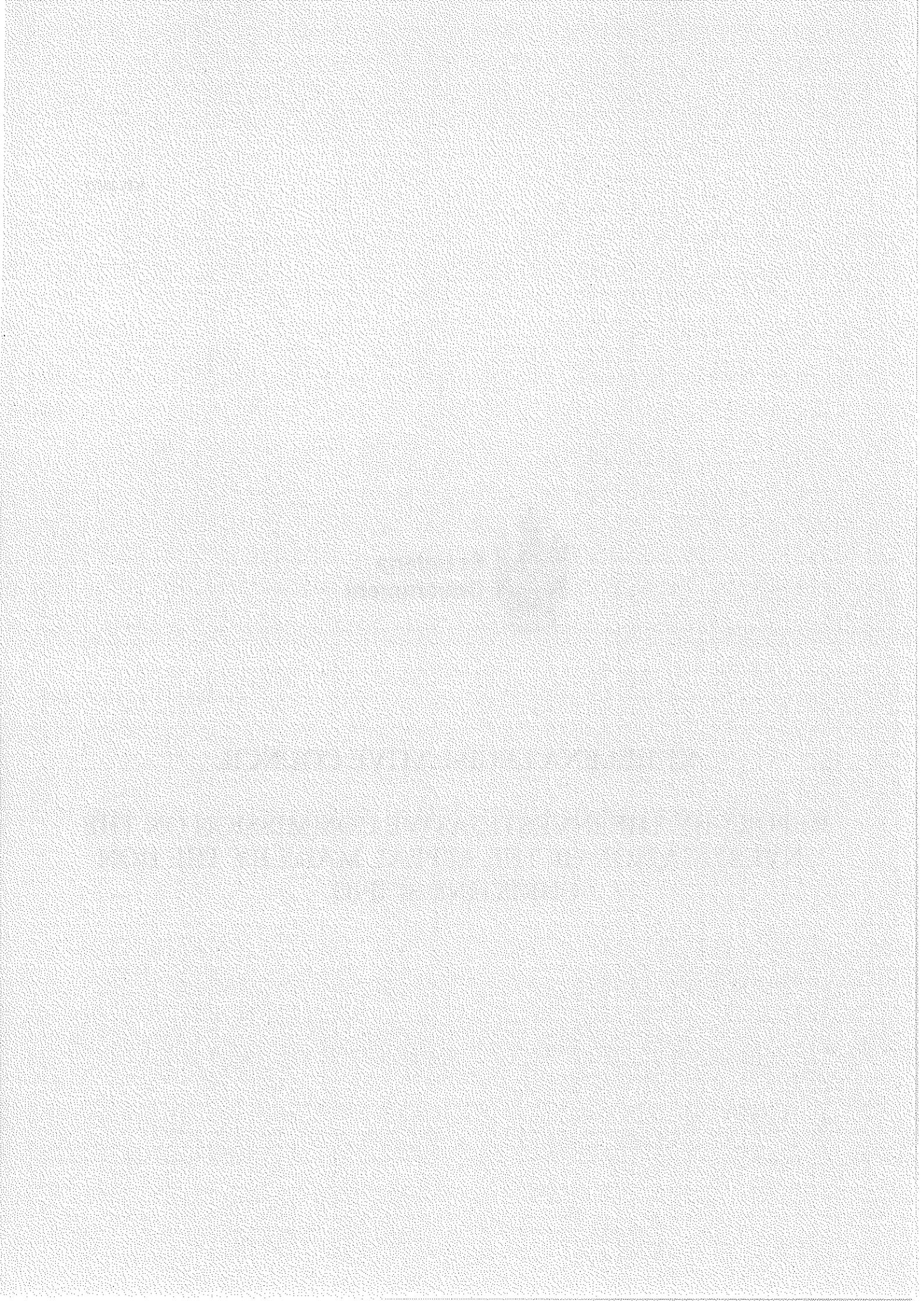




ST HELENA LEGISLATIVE COUNCIL

**REPORT BY THE INVESTIGATIVE COMMISSION ON THE
INVESTIGATION OF THE APPEAL MADE BY THE HON
CHRISTINE SCIPIO**



Report of the Inquiry by the Investigative Commission convened to investigate an Appeal by Councillor Christine Scipio

