dr Bohin was in the public interest, but that could only be the case if done in a fair and non-misleading way. In our view it could not have been in the public interest to make fundamentally misleading suggestions about what Dr Bohin should be “held to account” for. We have considered detailed submissions on why Deputy St Pier considers naming Dr Bohin was in the public interest but those are somewhat hypothetical because he does not accept that what he said might have been misleading. We have to look at what actually happened, rather than a parallel scenario in which a fair and accurate summary about Dr Bohin’s role was given.

Deputy St Pier’s written comments to us did not explain how he had come to name Dr Bohin in the Debate and, until our meeting with him, we did not know whether that had been pre-planned. We therefore asked:

- whether he had gone into the Debate with a pre-prepared speech and, if so, whether it had named Dr Bohin – Deputy St Pier said both of these were the case; and

- whether he had run the contents of the speech past anyone independent from the personal interest he had declared – Deputy St Pier said no and that it was not his practice to do this.

4.4 References to safeguarding

This arises from this section of Deputy St Pier’s speech (Hansard lines 2259 – 2263, already set out in section 4.2):

“A few months later, we wrote to the Medical Specialist Group, as we felt that clear lessons could be learnt in relation to our daughter’s misdiagnosis that might assist other children with medical conditions rarely seen by the local paediatric service. Much to our surprise, this triggered a bizarre and Kafkaesque safeguarding investigation, which our GP described at the time as the ‘weaponisation’ of the safeguarding service.”

Deputy St Pier was speaking above about his daughter, but the complaints extend to his later words (Hansard lines 2314 – 2318) relating to other families’ experiences:

“[a] year ago we were approached by three families who have profoundly sick children with complex conditions and needs and who had either sought second opinions or complained about local clinical care. They found themselves in exactly the same Kafkaesque nightmare of having to deal with safeguarding enquiries, whilst also caring for their sick children.”

The complainants between them particularly take exception to the allegation that there was a safeguarding investigation in relation to Deputy St Pier’s daughter, and in relation to families generally that any steps were “Kafkaesque” or involved “weaponisation” of safeguarding.

We consider Deputy St Pier’s statements were misleading. A letter addressed by the Responsible Officer (“RO”) to Mr and Mrs St Pier on 1 October 2021 is headed “Investigation into concerns about Dr Bohin’s actions in regard to safeguarding” and, after noting that the Responsible Officer had met Deputy and Mrs St Pier and other families with concerns, the RO had appointed an authorised person to investigate and had received her report. The RO summarised that the authorised person had found (with our underlining) that:

- Dr Bohin did follow the required process in terms of safeguarding
- she did seek appointments and attempted contact with the families and with wider team members
- she acted in what she perceived to be the best interests of the child, and
- safeguarding processes were not used inappropriately in response to being challenged or to complaints.

The RO continued “It is my finding that the investigation has not identified a substantive concern under the Regulation of Health Professions Ordinance”.

The RO added “However, there is clearly learning for us in Health and Care Services” and referred to a supplementary report making recommendations about how processes might be improved in the light of the families’ experiences, and undertook to work through those with those concerned. Deputy St Pier has seen that supplementary report but not the report which the RO was summarising above (and nor have we seen it). Our finding is that Deputy St Pier’s words did not give an accurate or balanced picture of the information he had; we are not attempting to decide what actually happened in relation to safeguarding (see our general comments on how far we have looked at safeguarding and medical matters in section 4.7).

Reverting to the specific point about a “bizarre and Kafkaesque safeguarding investigation” involving Deputy St Pier’s daughter, we have had detailed discussions with the complainants and Deputy St Pier about this and accept the complainants’ position that no safeguarding investigation was triggered. It is not necessary or appropriate to go further here.

