

## ST HELENA



### WORKING DRAFT – July 2021

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#### THE ST HELENA, ASCENSION AND TRISTAN DA CUNHA CONSTITUTION ORDER 2009

*(Section 71)*

#### CODE OF CONDUCT FOR MEMBERS OF LEGISLATIVE COUNCIL

Approved by Resolution of the Legislative Council on the      day of      2021 and supersedes all previous versions of the Code of Conduct.

#### 1. Preliminary

This Code of Conduct is approved by the Legislative Council to provide guidance to Members as to standards of conduct expected of them in the discharge of their duties as members of the Legislative Council. All Members of the Legislative Council are required to comply with the provisions of the Code, and are subject to its disciplinary provisions.

#### 2. Interpretation

2.1 In the Code—

“Code” means this Code;

“Council” means the Legislative Council;

“**Meeting**” means a meeting of the Council, and includes (where the context so admits) a meeting of the Executive Council, or the Public Accounts Committee;  
“**Member**” means a Member of the Council and “**Elected Member**” means an Elected Member of the Council;  
“**Speaker**” includes the Deputy Speaker whenever the Speaker is absent or unable to act, or has a conflict of interest, or specifically delegates a function to the Deputy Speaker.

2.2 For the avoidance of doubt, the Members of the Council, as provided in section 48 of the Constitution, are the Speaker, the Deputy Speaker, the Attorney General, and the 12 Elected Members.

### **3. Purpose and scope of Code**

3.1 The purpose of the Code is to assist all Members in the discharge of their obligations to the Council, their constituents and to the public at large by—

- (a) establishing the standards and principles of conduct expected of all Members in undertaking their duties;
- (b) setting the rules of conduct which underpin these standards and principles and to which all Members must adhere; and in so doing
- (c) ensuring public confidence in the standards expected of all Members and in the commitment of the Council to upholding these rules.

3.2 The Code applies to Members in all aspects of their public life. It does not seek to regulate what Members do in their purely private and personal lives.

3.3 The obligations set out in the Code are complementary to those which apply to all Members by virtue of the procedural and other Rules of the Council and the rulings of the Chair, and apply to Ministers in addition to the Ministerial Code.

### **4. General Principles of Conduct**

4.1 In carrying out their public duties, Members will be expected to observe the following general principles of conduct. These principles will be taken into account when considering the investigation and determination of any allegations of breaches of the rules of conduct under Paragraph 7.

(a) ***Selflessness***  
Members should take decisions solely in terms of the public interests.

(b) ***Integrity***  
Members should not place themselves under any financial or other obligation to individuals or organisations that might influence them in the performance of their official duties. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family or friends, or their business colleagues; or to secure special treatment for any voluntary or

charitable organisation with which they are involved. They must declare and resolve any interests and relationships.

(c) ***Objectivity***

In carrying out public business, including involvement in making public appointments, awarding contracts, or recommending individuals for rewards and benefits, Members must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

(d) ***Accountability***

Members are accountable to the Legislative Council and to the public for their decisions and actions and must submit themselves to whatever scrutiny is appropriate to their office.

(e) ***Openness***

Members should act and take decisions in an open and transparent manner. They should give reasons for their decisions and information should not be withheld from the public unless there are clear and lawful reasons for so doing.

(f) ***Honesty***

Members should be truthful. 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.

(g) ***Leadership***

Members should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

(h) ***Equality***

Members should promote equality of opportunity and not discriminate against any person, treating people with respect regardless of race, age, religion, gender, sexual orientation, disability, political opinion, marital status, and whether or not a person has dependants.

(i) ***Good Working Relationships***

Members should work responsibly with other Members of the Council for the benefit of the whole community. Members' working relationship with public servants should at all times be professional, courteous and based on mutual respect.

4.2 Members shall—

(a) act in good conscience;

(b) respect the intrinsic dignity of all;

(c) act so as to merit the trust and respect of the community;

- (d) give effect to the ideals of democratic government and abide by the letter and spirit of the Constitution and uphold the separation of powers and the rule of law;
- (e) hold themselves accountable for conduct for which they are responsible;
- (f) exercise the privileges and discharge the duties of public office diligently and with civility, dignity, care and honour.
- (g) respect the duty of confidentiality and the principle not to breach commercial confidence.

4.3 Immunity from legal proceedings granted under section 3 of the St Helena Legislative Council Proceedings Ordinance, 1974, protects the right of Members to speak in Council without fear of prosecution or suit for defamation.

## **5. Duties of Members**

- 5.1 The principal duty of a Member is to act in the interests of the people of St Helena. In doing so Members have a duty to uphold the *Partnership Values* set out in section 2 of the Constitution and to act on all occasions in accordance with the public trust placed in them.
- 5.2 Members have a duty to uphold the law, including the constitutional prohibitions relating to any form of discrimination.
- 5.3 Elected Members have a special duty to their constituents and should be accessible to the people of the constituency which they have been elected to serve, and represent their interests conscientiously.
- 5.4 Members should always behave with probity and integrity, including in their use of public resources.