Dated: 08th November 2023

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1. Convening of this Investigative Commission

- 1.1. On 29th September 2023, the Speaker of the St Helena Legislative Council convened an Investigative Commission under Order 7, Enforcement paragraph 7.2(b)(iii) of the Code of Conduct for Members of the Legislative Council made on 16th of December 2022 (the 2022 Code) to inquire into an appeal against a finding made by an earlier Investigative Commission that Councillor Christine Scipio had breached the Code.
- 1.2. The Investigative Commission comprised:
 - a. Deputy Speaker – Chairperson;
 - b. Mr Timothy McDermott – Member;
 - c. Mrs Gonny Hubbard – Member; and
 - d. Mrs Connie Johnson – Secretary
- 1.3. This Commission meets as appointed by Legislative Council, as outlined in Sessional Paper 16/23.¹

The 2018 Code and the 2022 Code

- 1.4. The initial allegation of an alleged breach against Councillor Christine Scipio was made in accordance with the Code of Conduct for Members (the 2018 Code).² The 2018 Code operated until 2022, when it was superseded by a revised Code (the 2022 Code).³
- 1.5. Despite the alleged breach of the Code having occurred during November and December 2020 when the 2018 Code was in application, this Investigative Commission been formed under the 2022 Code, it was correct that the processes of the 2022 Code apply.
- 1.6. Both the 2018 Code and the 2022 Code were provided for Investigative Commissions to determine whether or not the applicable Code has been breached.
- 1.7. Being formed via the Codes of Conduct for the Legislative Council made from time to time, the powers of an Investigative Commission must be interpreted in

1. St Helena Legislative Council, *Panel of Investigators*, Sessional Paper Number 16/23 <<http://www.sainthelena.gov.sh/wp-content/uploads/2023/06/Sessional-Paper-16-Panel-of-Investigators.pdf>>.
2. St Helena Legislative Council, *Code of Conduct for Members of Legislative Council*, Sessional Paper Number 33/18 <<http://www.sainthelena.gov.sh/wp-content/uploads/2018/07/SP33-Code-Of-Conduct-.pdf>>.
3. St Helena Legislative Council, *Code of Conduct for Members of Legislative Council*, Sessional Paper Number 49/22 <<http://www.sainthelena.gov.sh/wp-content/uploads/2023/01/SP-49-22-Code-of-Conduct-for-Members-of-LegCo.pdf>>.

light of the powers of the Legislative Council itself and any explicit or implicit limitations that appear in the Code or specific referral that establishes them.

2. The original complaint and finding of a breach

- 2.1. On 20 July 2021, the Original Investigative Commission provided a report to the Speaker. In relation to Councillor Christine Scipio, that report determined as follows:

The Investigative Commission, having considered the evidence of conduct and actions by Councillor Christine Scipio... concluded that [Councillor Christine Scipio is] in breach of Section 6.5 of the Code of Conduct.

That Investigative Commission recommended as follows:

That Councillor Christine Scipio offer an apology to Councillors Buckley, Henry, Green and Thomas as set out in section 7.2 (a)(i) of the Code of Conduct.

- 2.2. The Original Investigative Commission made equivalent findings in relation to Councillor Jeffrey Ellick, however, this appeal has been made by Councillor Christine Scipio only. It would be inappropriate for this Investigative Commission to make findings regarding Councillor Jeffrey Ellick.

3. The grounds for the appeal

- 3.1. Referring to the Appeal written by Councillor Christine Scipio on 4th August 2021, the following summarises her reasons for objecting to the conclusion of the original investigation:

- 1) Councillor Christine Scipio claims the original Investigative Commission did not carry out a thorough and fair investigation as to establish the truth.

I) In her appeal Councillor Scipio highlights *the transcripts stated that members of Unified Saints and Equality and Human Rights Commission had also received concerns . were [they] interviewed to ascertain the level of concern?*

II) Councillor Scipio highlights that she provided the original Investigative Commission with *'hard copy'* evidence of communications which they didn't include in the report.

