



The Government of Sark

**Code of Conduct
Conseillers of Chief Pleas**

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GLOSSARY

Absolute Privilege	The provision of immunity, allowing Conseillers to speak freely within Chief Pleas on any matter regardless of the power, wealth or status of those criticised and providing a complete defence to proceedings arising as a result of what is said. This immunity, conferred by section 33 of the Reform (Sark) Law, 2008, is balanced by the responsibility of the Conseiller to always act in the public interest in a selfless, accountable and honest manner
Assessment Criteria	The criteria used by the Conduct Panel acting as a guide in their investigation of an alleged breach of the Code. These criteria will be reviewed on a regular basis by the Policy Development Group and reported to Chief Pleas with a proposition for the suggested changes
Conduct Panel	A panel independent of Chief Pleas consisting of at least five members, of which at least three will form an Investigation Panel, who will assess a complaint following the procedures laid out in the Code of Conduct. Panel members may not represent or advise individual Conseillers. The Panel may not be contacted in any way by the Complainant whilst an investigation is underway
Conflict of interest	Any person involved in the procedure of handling an Assessment or Review who has any personal or professional conflict of interest must withdraw from any involvement with the procedure. This also applies to any person who may have advised the Conseiller in question on the matter prior to the allegation of a breach being made
Guiding Principles	The seven principles used to guide anyone who acts in public life – Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty, Leadership
Independent Person	A person, usually a resident of Sark, who is not a member of Chief Pleas, who acts as a reviewer of the case and the procedures used in the investigation
Investigation Panel	The group of at least three members of the Conduct Panel, who will undertake the investigation of an alleged breach of the Code of Conduct in any given case, following the procedures laid out and meeting the timescales set out in the Code of Conduct
Overriding criteria	The three tests that must be applied in the initial assessment of a complaint. If the three tests are satisfied, then the alleged breach will be investigated by the Investigation Panel following the procedures set out in the Code of Conduct
Privilege Panel	An independent Panel appointed to review the conduct of Conseillers solely in relation to an alleged abuse of Absolute Privilege
Review Panel	An independent panel who will review the allegation and all related evidence should either the complainant or Subject Conseiller request a review in writing. The findings of the Review Panel are final, with no further right to review
Subject Conseiller	Conseiller who is subject to the allegation of a breach of The Code
The Code	This Code of Conduct for Conseillers of Chief Pleas

1 CODE OF CONDUCT - CONSEILLERS OF CHIEF PLEAS

1.1 Purpose

To act as a guide to all Conseillers of Chief Pleas on the way in which they should behave and conduct themselves in their public lives. It also acts as a guide to Conseillers in the conduct of their private lives to the extent only that such matters may impinge on their public roles.

1.2 Duties of a Conseiller

- a) All Conseillers shall either take an oath or affirm to bear true allegiance to Her Majesty the Queen, her heirs and successors as set out in the (Election of Conseillers) (General Provisions) Ordinance 2008.
- b) All Conseillers shall take an oath or affirm that they will promise to undertake and perform their duties 'faithfully and well'.
- c) All Conseillers have a duty to respect and abide by the Rule of Law and to act in the public interest without fear or favour.
- d) All Conseillers shall complete a Declaration of Interests form prior to taking office and lodge this form with the Greffe Office

1.3 Individual conduct

All Conseillers shall follow the main guiding principles of public life, that of: Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership.

1.3.1 Selflessness

Decisions taken by Conseillers should be in the public interest and the island's interest and not in a way that intentionally benefits themselves, their family, friends, business or any voluntary organisation that they might work with. This is particularly important for those Conseillers who also are employed as public service employees

1.3.2 Integrity

Conseillers should not allow themselves be subject to financial or other influences from outside individuals, groups or organisations, thus affecting the carrying out of their official duties

1.3.3 Objectivity

Conseillers should make their decisions regarding the awarding of contracts, appointments or rewards based on merit

1.3.4 Accountability

Conseillers will be subject to scrutiny in regard to any of the actions and decisions they may make whilst in public office

1.3.5 Openness

Conseillers shall be open and clear about any decisions and actions they may make, whilst observing the boundaries of confidentiality where necessary in the public interest or for contractual or statutory reasons

1.3.6 Honesty

Conseillers shall declare any private interest, including friends and relatives etc they may have affecting any matter within their public duties at the first opportunity, ensuring that any conflicts are addressed, thereby protecting the public interest. Public interest should take priority over private interest

1.3.7 Leadership

Conseillers have a duty to lead by the example of these six tenets

1.4 Chief Pleas

Conseillers conduct should at all times be in a manner which supports Chief Pleas, not to bring it into disrepute and endeavours to promote the public's trust in Chief Pleas

1.5 Civil Servants, administrators

Conseillers should treat all civil servants and administrators with respect and courtesy even when there is disagreement during the normal process of work on policy as part of the political process

1.6 Gifts, hospitality, Island owned facilities

Conseillers should not accept any gift or receive hospitality, no matter how small, that might be construed as an undue influence on their political duties or even to be perceived as a bribe.