## **6. Rules of Conduct**

### *6.1 Disclosure and Publication of Interests.*

- (a) Each Member shall disclose all relevant interests that a reasonable person might think could give rise to the perception of influencing behaviour between the Member's duties and responsibilities and his or her personal interests. These interests include land and property assets, share-holdings, gifts, foreign travel, symbolic rewards (such as an honorary degree), sources of income, remunerated employment, directorships, liabilities, hospitality and affiliations. These will be recorded in the Register of Interests which will be maintained by the Clerk of Councils.
- (b) Members must declare these interests within 7 days of election to the Legislative Council in the Register of Interests kept under section 53 of the Constitution. Members must keep their entries in the Register up to date, but the register is not

a substitute for declaring interest before participating in any formal or informal proceedings in which they have (or might appear to have) a conflict of interest. Transparency in this regard is fundamental to the preservation of public confidence in the democratic process and Members shall always be open and frank in drawing attention to any relevant interest in any meeting, and in any communications with other Members, public officials or public office holders. If Members experience any conflict between personal interest and the public interest they should resolve this at once and in favour of the public interest.

- (c) A Member shall not vote on a question about a matter, other than public policy (i.e. government policy), not identifying any particular person individually, in which he or she has a particular direct pecuniary interest.
- (d) Information which Members receive in confidence in the course of their duties should be used only in connection with those duties. Such information must never be used for the purpose of personal benefit or financial gain or of that of their families or friends.
- (e) The Council shall publish the interests disclosed and the purposes and amounts of expenditure of public funds by each Member as soon as practicable in the Government Gazette.
- (f) These provisions also apply to interests held by the Member's spouse or de facto partner.

## 6.2 *Use of Public Property*

Members are personally responsible and accountable for ensuring that their use of any expenses, allowances, facilities and services provided from the public purse is in accordance with the rules laid down on these matters and that their use of public resources is in the public interest and is always in support of their duties. It should not confer any undue personal or financial benefit on themselves or anyone else.

Any public property remains the property of the St Helena Government and should be returned at the end of term except when otherwise agreed.

## 6.3 *Inducements*

- (a) A Member shall not accept any form of inducement that could give rise to conflict of interest or influence his or her conduct as a Member, including any fee, compensation or reward in connection with the promotion of, or opposition to, any Bill, Motion, or other matter submitted, or intended to be submitted to the Council. Official hospitality by the Governor, visiting officials, and the like, raises no issues; however, Members should not accept gifts, hospitality or services that might appear to place the recipient under any form of obligation to the giver.

- (b) A member shall not engage in paid lobbying, paid advice or paid advocacy in any proceedings of the Council.
- (c) A Member shall not use his or her position to seek or secure future employment, paid lobbying, consultancy work or other remuneration or benefit upon ceasing to be a Member.
- (d) An Elected Member shall represent the interests of constituents on an equitable basis and not on the basis of personal or political affiliations, or inducements.

#### 6.4 *Civility*

Members shall treat each other, the Council, officers of the Public Service and members of the public with respect, dignity and courtesy.

#### 6.5 *Behaviour*

- (a) Members shall never undertake any action, or in the course of both their public and private conduct, act in a manner which would cause significant damage to the reputation and integrity of the Council or of its Members generally. Members should at all times conduct themselves in a manner which will maintain and strengthen the public's trust and confidence in the integrity of the Council.
- (b) When representing St Helena on official business overseas, Members must be mindful of their representational role and statesmanship. They should agree statements they are proposing to make with their colleagues and officials concerned before leaving St Helena.

#### 6.6 *Attendance*

- (a) Members must give priority to attendance at Meetings in accordance with the terms of their oaths for due execution of office, and should be present in the Council Chamber or other designated meeting places when Meetings are held unless they have compelling reasons not to do so. Informal meetings may be regarded as less important than formal ones, but absence still needs to be justified.
- (b) Members must be adequately prepared for the Meetings they attend, which includes prior reading of relevant documents. To arrive ill-prepared, or late, is discourteous to colleagues, wasteful of resources, and capable of sustaining a finding of misconduct.

#### 6.7 *Absence from St Helena*

Elected Members (including, for this purpose, the Deputy Speaker) may not be absent from St Helena, except for the purposes of official business, or with the prior written permission of the Speaker. It is the responsibility of the Elected Member to make sure that she or he receives the written permission of the Speaker. If the Speaker proposes to be absent from St Helena, he or she shall inform the Governor and the Deputy Speaker.

#### 6.8 *Dealing with the Media*

Members, like everyone else, enjoy freedom of expression and may (subject to issues of confidentiality and respect for the rights of others in terms of their privacy) speak freely to and in the media. However, Members must take care to make clear whether they are expressing their personal opinions, or the collective position of the Council or a Committee. The public have a right to a clear understanding of which is which. In addition, care must be taken not to report informal discussions in such a way as to suggest that a decision has been made. A Member may, subject to the relevant media legislation and codes of practice, present radio or television programmes or publish articles in the printed media. However, it is especially important in such circumstances for the Member to ensure absolute clarity whether he is expressing his own views or his understanding of the views of others; fact or opinion; proposals/suggestions, or agreed policy; and so on. The expression “I understand that ...” is not an acceptable substitute for verifying facts before reporting them. Members must recognise that their uttering and writings may, because of their positions as Members, have greater public impact than those of others; this special position carries with it a special responsibility to ensure clarity and accuracy.