- 2) Councillor Christine Scipio claims the original Investigative Commission did not produce any evidence to show that she had indeed misled the public at the HTH meeting.

I) The original Investigative Commission states having considered the evidence of her conduct and actions that she, alongside Councillor Jeffrey Ellick, was 'very vocal' and 'strongly criticising' but provides no more evidence but to say she had misled the public. No proof was provided that the objective of her actions was anything less than maintaining and strengthening the public's trust and confidence in the integrity of the council.

3.2. Councillor Christine Scipio concludes her appeal by saying:

I am mindful of the functions of Executive Council and in my opinion Executive Council damaged their own reputation by not engaging with the electorate. The public wanted to "understand why the decision was made" but the opportunity was not provided.

4. Determination of appeal

4.1. This Investigative Commission decided the grounds asserted by Councillor Christine Scipio at paragraphs 1 through to 7 of her Appeal agitated the following two areas of concern:

- a. that the Original Investigative Commission did not correctly, objectively or fairly establish facts on the basis of the available evidence; and
- b. that the Original Investigative Commission did not correctly apply those facts to the relevant test in clause 6.5 of the 2018 Code.

4.2. These two grounds are clearly relevant to processes undertaken by the Original Investigative Commission, and therefore the outcome, and as such were accepted for consideration by this Investigative Commission.

4.3. Given the need to reformulate somewhat Councillor Christine Scipio's grounds for appeal stated in paragraphs 1 through to 7 of her appeal, the Investigative Commission considered whether or not Councillor Scipio should be afforded an opportunity formally to restate her grounds of appeal so as to bring them squarely within the Commission's powers. This Commission, however, concluded that it did not need to do so because, in this case:

- a. the grounds for Councillor Christine Scipio's appeal were, in any case, sufficiently clear;
- b. given this Commission's preliminary views on this Appeal:
 - i. there would be no unfairness to Councillor Christine Scipio by not inviting her to reformulate her grounds for appeal set

5. Determination of whether this Appeal is frivolous or vexatious

5.1. Paragraph 7.2(k)(i) of the 2022 Code provides that an Investigative Commission may determine that "a complaint is frivolous and vexatious and decline to deal with it".

5.2. The question here is not whether or not the matters or subject of the Original Investigative Commission were frivolous or vexatious (they may have been), but rather whether this Appeal against the adverse finding from that Commission by Councillor Christine Scipio is frivolous or vexatious.

- 5.3. The matters asserted by Councillor Christine Scipio in her various grounds of appeal assert, amongst other things, failures in relation to both the fact finding and decisional processes that were adopted by the Original Investigative Commission. Moreover, the Original Investigative Commission made findings that were adverse to Councillor Christine Scipio, including a recommendation to impose a penalty.
- 5.4. These are issues of substance and this Appeal, therefore, is determined to be neither frivolous nor vexatious.

6. Determination and narrative evidence

As per section 4.1:

The Original Investigative Commission did not correctly, objectively or fairly establish facts on the basis of the available evidence

The Original Investigative Commission did not correctly apply those facts to the relevant test in clause 6.5 of the 2018 Code.

- 6.1. The Report of the Original Investigative Commission purported to find certain facts that were relevant to its ultimate conclusions in relation to the matter.
- 6.2. Specifically, at paragraph 2 in the "Summary" section of its report, that Investigative Commission stated as follows:

It was said verbally but with no written evidence that the public requested a meeting because of a decision made by Executive Council regarding quarantine arrangements for FCDO (United Kingdom Foreign, Commonwealth and Development Office) employees.

(Emphasis added)

- 6.3. To this Investigative Commission, it is entirely unclear what the evidence that the Original Investigative Commission used to establish that "quarantine arrangements" was the reason for the meeting at Half Tree Hollow on the 4th of November 2020.
- 6.4. Indeed, the Original Investigative Commission stated that there was "no written evidence". That Commission did, however, claim "[i]t was stated verbally", but failed to identify who stated it verbally or in what context it was stated.
- 6.5. It is not clear to this Investigative Commission if the statement was made at a time contemporaneous with the Half Tree Hollow Meeting on the 4th of November 2020, or during the course the Original Investigative Commission's inquiry that occurred later.