Conseillers must not use Island owned facilities or assets for their own private benefit

Conseillers must make it clear at meetings of Chief Pleas and at all government related meetings any private interest including that of relatives and friends etc that they may have in relation to the topics under discussion. This may include withdrawal from any such meeting

1.7 Confidentiality

All Conseillers must be aware of their obligation to maintain confidentiality of all matters arising within standing committee meetings and not to use any information thus obtained for their own gain. This obligation extends to the use of information for the benefit of family friends, business colleagues and any charitable organisation with which they work

Conseillers shall be aware of their duties and obligations in relation to Human Rights and Data Protection legislation and the effects of breaching an individual's right to privacy. Release of any information personal to others must be lawful and in the public interest

1.8 Privilege

All Conseillers are covered by Absolute Privilege under the law. This provides immunity allowing all Conseillers to speak in Chief Pleas on any matter regardless of the power, wealth or status of those criticised. Even if what is said and later published would otherwise amount to a criminal offence.

This immunity is balanced by the responsibility of all Conseillers to always act in the public interest in a selfless, accountable and honest manner. Abuse of this privilege may cause the Conseiller to be investigated by a Privileges Panel and if found to be abusing his position of privilege may be reprimanded, suspended or removed by his public office by a meeting of Chief Pleas.

Failure of a Conseiller to cooperate with the Privileges Panel will be deemed to be a breach of the Code of Conduct

1.9 Suspension

A Conseiller subject to a period of suspension may not take part in any business of Chief Pleas including all government related meetings, any committee, development team or any informal meeting or receive government business related communications, face to face, phone, fax, email, post, hand written and delivered for the period of their suspension

2 PROCEDURE FOR THE ASSESSMENT AND DETERMINATION OF ALLEGATIONS OF BREACHES OF THE CONSEILLER'S CODE OF CONDUCT

The Chairman and members of the Conduct Panel and the Investigation Panel are independent of Chief Pleas

The Independent Person is a person independent of Chief Pleas and of the Conduct Panel who will act as a reviewer of the case and the procedures used.

The Panel members do not represent or advise the Subject Conseillers.

There is no right for the Complainant to contact or seek the views of the Panel Members or influence the Panel Members in any way once a complaint is being investigated.

All allegations will be dealt with fairly, objectively and consistently.

This procedure will be reviewed from time to time to ensure the procedure is appropriate and is compatible with acceptable standards at that time, with those changes being reported to Chief Pleas.

2.1 Submission of a Complaint

All complaints must be submitted in writing, this includes fax transmission and email.

Complainants should ideally use the complaints form (to be found on the Sark Government website) which may be used in hard copy format or filled in electronically.

Should a verbal complaint be made the Complainant will be asked to provide a written complaint. If the Complainant is unable to make a written complaint through disability then it is possible to transcribe the complaint onto the complaint form and be signed or otherwise indicated that this is the complaint that is to be presented.

If the Complainant is unwilling to present a written complaint in the accepted format, or is unwilling to sign a transcript then unless the Chairman of the Conduct Panel is satisfied by the reasons for this omission then the complaint will be regarded as not justifying further action. A letter confirming this situation will be sent to the Complainant to confirm this within seven working days of that decision.

Anonymous complaints will be rejected and recorded as rejected. This does not include complaints where the Complainant requests confidentiality (see Section 2.4)

Should the complaint not relate to an individual Conseiller then the complaint will be passed to the relevant part of the Government of Sark for dealing with in the appropriate way.

Complaints submitted electronically should use the on-line form.

Complaints submitted by email should be sent to conduct.panel@gov.sark.gg

Complaints in hard copy should be sent to the Chairman, Conduct Panel, Committee Offices, Chasse Murette, Sark, GY10 1SF

2.2 Processing and Determination of Complaints

When a complaint is received the Chairman of the Panel will acknowledge receipt within five working days.

The Chairman of the Conduct Panel will consider the received written complaint and if he believes the alleged behaviour by the Conseiller falls within the Code of Conduct he begins the assessment of the allegation by the Conduct Panel, as laid out in, this procedure. This initial assessment should normally be done within 10 working days.