Deputy St Pier argued that Rules of Procedure of the States of Deliberation 17(15) and (16) meant he could only disclose limited information relating to his personal interest and the details and outcome of any prior complaints he had made would have exceeded that limited scope. Any authoritative interpretation of those Rules is beyond our role but as Deputy St Pier has raised this as a reason for not disclosing some information, we have to address it as far as we can. We note that these Rules cover disclosure of Members’ interests to States Meetings, that they do not contain any obvious limitation on how that is to be done, that Deputy St Pier’s disclosure did in fact include a lot of detail on the history, and that Deputy St Pier explained to us that he was required fully to disclose the nature of his interest.

We believe it would have been possible for Deputy St Pier to have given a fair and balanced picture on this and the other areas in which we consider his words were misleading. Deputy St Pier was in fact party to a more balanced summary, on one point, in a letter from himself and other families to the States Chief Executive in which they stated “Whilst the findings – which we have not seen – of the investigation did not find, we understand, substantive issues regarding the doctor ...”.

There is an aspect of the MSG complaint in this area which we do not consider substantiated, but it does not affect the above. The MSG felt that Deputy St Pier had suggested in the Debate that a 2021 investigation commissioned by the Responsible Officer had found egregious failings in the MSG’s safeguarding cultures and processes. This refers to Hansard lines 2378-2379, in which we read “our” as Guernsey as a whole, with no particular implication for the MSG:

“We know, from the work commissioned by the Responsible Officer that is referred to in this Annual Report, that there have been egregious failings in our safeguarding culture and processes ...”.

4.5 References to MSG apology

This aspect arises from Deputy St Pier's words at Hansard lines 2304 – 2306 at which he referred to a "3-page letter of apology" from which he quoted:

"You have asked for an unequivocal apology and we agree that it is entirely appropriate for us to do so. We sincerely apologise for the shortcomings that were set out in this letter and the shortcomings identified in the ICPC report". We can assure you we have learned from them."

This is an extract from a letter written by the MSG to Mr and Mrs St Pier on 26 February 2016. The MSG and Dr Bohin believe Deputy St Pier's quotations from it, and their context in his speech, suggested that it was an apology for deficiencies in the care of Deputy St Pier's daughter.

We have reviewed the 2016 letter and our reading is that the MSG's apology relates to their communications and complaints handling but not to medical care. We consider that, in the context of Deputy St Pier's words overall, including his initial references to "profoundly ill", "nothing needed to be done", "would have eventually gone into organ failure" and "misdiagnosis", his reference to the apology did suggest that it had involved or included an apology for medical care. If that had been the case, the MSG's words of apology would have suggested extremely serious failings.

Deputy St Pier did refer (Hansard line 2306 and immediately after) to the apology having continued "and that we will continue to improve our communication ...", and to this being pertinent to his motion. But we do not consider that made it clear that the apology was not about medical care.

The MSG's apology covered "shortcomings identified in the ICPC Report" as well as matters in the letter itself, so if that had covered medical care the statement might not have been misleading in relation to medical care. The ICPC report was commissioned by the Island's Child Protection Committee, completed in January 2016 and related to Deputy and Mrs St Pier's belief that a safeguarding investigation had taken place in relation to their daughter. But again it did not relate to medical care (its authors being social workers).

Although the ICPC report concluded that no safeguarding referral had been made to the Multi-Agency Support Hub, it did suggest that communications should have been clearer and that a contact Dr Bohin made could have waited for two weeks (as the MSG acknowledges in its complaint – see sixth bullet point of summary in section 1.3). The MSG apology does cover "shortcomings identified in the ICPC report" so to that extent Deputy St Pier's reference was not misleading.

We consider Deputy St Pier's reference to the MSG's letter was seriously and fundamentally misleading about what they had apologised for.

4.6 Social media posts

The complaints by Dr Bohin and the MSG extend to some of Deputy St Pier's social media posts after his speech. For example, after making the speech on 27 April 2022, Deputy St Pier posted a version of it on Twitter, and in other Tweets encouraged "any family who has concerns about their children's treatment or how they have been treated if they complained or sought a second opinion to engage with the complaints process and the Customer Care Team...". He also commented that the BMA "are the doctor's trade union; it's their job to represent their members."