- 6.6. Equally, it is unclear why the Original Investigative Commission should determine that a public meeting to discuss such arrangements could result in an allegation of a breach of the Code of Conduct.
- 6.7. The Original Investigative Commission stated 'in the Commission's opinion, it was felt that support was being sought from those present as a mandate to remove Executive Council'.
- 6.8. Even if this were the case, this falls within the scope of the inherently political dimension of the role of an elected Member.
- 6.9. The report, through the use of emotive language such as 'incomprehensible' purports that Councillor Christine Scipio *'knowingly misled the public at the meeting on the 4th November'* and both her and another Councillor could have conducted the meeting differently due to knowledge Councillor Jeffrey Ellick had received on the morning of the public meeting whilst sitting as a member of the Public Health Committee.
- 6.10. This Investigative Commission does not support that analysis. After reviewing the minutes of the Public Health Committee (Open Agenda), dated 4th November 2020, it is clear that under item 37.06 the criteria for exemption from quarantine was discussed at length.
- 6.11. A press release⁴ by the St Helena Government dated 22nd of October 2020 clearly states 'no changes to quarantine arrangements', yet the Incident Executive Group (a closed meeting, consisting of Executive Councillors) made a decision on the 23rd of October 2020 to exempt a number of FCDO employees from the requirement to quarantine at Bradleys.
- 6.12. Indeed, the Hansard from Legislative Council on 11th of December 2020 notes that on the 3rd of November Executive Council agreed an exemption for a small number of journalists.
- 6.13. Furthermore, there is no evidence in the Original Investigative Commission's findings that they had considered the press release nor seek to confirm or consider the communication between the Governor's office and Executive Council, as referenced at both the HTH meeting and in Councillor Scipio's appeal.
- 6.14. Therefore, this Investigative Commission cannot support the Original Investigative Commission's statement that *'a decision was made by the Proper Officer for home quarantine therefore it was not a political decision'*. As a political decision it is within the right of all elected members to challenge.

4. St Helena Government, 'No Changes to Quarantine Arrangements,' *Press release*, 22nd of October 2020 <<http://www.sainthelena.gov.sh/2020/news/no-changes-to-quarantine-arrangements/>>.

- 6.15. Given that the Original Investigative Commission appears to have not reviewed these evidences, this Investigative Commission must conclude that they did not determine the facts based upon the evidence available.
- 6.16. An Investigative Commission, being a creation of the Legislative Council, is able to consider materials that are protected in other contexts by the privileges enjoyed by the Legislative Council and its Members. Specifically, an Investigative Commission is able to consider the Hansard of the debates in the Legislative Council, transcripts of Committee hearings, and documents tabled in either the Legislative Council or a Committee.
- 6.17. Similarly, in paragraph 3 of the "Summary," the Original Investigative Commission found as follows:

No thought was given by Councillor Christine Scipio ... with regards to other functions or achievements that were made by Executive Council during their tenure.

- 6.18. This is a finding as to Councillor Christine Scipio's state of mind at some unstated point in time. Again, it is unclear what the evidence the Original Investigative Commission relied upon to determine the purported state of mind of the Councillor.
- 6.19. In the view of this Investigative Commission, both these issues demonstrate that the Original Investigative Commission did not find facts on the basis of available and credible evidence.
- 6.20. Based on this finding, it has been incumbent on this Investigative Commission to re-establish the facts the subject of the original complaint to reach its determination.
- 6.21. The Original Investigative Commission appears to this Investigative Commission to have not applied the facts (such as they were established) to the requirements of the clause 6.5 of the 2018 Code, which deals with the "Behaviour" of Members. Again, and relevantly, that clause provided as follows:

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 [Legislative] 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 [Legislative] Council.

...

(Emphasis added)

6.22. In the fourth paragraph of the "Summary" section of its Report, the Original Investigative Commission stated as follows:

It does beg the question why a Motion [of no confidence in Executive Council] was brought to Formal Legislative Council for the removal of the Executive Council (albeit that was what some of the people at the meeting requested), as this could easily damage the reputation of Executive Council Members for the future. Even if Executive Council made this decision, no consideration was given to the factors if any, surrounding such decision being made...