If the Chairman, who may be assisted by an Investigation Panel Member if necessary, considers that the alleged breach falls outside the Code of Conduct or is considered to be covered by one of the criteria below, then the complaint will not usually progress beyond this initial stage and the Complainant will be informed in the manner laid out below.

- a) If the complaint is the same or substantially the same as a complaint previously dealt with
- b) If the period since the alleged behaviour is so significant that it is considered to be inequitable, unreasonable or otherwise not in the public interest to pursue
- c) If the complaint is trivial
- d) If the complaint discloses such a minor or technical breach of the Code that it is not in the public interest to pursue
- e) If the complaint appears to be malicious, politically motivated, tit-for-tat or otherwise submitted with an improper motive and the complaint is not otherwise considered to disclose sufficiently serious potential breaches of the code to merit further consideration
- f) If the complaint is considered by the Panel Chairman to be a persistent and vexatious complaint and is not considered to disclose sufficiently serious potential breaches of the Code to merit further consideration
- g) If the Conseiller against whom the allegation has been made has remedied or made reasonable endeavours to remedy the matter and the complaint does not disclose sufficiently serious potential breaches of the Code to merit further consideration
- h) If the complaint is about a person who is no longer a Conseiller and there are no overriding public interest reasons to merit further consideration

If the complaint is not progressed the Chairman of the Conduct Panel will notify the Complainant in writing with the reasons. He will also write to the subject Conseiller with details of the complaint, the decision made and the reasons for the decision within 10 working days.

Unless confidentiality has been requested and the Chairman of the Conduct Panel considers that request to be justified, the name of the Complainant will be disclosed to the subject Conseiller. Where confidentiality is granted this will be confirmed to the subject Conseiller together with the reasons for granting it, but not so as to enable the Complainant to be identified.

Where the Chairman of the Conduct Panel determines the allegation falls within the scope of this procedure, an assessment of the complaint will be undertaken by the Conduct Panel. This panel is usually made up of three members including the Chairman, but may be up to five members in total. The Panel is quorate with three members.

The Conduct Panel may in appropriate circumstances pass to the Police any allegations it receives which the Panel believe may constitute a criminal act.

Once the initial assessment has been carried out the following procedure shall be followed:

1	<p>The Chairman of the Conduct Panel will write to the Subject Conseiller with:</p> <ul style="list-style-type: none"> • Details of the complaint • Unless confidentiality has been agreed, the name of the Complainant • The name and details of the Independent Person who the subject Conseiller may contact to seek their views • Where confidentiality has been agreed the reasons for this being granted will be communicated to the Subject Conseiller without identifying the Complainant • Confirmation of the Subject Conseiller's right to provide a written response to the complaint to the Chairman of the Conduct Panel
2	<p>When the Subject Conseiller(s) wishes to provide a written response, this must be received by the Chairman within 10 working days of the notification of the complaint. Any response must be limited to two sides of A4 plus any additional supporting documentation</p>
3	<p>The Subject Conseiller(s) Shall notify the Chairman if:</p> <ul style="list-style-type: none"> • They do not wish to provide a written response to the complaint <p>Or</p> <ul style="list-style-type: none"> • They require additional time to make a written response. Any request for an extension of time will considered by the conduct panel
4	<p>The Conduct Panel will carry out an assessment of all written submissions and supporting documentation. A written report based on the Assessment Criteria and all the documentation will be prepared. Further documentation may be requested by the Panel. The Panel may request attendance of the Complainant and the Subject Conseiller for interview.</p>
5	<p>The report will be reviewed by the Independent Person to ensure all proper procedures were undertaken in full. (See Glossary and Section 3.4)</p>
6	<p>The report will include recommendations following the investigation, which may include the following:</p> <ul style="list-style-type: none"> • Find no breach of the Code • Find a breach of the Code, but because it is so minor or trivial recommend no sanction be undertaken by Chief Pleas • Find a breach of the Code and recommend a sanction by Chief Pleas • Find that a potential offence appears to have been committed and report the matter to the Police and undertake no further action until the Police have concluded their investigation and/or prosecution.
7	<p>The outcome of the assessment will be notified to the Complainant and the Subject Conseiller at the same time and no later than 28 working days from the Chairman of the Panel assessed the complaint as being subject to this procedure and requiring the Conduct Panel to assess the complaint.</p>

2.3 Review of the Assessment and Findings

- a) The Complainant and Subject Conseiller(s) have 15 working days from the date of notification of the Assessment Findings to make a written request for a review.
- b) Any request for a review will be acknowledged to the Subject Conseiller(s) within 5 working days of receipt by the Chairman of the Conduct Panel.
- c) Any review may only be undertaken where new evidential reasons for the request have been made and fresh supporting documentation is also presented at the time of the request for a review.
- d) Any request for review must be assessed by members of the Conduct Panel who were not involved with the original complaint. The quorum of the Conduct Panel shall be three members. The members must assess if new evidence and any supporting documentation disclose sufficient grounds to proceed with a review. A decision whether a review may or may not be undertaken must be made with 15 working days of the request for a review being received.