#### 6.9 *Relationship with the Public Service*

Members will wish to develop a mutually respectful relationship with the public servants with whom they work

No Member should use their influence to support the candidature of any person for recruitment to or advancement within the public service. While this does not completely rule out providing a character reference, Members should think carefully about whether the candidate has alternatives and how providing a reference might be interpreted.

Members should not subject officers of the public service to unjustifiable pressure.

#### 6.7 *Duty with respect to information and documents*

Members must treat all information and documents, acquired as a result of their office or in the course of their official duties, appropriately and with necessary confidentiality and must have due regard for the right of access to official information.

## **7. Enforcement**

## 7.1 *Complaints and Investigations*

- (a) Any complaints by Members of the Council or members of the public alleging that the conduct of a Member is in breach of this Code, must be made in writing and, subject to paragraph (d), must be addressed to the Speaker.
- (b) The Clerk of Councils shall maintain a list called the Panel of Investigators which shall be submitted to the Council for approval at the beginning of each new term. Members of the Panel of Investigators shall be members of the community whose role is to assist in investigations about the conduct of Members of the Legislative Council. The members of the Panel of Investigators shall be non-partisan and have knowledge, investigative skills, experience, personal qualities and standing within the community suitable to perform this role.
- (c) Whenever the Speaker receives a complaint, the Speaker shall refer the complaint to the Deputy Speaker and two members of the Panel of Investigators whose availability the Clerk of Councils will ascertain in advance.
- (d) If the complaint is in relation to the Speaker, the Deputy Speaker shall perform the role of the Speaker in appointing another Elected Member to take the Deputy Speaker's place. If the complaint is against the Deputy Speaker, the Speaker shall appoint an Elected Member to take the Deputy Speaker's place.
- (e) Once the two Investigators from the Panel of Investigators have been identified and confirmed their availability then these two together with the Deputy Speaker (or another Elected Member if the investigation relates to the Speaker or Deputy Speaker) shall be constituted as the Investigative Commission.
- (f) The remuneration of the Members of the Investigative Commission, other than the Elected Member, shall be of £35 per meeting per person to a maximum of £140 per investigation and mileage at the rate of £0.60 per mile.
- (g) Once appointed, the Investigative Commission shall not be removed except for proven misbehaviour or on other reasonable grounds.
- (h) The Investigative Commission may determine that:
  - i. the complaint is frivolous or vexatious and decline to investigate it;
  - ii. there has been a breach of the code; or
  - iii. there has not been a breach of the code.
- (i) The investigative Commission must:
  - i. treat any complaint as if sub judice;
  - ii. refer the complaint to the Police if the Investigative Commission thinks that there are reasonable grounds to believe that an offence has been committed;



- iii. conduct the investigation within the timescale agreed with the Speaker, which will usually be 30 days from the date upon which the Commission is constituted in accordance with paragraph 7(1)(e) above;
  - iv. save where the complaint is found to be frivolous or vexatious, present a report to the Speaker, a copy of which shall be sent to the Member subject of the investigation and to the Complainant and be tabled at the next formal meeting of the Legislative Council as a sessional paper. The report must state the nature of the complaint, summarise the evidence received in relation thereto and record the conclusion;
  - v. state in their report whether or not the Member investigated has breached the Code;
  - vi. if there is a breach of the Code, impose such sanctions on the Member, as it considers appropriate;
  - vii. in the event that a complaint has become known publicly and the Investigative Commission has not upheld the complaint, recommend that this outcome be made public.
- (j) A complaint may be withdrawn at any time before the report of the Investigative Commission has been tabled. If the complaint is withdrawn, the investigation shall cease and no report shall be tabled.
- (k) A Member of Council that is subject to an investigation must:
- i. treat any complaint as if sub judice;
  - ii. cooperate with and assist the Investigative Commission.
- (l) The findings of the Investigative Commission shall not be disturbed other than in accordance with this subparagraph. In the event of an appeal by the Complainant or by the Member subject to the investigation, the grounds of the appeal must be clearly set out. The Speaker shall appoint another Investigative Commission (whose members have not been in the original Investigative Commission) to carry out an investigation only of those grounds of appeal. The findings of this second Investigative Commission shall be final.

## 7.2 *Sanctions and Penalties*

- (a) Where the Investigative Commission has concluded that there has been a breach of this Code of Conduct, it may impose any of the following sanctions:
- i. require a written apology;
  - ii. for relatively minor failures to declare interests, an apology on the floor of the Council by means of a point of order;
  - iii. an apology on the floor of the Council by means of a personal statement;
  - iv. suspension from the Council for a specified number of days;
  - v. publication of the sanction in the Government Gazette.

- (b) A Member convicted of an offence may, in addition, be subject to a sanction or penalty if found to have breached the Code.