(Emphasis added)

6.23. It appears to this Investigative Commission that the Original Investigative Commission applied clause 6.5 to the Executive Council, not the Legislative Council (the body to which it is directed), and then concluded that Councillor Christine Scipio's conduct was in breach of clause 6.5 of the Code because it damaged the "reputation and integrity" of the Executive Council. This is a grave error.

6.24. Further, clause 6.5 of the 2018 Code required that any damage to the Legislative Council be "significant" for it to be a breach of that clause. Nowhere in the Original Investigative Commission's Report is there any consideration of what the meaning of "significant" is, or a statement as to why the Original Investigative Commission concluded that Councillor Christine Scipio's conduct caused "significant" damage to the Legislative Council. As a minimum, the Original Investigative Commission should have set out what it considered the threshold for what constituted "significant" damage to the Legislative Council, and how Councillor Christine Scipio's conduct, as established by the available and credible facts, caused that significant damage.

6.25. Finally, the Original Investigative Commission, at paragraph 4, appeared to suggest that proposing, seconding or supporting a Motion of No Confidence in Executive Council in the Legislative Council could lead to a conclusion that Councillor could be in breach of a Code of Conduct for Members.

6.26. This Investigative Commission has reviewed the Hansard of the 4th of December 2020 Legislative Council sitting at which the relevant Motion of No Confidence was debated.⁵ Throughout the Hansard of that sitting there are a number of statements by other Members to the effect that the Motion of No Confidence was entirely in accordance with the Standing Orders.

6.27. Indeed, in response to the tabling of the motion, Councillor Clint Beard stated '[...] I would hope that you see this as a fair and transparent approach to dealing with your concerns', and Councillor Anthony Green states he will 'respect the democratic process'.

5. St Helena Legislative Council, *Hansard*, 11th of December 2020, <http://www.sainthelena.gov.sh/wp-content/uploads/2021/06/2020Dec11th-LegCo-Transcript_Final.pdf>.

- 6.28. Besides some interventions by the Speaker to deal with interjections by Members who did not have the call, the sitting appeared entirely orderly.
- 6.29. How Councillor Christine Scipio's contribution to that debate, as the individual who put forward the motion, could have caused significant damage to the 'reputation and integrity of the [Legislative] Council' or undermine the 'public's trust and confidence in the integrity of the [Legislative] Council' is entirely unclear to this Investigative Commission.
- 6.30. It could be justly argued, that by using the prescribed mechanism of a vote of no confidence, in accordance with section 37 (1) (f) of the Constitution as it was in 2020, that public trust and confidence has been increased in the sure knowledge that due process has been followed.
- 6.31. Furthermore, the assertion by the Original Investigative Commission that the Motion of No Confidence and actions in the Legislative Council caused 'significant' reputational harm bring into question a wider concern that Councillors should be cognisant of.
- 6.32. Section 70 of the *Constitution* allows the Legislative Council to, via an Ordinance, determine and regulate the privileges of Members of the Legislative Council, subject to a limitation that the privileges so determined 'shall not exceed the corresponding privileges, immunities and powers of the House of Commons of the United Kingdom or of its members.'⁶ Via the *Legislative Council Proceedings Ordinance 1974*, the Legislative Council has determined the privileges of Members.
- 6.33. Notably for present purposes, section 3 *Legislative Council Proceedings Ordinance 1974* provides for immunity in legal proceedings to a Member in relation to words spoken by that Member in either the Legislative Council, or a Committee of the Whole. This protection provides for freedom of speech in the Legislative Council and its Committees in a similar way to article 9 of the *Bill of Rights 1689* (UK) does in relation to the Parliament at Westminster.
- 6.34. Further, section 4 of the *Legislative Council Proceedings Ordinance 1974* provides that records of debates (the Hansard) and documents tabled in the Legislative Council are not admissible in any court.⁶ This protection also appears to have its origins in article 9 of the *Bill of Rights 1689* (UK).
- 6.35. While not explicitly stated in the *Legislative Council Proceedings Ordinance 1974*, both principle and the practice in other similar parliaments support the view that the privileges of Members extend to Members' participation in any Standing or Select Committee of the Legislative Council. This view is a simple consequence of the fact that Standing and Select Committees are creations of

6. Subject to a proviso that the Governor may approve the admission of such evidence in a proceeding in a court.

the Legislative Council, and—absent some reason to conclude otherwise—they should be assumed to have all the powers and privileges of the Legislative Council itself. Moreover, to not adopt this interpretation would fetter one of the key powers of the Legislative Council; to hold the Executive Council to account via committees that enjoy the full breadth of the powers and protections that the Legislative Council itself possesses.