Should grounds for a review be found to have occurred the following stages shall be followed:

1	<ul style="list-style-type: none"> • The Chairman will write to the parties involved confirming that a request for a review has been received and the reasons for the request • The Chairman will confirm if the request for a review is accepted • Give the subject Conseiller details of the Independent Person that they may contact to seek their views • Confirm the right of the Complainants or subject Conseiller's right to provide a written response
2	<p>Any Complainant or subject Conseiller has 10 working days from the notification of the request for review to provide a written response.</p> <p>This written response must be no more than two sides of A4 plus any additional supporting documents. Copies of supporting documents are acceptable.</p>
3	<p>The Complainant or subject Conseiller should notify the Chairman if they do not wish to make a written response within the 10 working days. The Chairman will notify the other party if this is the case.</p> <p>Should an extension of time be required to prepare a written response to the request then a written request for an extension must be made to the Chairman.</p> <p>This request will then be considered on its merits.</p>
4	<p>The Review Panel will consider the request and all relevant documentation provided and any written response. The Panel will then prepare a report with its recommendations. The options available to the Review Panel are listed in Section 3.4</p>
5	<p>The outcome of the review will be notified in writing to the Complainant and Subject Conseiller within 28 working days from the date the request for a review was received.</p>
6	<p>No further right to review will arise</p>

Should it not be possible for the Review Panel to complete the procedure in the expected timescale, the Chairman will contact both parties to inform them as to why this is the case and giving a timescale in which the review will be completed. No further extension of time for the review will arise.

Meetings of the Conduct Panel and Review Panel will be held in private with meeting notes being taken.

The report on the findings of an Assessment and any Review will be placed on the agenda of the next Chief Pleas meeting. This may necessitate the calling of an Extraordinary Meeting. The route for the report to come to Chief Pleas is via the relevant committee with responsibility for the Reform Law.

Chief Pleas will be asked to vote on the proposition to accept the report and impose the sanction/s recommended in the report.

Both the Conduct and Review Panels may request the attendance of relevant witnesses to clarify points made within the complaint and any request for a review.

All relevant files and documentation regarding any proceedings will remain confidential to the Conduct Panel and Review Panel.

Copies of the Assessment Report and the Review Report will be made available to the public on the government website. These reports may be redacted where confidentiality was agreed by the panels concerned.

2.4 Confidentiality

It is fair that Conseillers who are complained about have a right to know who has made the complaint and to be provided with the details of the complaint so that they may respond to the complaint. It is unlikely that the identity of the Complainant will be withheld unless it is considered that the Complainant has demonstrated that it is appropriate to do so. Any request for confidentiality will be considered by the Chairman of the Conduct Panel or his nominee.

Each request for confidentiality will be considered on its own merits and in determining such a request the following shall be considered:

- a) Whether the Complainant reasonably believes that he, or those connected with him, will be at risk of harm if their identity is disclosed,
- b) That that the Complainant is reasonably concerned about the consequences to his employment, or those connected to him, if his identity is disclosed;
- c) That he suffers, or somebody closely connected to him suffers, from a medical condition and there is evidence of medical risks associated with his identity being disclosed or confirmation from an appropriate medical professional that that is the case;
- d) The public interest. In some cases, the public interest in proceeding with the complaint may outweigh the Complainant's wish to have their identity withheld.

Requests for confidentiality will not automatically be granted. If confidentiality is granted the subject Conseiller will be advised of that fact and the reasons, but not so as to indirectly disclose the Complainant's identity. The request will be considered alongside the substance of the complaint.

If the request for confidentiality is not granted, the Complainant will normally be allowed the option of withdrawing the complaint. In exceptional circumstances, where the matter complained about is of a serious nature as detailed in the Assessment Procedure

referred to above, it may be decided that it is in the public interest to take appropriate action on the complaint, even if the Complainant has withdrawn the complaint.