We understand why the complainants feel aggrieved by Deputy St Pier's social media activity and that it compounded the misleading nature of his speech. However, we do not consider that it amounted to a breach of any Code provision.

4.7 Summary of factual findings

In our view Deputy St Pier did not resolve the conflict of interests he had disclosed to the States and his speech in the Debate was seriously and fundamentally misleading in the way he referred to Dr Bohin and in relation to the use of safeguarding and to the apology the MSG had made.

Deputy St Pier told us that he sees the complaints as being predicated on his having been motivated by a vendetta, but our findings above are not on that basis. They are based on what he said and did, rather than on his motivations.

There are aspects of the MSG's and Dr Bohin's complaints which we could have investigated further; for example, other respects in which they consider Deputy St Pier's speech was untrue or misleading. We decided not to go beyond the aspects in 4.2 to 4.6 above because doing so would have involved consideration of medical and safeguarding records which we did not see as proportionate or necessary to determine whether Deputy St Pier had acted in breach of the Code. It is inherently intrusive for a Panel to review documents containing confidential details about individuals who are neither Deputies nor complainants, and we have tried to keep that intrusion to a minimum. For example, we did not ask for some further items or confirmations which might in theory have been relevant. We have tried to keep in mind throughout that our role is to consider a Deputy's conduct rather than medical or safeguarding matters per se. This is why we have focused on the areas of conduct in 4.2 to 4.6 above, rather than making point by point decisions on every aspect of each complaint.

In reaching our findings, we decided that words were said as set out in Hansard and that statements and documents we have referred to support the conclusions we drew from them. As in 4.1, in all areas this was on the balance of probabilities.

From our exchanges and meetings with the complainants we considered them to be credible and reliable and that they were trying to maintain objectivity as far as possible. We did not consider them unduly defensive about their actions.

Deputy St Pier defended what he had done very strongly and we felt that led him to “argue black is white” on some points. On the key issue about how people were likely to understand his words about Dr Bohin, he would not countenance that they were at all open to what we consider the natural meaning. This does not mean we expected Deputy St Pier to agree with us but that we were surprised by the implication that there could not possibly be another valid interpretation or point of view.

Another instance was Deputy St Pier’s absolute denial that the Bailiff cautioned him during the Debate: “There were no cautions conveyed to our client from the Presiding Officer. He was quite clear that it was a matter for our client’s discretion and his only advice was that our client should not go beyond the relevant scope of the Motion to Debate”. We cannot square this with Hansard rows 2297 – 2298, 2325 – 2327, 2383 – 2384 which most people would understand as cautions, with the Bailiff interrupting Deputy Pier. This tendency undermined Deputy St Pier’s credibility in a general sense but there was no specific point on which it was determinative.

5 Investigation - Deputy St Pier’s conduct reviewed against Code provisions

The Code sections under which complaints have been made by any complainant(s) are outlined below (not repeating the full text in section 1 above) and followed by our findings under each:

3 Acting in the public interest and in accordance with public trust

In our view Deputy St Pier may have believed he was acting in this way but his judgement appeared to have been compromised by his personal interest and it was not in the public interest to make the misleading statements.

4 Respecting the rule of law and the administration of justice

We do not consider Deputy St Pier has breached this section.

6 General principles of conduct: selflessness, integrity, objectivity, accountability, openness, honesty, leadership

We consider that the objectivity aspect of this section has been breached because Deputy St Pier did not address the potential for conflict between personal and public interest.

7 Basing conduct on a consideration of the public interest; avoiding and resolving conflicts of interest

We consider that Deputy St Pier breached this by not avoiding or resolving the conflict of interest he declared, for example by obtaining an independent view on what he was proposing to say in the Debate.

8 Public trust and confidence in the integrity of the States and not bringing into disrepute

We consider that the making of misleading statements coupled with the failure to address the conflict of interests involved breach of this section.