- 6.36. This Investigative Commission contends that the Code of Conduct must be read in light of the privileges enjoyed by Members, as provided for by the *Legislative Council Proceedings Ordinance 1974*. In particular and in the view of this Investigative Commission, the Code of Conduct cannot be interpreted or applied in a way that would allow it to impinge upon the privileges of the Legislative Council and its Members, such as the right to freedom of speech within the Legislative Council and its Committees.

7. Power of Legislative Council to regulate the conduct of its proceedings and control the conduct of Members

- 7.1. As part of its determination of an outcome of this Appeal, the Investigative Commission is mindful of the manner by which the initial allegation was made, and the findings of the Original Investigative Commission.
- 7.2. While the Code of Conduct supports the regulation of the conduct of Members by the Legislative Council, it is not the only mechanism by which the Legislative Council may regulate the conduct of Members. In particular, the Standing Orders provide for the regulation of debate within the Legislative Council, and provides the Speaker the power to deal with conduct that is disorderly. While conduct in the Legislative Council might conceivably be so grossly disorderly that it might also sustain a complaint under the Code of Conduct, the Standing Orders would appear to be the primary way by which disorderly conduct in the Legislative Council should be dealt with. It would be extraordinary if conduct in the Legislative Council or a Committee that was not in breach of the Standing Orders could nonetheless be found to be a breach of a Code of Conduct.
- 7.3. The *Constitution* as it was in 2020 provided for the regulation of the conduct of its own proceedings by the making of Standing Orders. In 2020 section 68 in Part 5 of the *Constitution* provided as follows:

Standing Orders

68. The Legislative Council may make, amend and revoke Standing Orders consistent with this Constitution for the regulation and orderly conduct of its proceedings and the despatch of business and for the passing of Bills and for their presentation to the Governor for assent.

(Emphasis added)

- 7.4. Section 71 in Part 5 of the *Constitution* as it was in 2020 provided for a Code of Conduct for Members of the Legislative Council. It stated as follows:

Code of Conduct

71. Subject to this Constitution and to any other law, and to the Standing Orders of the Legislative Council, a Code of Conduct, approved by the Legislative Council, shall detail the behaviour expected of members of the Executive Council and of the Speaker and other Members of the Legislative Council, and shall regulate their relationship with officers of the St Helena Public Service.

- 7.5. Taken together, sections 68 and 71 allowed the Legislative Council to make rules to regulate the conduct of Members.

Standing orders

- 7.6. In various ways, the Standing Orders impose rules about how the Legislative Council shall conduct its business.

- 7.7. While many of the rules in the Standing Orders may have significance at different times, for present purposes it is noteworthy that clause 7 within Rule 6 in the "Preliminary" section of the Standing Orders as they were in 2020 provided as follows:

Rule 6. Speaker's and Chairperson's Power to enforce order

...

(7) The Speaker may direct a Member whose conduct is grossly disorderly, to withdraw immediately from the Council Chamber for the remainder of the sitting.