2.5 Withdrawal of complaints

A withdrawal of a complaint prior to the Assessment stage will normally be allowed except if:

- a) The public interest in the complaint outweighs the complainant's desire to withdraw the complaint
- b) The complaint may still be able to be considered without the Complainant's participation
- c) The Assessment or Review Panels believe the Complainant has been pressured into withdrawing the complaint. This pressure may be from any source, including pressure from parties unconnected with the subject Conseiller.
- d) Where a complaint is withdrawn the panels may refer the matter to the Police if they believe the information already before them may constitute a criminal offence.

2.6 Conflicts of interest

Should any person involved with the procedure in handling an Assessment or Review have any personal or professional conflict of interest he must cease to have any further involvement with the matter.

Any person who may have advised the subject Conseiller on the matter prior to the receipt of a complaint must abstain from further involvement in the procedure as laid out.

3 ASSESSMENT CRITERIA

All complaints and review requests will be considered on their merits and based on the facts presented.

The Assessment Criteria used will be regularly reviewed by the Policy Development Group and reported to Chief Pleas and placed on the government website. The Criteria will be used as a guide during the consideration and determination of complaints and reviews of the conduct of an individual(s) Conseiller.

As complaints may vary in their content and reason it is difficult to use a uniform approach. Complaints may vary in their seriousness and level of detail and relevance of detail. Therefore, these Assessment Criteria are a guide, but the overriding criteria will remain the same in the handling of any complaint.

3.1 Overriding Criteria

Three tests will be applied in the Initial Assessment of a complaint:

- Is the complaint about one or more Conseillers?
- Was the Subject Conseiller (or Conseillers) serving at the time of the alleged breach of the Code of Conduct and continues to serve?
- If proven, would the complaint demonstrate a breach of the Conseiller's Code of Conduct?

If the Initial Assessment of the evidence presented resulted in it not being possible to determine if there is a breach of the Code and the level of the alleged breach does not

merit an investigation, in the public interest it is appropriate to find that there is no breach.

If the Initial Assessment of the evidence provided within the complaint does not allow for a determination of a breach and it is not in the public interest to proceed, but it is shown by the Subject Conseiller that an underlying issue exists such that action is still required, such as mediation or training, then 'Referral for other Action' would be the appropriate determination.

If no breach of the Code is found based on the evidence provided and on the balance of probabilities, then this is the determination and no sanction may be imposed. Even if there is no breach of the Code the Panel may still advise that training or mediation may be used for all or some Conseillers to avoid the possibility of this type of complaint being raised in future.

If it is easily found on the Initial Assessment that there is a breach of the Code a full investigation may not be required if:

- a) The Subject Conseiller (or Conseillers) and the Complainant provides information that clearly demonstrates a breach of the Code
- b) The Subject Conseiller (or Conseillers) admits the breach of the Code, whether or not a remedy has been offered by the Subject Conseiller
- c) It can be shown that any investigation is not likely to produce further significant evidence and the cost of obtaining further evidence is not in the public interest or would not alter the evidence that clearly demonstrates a breach of the Code.
- d) A breach of the Code without a full investigation may only be found if the complaint satisfies the Overriding Criteria, as well as showing on the balance of probabilities that a breach of the Code has occurred.
- e) A breach of the Code is found, but that it can be regarded as so trivial or having limited effect, then it may be appropriate to take no further action.

3.2 Referral for Other Action

A complaint may result in the determination of a Referral for Other Action. This may happen if the complaint demonstrates a general rather than a specific issue relating to an individual's conduct.

If this is the determination of the Conduct Panel, then no further investigation may take place nor can a Review take place even if the Complainant is dissatisfied with the outcome of the Other Action Referral.

This determination should only be used where:

- Taking further action provides an opportunity to resolve the issue and prevent similar complaints being made in the future. This promotes good governance.
- The matter that is the subject of the complaint is a potentially less serious breach of the Code than would normally instigate a full investigation by the panel and any benefit gained by such an investigation is not in the public interest.
- If the complaint shows a need for training and improved understanding of the Code of Conduct for a number of Conseillers.

A complaint will normally be referred for an investigation if:

- The complaint passes the initial three tests of overriding criteria Section 3.1

- The Subject Conseiller (Conseillers) has denied the allegation, but the information contained in the complaint indicates that a breach of the Code may have taken place
- The information contained in the complaint indicates a possible serious breach of the Code should be investigated to discount or confirm the allegation and that if any sanction against the Subject Conseiller is deemed necessary that the level of sanction is appropriate.

3.3 Referral to the Police

Should the allegation relate to a possible criminal offence, then the matter will not be subject to a full investigation until such time as the Police have concluded their reasonable enquiries.