9 *Treating others with respect and courtesy and without malice*

We do not find that Deputy St Pier acted maliciously but that he failed to treat Dr Bohin with courtesy by naming her without warning or any right to comment.

11 *Acting in good conscience and discharging duties diligently and with civility, dignity, care and honour*

We considered that the care aspect was breached because, although Deputy St Pier insisted he had acted carefully, he had not exercised enough care to give a fair picture to the States and the public in what he said.

21 *Disclosure of personal information about named individuals and dealing with confidential information*

We did not consider that this had been breached because the information Deputy St Pier disclosed had not come to him in the course of his duties.

The Panel therefore found that the complaints about Deputy St Pier's conduct were substantiated to the extent above, meaning that:

- BMA complaint – this is not substantiated as it was based entirely on section 21
- MSG complaint – this is substantiated in relation to sections 3, 6, 8, 9 and 11 but not in relation to section 4
- Dr Bohin's complaint – this is substantiated in relation to sections 3, 6, 7 and 8.

6 Consideration of recommended sanction

In reaching our opinion to report to the States' Assembly & Constitution Committee, the Panel had regard to the factors in this section. The Code does not set out any such factors but these factors, based on some commonly used by bodies considering professional conduct issues, have been used by Panels considering some other complaints (unrelated to Deputy St Pier) to aid consistency and as an alternative to making recommendations on potentially very serious sanctions in the absence of any framework at all.

Seriousness

We consider the breaches serious. Although we are not making a finding that Deputy St Pier deliberately misled the States and indirectly the public, his statements were seriously and fundamentally misleading in several respects. Without in any way minimising other aspects, giving a misleading impression about what an individual such as Dr Bohin has done, without any warning or right of comment or reply, is obviously serious.

Experience

Deputy St Pier has been a States Deputy since 2012 so he is an experienced Deputy. This is a minor aggravating factor. We do not consider it is relevant for this purpose that Deputy St Pier is a former Chief Minister.

Impact of conduct

We discussed with Dr Bohin the impact of Deputy St Pier's conduct on her and accept it has been heavy in several respects. There has also been a significant impact on the MSG.

Deputy St Pier argued that the impact of his conduct could not to any extent be relevant but we disagree. On any common sense analysis the impact of conduct is relevant in considering its seriousness. We have considered that from the perspective of what the likely impact of a course of conduct would be, rather than actual events since the conduct in question. In this case it was always likely that misleading statements about medical care and safeguarding matters would do real damage to the professionals involved and potentially to the reputations of those sectors in Guernsey.

The complainants felt that Deputy St Pier's conduct had made or would make it more difficult to fill roles with named personal responsibility such as Named Doctor for Safeguarding. As a general point we accept that was likely, although we also accept Deputy St Pier's argument that there was already some reluctance to take the Named Doctor for Safeguarding role before the conduct we have been considering (and if any of his conduct outside the scope of these complaints had fed into the prior reluctance, we have to ignore that).

This is an aggravating factor.

Inadvertence or culpability

Deputy St Pier's speech was pre-planned, including naming Dr Bohin, and there is no indication of inadvertence. Even after the conduct in question, nothing suggested to us that Deputy St Pier had tried to consider his conduct with an open mind.

We consider this as an aggravating factor.

Self-referral

Deputy St Pier did not refer himself to the Panel and his forceful arguments that his conduct was fully justified could be seen as the opposite of self-referral. Nevertheless we consider this as a neutral factor (in the sense that self-referral would have been mitigating).

Personal mitigating factors

We took account of Deputy St Pier's bereavement in the investigation timescale but are not aware of any personal mitigating factors in relation to the conduct complained about.

Other mitigating or aggravating factors

We are not aware of any such factors.

In considering the scale of seriousness, and taking into account the above factors, our opinion is the breaches were not of a minor nature and that Deputy St Pier should be formally reprimanded.

The Very Rev'd J. Guille

Dame Mary Perkins DBE

Mr S. Trevor

Dated 21 April 2023