8. Conclusion

- 8.1. This Investigative Commission finds that the original complaint was ill conceived, and could not, even if the facts asserted in the original complaint were established, ever be the basis for a finding that Councillor Christine Scipio breached clause 6.5 of the 2018 Code.
- 8.2. Put simply, the complaint is directed at purported damage to the Executive Council, not the Legislative Council. Clause 6.5 of the 2018 Code only applied to the Legislative Council.
- 8.3. The determination of this Investigative Commission is that Councillor Christine Scipio put forward a motion, that was in compliance with the Standing Orders, in the Legislative Council on the 11th of December 2020, as was her right as a sitting Member of the Council, and as such the findings of the Original Investigative Commission, specifically in relation to the Motion of No confidence, cannot be accepted as fair or correct.
- 8.4. The Original Investigative Commission's report made a ruling that Councillor Christine Scipio misled the public at the meeting on the 4th of November 2020, yet this Investigative Commission cannot find evidence to support that, but on

the contrary, are satisfied that the information provided at that meeting, was consistent with the messaging that the St Helena Government and Executive Council had provided the public on a number of days prior.

- 8.5. Directly reflecting on Councillor Christine Scipio's grounds of appeal, *that the commission did not carry out a thorough and fair investigation as to establish the truth*, this Investigative Commission would contend that the investigation undertaken by the Original Investigative Commission potentially exceeded the remit given to it as a creation of the Legislative Council. As any individual Investigative Commission's powers are confined to the specific matter or matters that are referred to it for determination, an Investigative Commission is not a free ranging inquiry into any controversy that appears before it; it must only deal with those matters referred to it for determination by, ultimately, the Legislative Council and determine those matters using powers no broader than those conferred upon it by the Legislative Council.
- 8.6. By reporting subjectively, basing the rulings on such determinates as 'we found a bit strange' or Councillors failures to give regard to 'other functions or achievements', the Original Investigative Commission demonstrated that it was unable to provide a fair and balanced review of the allegations.

9. Interviews

- 9.1. While ordinarily an Investigative Commission would seek to afford at least the Member to whom a complaint is directed an opportunity to respond to the facts alleged and the alleged breach of the relevant Code, in this case and given the grounds of appeal asserted in this matter, there was no need to conduct interviews with Councillor Christine Scipio, the complainants, or any other person.

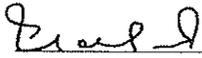
10. Decision

- 10.1. This Investigative Commission has determined that there is no clear and demonstrable evidence available that enables it to make a finding that Councillor Christine Scipio did, via the conduct alleged in the original complaint, breach clause 6.5 of the 2018 Code of Conduct for Members of the Legislative Council.
- 10.2. This Investigative Commission does not support the findings or outcomes in the Report of the Original Investigative Commission made on the 20th of July 2021.
- 10.3. For the reasons set out above, **this Investigative Commission upholds Councillor Christine Scipio's appeal in full.**

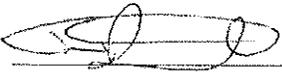
11. Recommendation

11.1. This Investigative Commission recommends that in accordance with Section 7.8 of the 2022 Code of Conduct that **No Sanction be Imposed.**

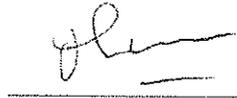
Signed:



Deputy Speaker



Mr Tim McDermott



Mrs Gonny Hubbard



REPORT BY THE FIRST INVESTIGATIVE COMMISSION
ON THE INVESTIGATION OF A COMPLAINT MADE BY
COUNCILLORS LAWSON HENRY, CRUYFF BUCKLEY,
DEREK THOMAS AND ANTHONY GREEN

INVESTIGATIVE COMMISSION

20th July 2021

Report on Investigation into the complaint laid against Councillors Gavin Ellick, Christine Scipio and Jeffrey Ellick by Councillors Lawson Henry, Cruyff Buckley, Derek Thomas and Anthony Green

Preliminary

The Code of Conduct is approved by the Legislative Council to provide guidance to Members as to the 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.

Complaint

- ❖ Complaint against Councillors Gavin Ellick, Christine Scipio and Jeffrey Ellick alleges that the said Councillors had sought support from members of the Public who attended a meeting held in the Half Tree Hollow Community Centre on the 4th November 2020 to use as their mandate from the Public to remove from office Members of the Executive Council.
- ❖ As a result of this meeting a motion was brought to Formal Legislative Council on the 11th December 2020 by Councillor Scipio, which has subsequently led to further criticism of Members of Executive Council, which undoubtedly stems from a home isolation issue. Executive Council contend that Councillor Jeffrey Ellick in particular, knowingly misled the public at the meeting on the 4th November 2020, as he was fully aware from the information he received at a Public Health Committee meeting that same morning that the home isolation decision was one taken by the Proper Officer based in law, which all Elected Members were party to.
- ❖ Attention is drawn to 6.5 (a) of the Code of conduct which states “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 its Members generally. Members should at all times conduct themselves in a manner which maintain and strengthen the public’s trust and confidence in the integrity of the council.