3.4 Procedure for action if a breach of the Code has been found to have taken place

On completion of the Initial Assessment, Investigation or Review it has been determined that a breach of the Code has occurred, then the decision notice or investigation report will be passed to the Independent Person.

The decision and or investigation report will then be reviewed by the Independent Person. The Chairman of the Panel will then consult with the Independent Person to consider any sanction that has been decided by the Conduct Panel or Review Panel.

The Chairman of the Panel will then write to the Complainant and Subject Conseiller(s) with the findings of the Panel and the recommended sanction, if any within 7 days of the decision being reached.

The Subject Conseiller(s) and Complainant are then given 10 working days to respond to the Chairman of the Panel.

The Chairman will then consider the responses and the views of the Independent Person prior to determining the actual sanction to be imposed being recommended to Chief Pleas.

The views of the Independent Person will then be passed to the Chairman of the Panel who will then make the final determination in the matter.

Action that may be taken following the determination that a breach by a Conseiller has occurred, whether that is at the conclusion of the Initial Investigation or after an Investigation or after a Review

- a) There is a breach of the Code, but no further action is recommended
- b) The Subject Conseiller(s) may be removed from all parts of government, committees, teams, etc, that he sits on
- c) Training in the Code of Conduct be organised for the Subject Conseiller
- d) That the Conseiller(s) does not represent Chief Pleas, or any part of government at any meeting with representatives, etc, outside Chief Pleas
- e) That the Subject Conseiller(s) meet the Chairman of the Panel to discuss their conduct and explain how that particular breach might be avoided in future
- f) That the Subject Conseiller(s) apologises to the Complainant and to Chief Pleas
- g) Mediation between the Complainant and the Subject Conseiller(s)
- h) Censure by Chief Pleas

- i) Training on the Code of Conduct be undertaken and refreshed by all Conseillers

The Chairman of the Panel will then pass to Chief Pleas:

- The Investigation Report
- The views of the Independent Person
- The Chairman of the Panels indicative findings prior to any investigation
- The representations of the Complainant and the Subject Conseiller(s)
- Any further relevant information

4 CONDUCT PANEL

- a) A Conduct Panel shall be appointed to review Conseiller's conduct and investigate complaints from any source regarding the conduct of any named Conseiller.
- b) All complaints must be based on evidence and received in writing. Unsubstantiated complaints, such as a repeated media reporting, will not be considered.
- c) The Conduct Panel should be comprised of responsible ordinary residents of Sark which may include past Conseillers of Chief Pleas (who are at least one year clear of office).
- d) The panel consists of a Chairman, and up to five members. These persons will be appointed by the Appointments Committee appointed for the purposes of section 5A of the Reform (Sark) Law 2008.
- e) Immediately a complaint is received by the Chairman, it should be acknowledged in writing within five days and reviewed by the Chairman.
- f) If a prima facie case exists, and it is based on the evidence provided, then Chairman will notify the panel and ask for at least two members to join him and be part of the Investigation Panel.
- g) Following the procedure laid out in Section 2.2 the Conseiller(s) who is alleged to be in breach will be notified, in writing, of the complaint and asked to choose a further member of the Conduct panel to join the Investigation panel. If the Conseiller or Conseillers fails to or declines to nominate a panel member, then the Chairman will appoint a further member to the Investigation Panel.
- h) Following the procedure laid out in Section 2.2 the Investigation Panel will then arrange for investigations to take place by designated members of the panel. The Investigation Panel may reasonably request any papers or records it deems relevant to the investigation. This includes any papers that may be in possession of the Conseiller who is alleged to be in breach of the Code.
- i) The Conseiller(s) who is alleged to be in breach will be invited to address the panel and provide all relevant material in the matter.
- j) All Conseillers shall fully co-operate with the panel and any investigation group. Failure to co-operate will be deemed to be a breach of the code of conduct.
- k) Substantiated minor matters may be dealt with by the panel see Section 3.4.
- l) More serious substantiated matters that may require a formal reprimand, suspension or removal from office must be referred to the next meeting of Chief Pleas, with a report from the Investigation Panel recommending the action required, this may require an Extraordinary Meeting of Chief Pleas to be called.

- m) Any substantiated complaint that may involve a possible criminal offence shall be reported by the panel to the police. The Investigation Panel will not sit or consider the matter further until there is confirmation that no further action is being considered by the police and that this has been confirmed in writing.
- n) A record of all received and substantiated complaints and the action deemed appropriate by the panel and Chief Pleas shall be kept at the Greffe Office for a minimum of seven years from the conclusion of the investigation.
- o) At the conclusion of the investigation of a substantiated complaint the report from the Conduct Panel with its recommendations will be placed on the Sark Government website.

5 PRIVILEGE PANEL

A Privilege Panel shall be appointed to review Conseillers conduct related to an alleged abuse of Absolute Privilege.

- a) The panel shall consist of a Chairman and three other members who should be past members of Chief Pleas (who are at least one year clear of office).or other suitable ordinary residents of Sark.
- b) Any allegations of an abuse of privilege by a Conseiller of Chief Pleas should be made in writing to the Chairman of the panel. He will then inform the Conseiller of such an allegation in writing and ask the panel members to arrange to meet to review the allegation and all related materials such as the Hansard recording of the meeting of Chief Pleas. Any papers related to the alleged breach can reasonably be requested by the panel, even if those papers are in the possession of the Conseiller alleged to be in breach.
- c) If a prima facie case is deemed to exist, the panel will invite the Conseiller alleged to be in breach to discuss the matter.
- d) Any Conseiller alleged to be in breach who fails to co-operate with the panel during the investigation and at the meeting will be deemed to be in breach, even if the Conseiller believes that the claim is unsubstantiated.
- e) At the conclusion of the investigation the panel will report to Chief Pleas with their findings, even if the alleged breach is unsubstantiated. The panel will advise as to whether Chief Pleas should reprimand, suspend or expel the offending Conseiller. If suspension is recommended by the panel, the terms of the suspension should be laid out in order for Chief Pleas to vote on the proposition of suspension.

APPENDIX 'A' CODE OF CONDUCT COMPLAINT GUIDANCE NOTES – FOR THOSE WHO WISH TO MAKE A COMPLAINT

Important – Please read the following guidance notes before completing this form. It is important that you give us the information we need to make a reasoned and informed decision on your complaint.

(Although not essential, you may wish to refer to the document – Procedure for the Assessment and Determination of Allegations of Breaches of Conseillers Code of Conduct on the Sark Government website.)

Code of Conduct Complaint Form Guidance Notes

A1 Detail of your complaint

In order to assist the Chairman of the Conduct Panel make an initial assessment of your complaint please make sure you have:

- a) Included your contact details in case any clarification or explanation is required relating to your complaint
- b) Identified one or more Conseillers by name as the focus of your complaint. This procedure relates only to complaints relating to individual Conseillers and not Chief Pleas as a whole or its committees. Neither does it cover any employee of Chief Pleas.
- c) Identified from the tick box list on this form the relevant areas of the Code you think may apply to your complaint
- d) Explained the circumstances and nature of the complaint in detail, including whether you think the Conseiller was acting in an official capacity and, if so, why you think that. You need to give us as much information as possible to inform our decision on your complaint and you need to demonstrate by that information how each areas of the Code you have identified has been breached. (No more than two sides of A4 please)
- e) Supplied electronic links to or copies of any documentation relating to your complaint
- f) Identified whether there are any witnesses or not, and if so, their names and contact details if you know them. It would be helpful if you can obtain consent of anyone so identified to being a witness in support of your complaint
- g) Indicated whether you have complained about this issue before and, if so, to whom and the outcome
- h) Completed the section relating to confidentiality or marked it 'N/A'.

A2 Your details

In normal circumstances when a complaint is received details of the complaint and the name of the Complainant, but not the Complainant's address or other contact details, will be passed to the Conseiller against whom the complaint has been made (who we will refer to as the Subject Conseiller) so that they are able to provide a response to the complaint, so that we can consider both sides in making a decision. This accords with the rules of natural justice.

A3 Confidentiality

If you have serious concerns about your identity or details of your complaint being released to anyone, please complete the section of the form marked 'Confidentiality'.

We believe it is fair that Conseillers who are complained about have a right to know who has made the complaint and to be provided with the details of the complaint so that they may respond to the complaint. We are unlikely to withhold your identity or the details of your complaint unless we consider that you have demonstrated that it is appropriate to do so. Any request for confidentiality will be considered by the Chairman of the Conduct Panel or his nominee.

Each request for confidentiality will be considered on its own merits and in determining such a request the following will be considered:

- a) Whether you reasonably believe that you, or those connected with you, will be at risk of harm if your identity is disclosed;
- b) That you are reasonably concerned about the consequences to your employment, or those connected to you, if your identity is disclosed;
- c) That you suffer, or somebody closely connected to you suffers, from a medical condition and there is evidence of medical risks associated with your identity being disclosed or confirmation from an appropriate medical professional that that is the case;
- d) The public interest. In some cases, the public interest in proceeding with the complaint may outweigh the Complainant's wish to have their identity withheld.