Enforcement

In accordance with the Code of Conduct, section 7.1(c) – Enforcement, we the Investigative Commission carried out an investigation on the above complaint as instructed by the Hon Speaker.

Summary

On receiving the complaint made by the abovenamed Executive Council Members, the Investigative Commission was formed, consisting of Mr Merlin George, Mr Paul Laban and the Deputy Speaker. The Commission met and studied the transcript of the meeting held at the Half Tree Hollow Community Centre on the 4th November 2020, by Councillors Gavin Ellick, Christine Scipio and Jeffrey Ellick, along with the two emails provided by the Complainants. The Commission then made the decision to interview the three Councillors in question.

It was said verbally but with no written evidence that the public requested a meeting because of a decision made by Executive Council regarding quarantine arrangements for FDCO employees. At the meeting in question Councillors Christine Scipio and Jeffrey Ellick were both very vocal against Executive Council, strongly criticising their colleagues for making the decision on home isolation for FDCO employees, and accusing them of being dishonest and in the Commission's opinion, it was felt that support was being sought from those present as a mandate to remove Executive Council.

Executive Council is the decision-making body and so it would be incomprehensible to think that all decisions made by them would appease everyone. The Commission felt that the meeting could have been conducted differently. Councillor Jeffrey Ellick was aware from a Public Health meeting, held earlier that same morning of the meeting in Half Tree Hollow, that a decision was made by the Proper Officer for home quarantine therefore it was not a political decision. With this information, the Commission felt that Councillor Jeffrey Ellick should have recognised that no exemption was in place and therefore should have tried to sort out this matter internally. No thought was given by either Councillor Jeffrey Ellick or Councillor Scipio with regards to other functions or achievements that were made by Executive Council during their tenure.

It does beg the question why a Motion was brought to Formal Legislative Council for the removal of the Executive Council (albeit that was what some of the people at the meeting requested), as this could easily damage the reputation of Executive Council Members for the future. Even if Executive Council made this decision, no consideration was given to the factors if any, surrounding such decision being made, notwithstanding there were comments made at that meeting such as, "couldn't you discuss it amongst yourselves, the way forward", "Politely request that they stand down" and "we need to understand why the decision was made".

It is also did not go unnoticed that with the exception of one other Councillor, no other Councillors were present. When the question was raised, the Commission was told the meeting was announced via the radio, which we found a bit strange when an email could have been sent to their colleagues, informing them of this meeting.

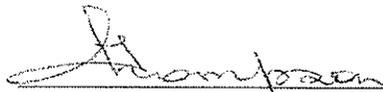
Taking all factors into consideration the Commission's findings are as follows:

1. Although Councillor Gavin Ellick went to the meeting in support of Councillors Christine Scipio and Jeffrey Ellick, there was little participation from him therefore the Investigative Commission concluded that he did not breach Section 6.5 of the Code of Conduct.
2. The Investigative Commission, having considered the evidence of conduct and actions by Councillor Christine Scipio and Councillor Jeffrey Ellick, concluded that both are in breach of Section 6.5 of the Code of Conduct.

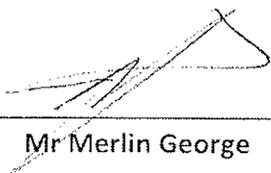
Recommendation:

That both Councillor Christine Scipio and Councillor Jeffrey Ellick offer an apology to Councillors Buckley, Henry, Green and Thomas as set out in section 7.2 (a) (i) of the Code of Conduct.

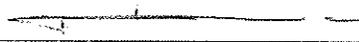
This report will be sent to the Hon Speaker, Mr John Cranfield, and shall thereafter be laid on the table as a Sessional Paper.



Hon Deputy Speaker



Mr Merlin George



Mr Paul Laban