Requests for confidentiality will not automatically be granted. If confidentiality is granted the subject Conseiller will be advised of that fact and the reasons, but not so as to indirectly disclose the Complainant's identity. Your request will be considered alongside the substance of your complaint.

If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint before we act any further. In exceptional circumstances, where the matter complained about is of a serious nature as detailed in the Assessment Procedure referred to above, we may decide that it is in the public interest to take appropriate action on the complaint, even if you have asked us not to. In these circumstances and if you have requested it, the Panel will maintain your confidentiality as if you were pursuing the case.

A4 Submitting your complaint

Ordinarily, you must submit your complaint in writing and this includes fax and electronic submissions. Details are at the foot of the complaint form. If you submit a complaint in a way that is not in accordance with our requirements it is unlikely to be processed.

If you have a disability that prevents you from, or makes it difficult for you to submit your complaint in writing we will assist you in submitting your complaint.

(We may also be able to assist if English is not your first language.)

A5 Important timescales and further information

- a) Acknowledgement of your complaint within 5 working days of receipt
- b) Initial assessment of your complaint within 10 working days of acknowledgement
- c) Determination of your complaint normally within 28 working days of (if taken beyond initial assessment) receipt

- d) Notification of our decision within 5 working days of the determination of the complaint
- e) The steps in the process are explained in more detail in the Assessment Procedure.

We will keep you informed as your complaint passes through each stage and at other appropriate times.

For more information on the procedure for assessing and determining complaints please refer to the Assessment, etc. Procedure referred to at the beginning of this guidance note.

A6 What decisions can be made on a complaint?

This is set out in more detail in the Assessment Procedure, but the following decisions may be made during the assessment and determination of a complaint:

- a) That the complaint should not proceed beyond the initial assessment stage
- b) No finding as to whether there has been a breach of the Code and take no further action
- c) No finding as to whether there has been a breach of the Code but that action other than an investigation is appropriate
- d) Finding of no breach of the Code
- e) Finding of a breach of the Code without an investigation and impose no sanction
- f) Finding of a breach of the Code without an investigation and impose a sanction
- g) Referral for investigation to determine whether there has been a breach of the Code and, if so, the seriousness of the breach
- h) A potential criminal offence may have been committed and an investigation, by the police where appropriate, ought to be conducted to determine whether the subject Conseiller should be prosecuted.
- i) In some circumstances, whether a breach of the Code is found or not, a complaint may be referred for other action such as the provision of training to the subject Conseiller.

A7 Notification of decisions

The decision will be sent to the subject Conseiller and the Complainant in accordance with the timescales referred to above. It will also be sent to other parties where appropriate.

We will also publish all decisions on the Sark Government web site.

APPENDIX 'B' CODE OF CONDUCT COMPLAINT FORM

About you	Title:	
	First name:	
	Last name:	
	Address:	
	Daytime telephone:	
	Evening telephone:	
	Mobile telephone:	
	Email address:	

Please tick the complaint type that best describes your complaint:

Member of the public

An elected or co-opted member of the Chief Pleas

Other (please state)

DATA PROTECTION: The information you provide on this form will be held by Chief Pleas and used by us to process your complaint. *In accordance with Chief Pleas Record Retention Policy [when drafted], the information you provide on this form will be held for a minimum of 3 years, after which period it will be reviewed for further retention or destroyed in a secure manner. All personal information held by Chief Pleas is held safely in a secure environment. We will share this information with elected Conseillers to enable completion of statutory duties only. Information will not be used for any other purpose by Chief Pleas and will not be passed to any other party without your permission save in the limited circumstances legally available to us.*

The Conseiller(s) you are complaining about

Please provide details below:

Title	First name	Last name

What part(s) of the Code of Conduct do you think have been breached?

The detail you are asked to give below should support and explain your choices here. We may come to a different conclusion on what paragraphs of the Code may have been breached, if any. For more details, you can view the Code of Conduct on the Sark Government website. www.gov.sark.gg. A hard copy is also available in the Sark Government Committee Office. Please tick against the appropriate part(s) of the Code:

Failed to treat others with respect	
Unlawfully discriminated	
Bullying	
Intimidated or attempted to intimidate others	
Conducted themselves in a manner which is contrary to Chief Pleas duty to promote and maintain high standards of conduct	
Has accepted a gift or hospitality that could be seen by the public as likely to influence the Conseiller's judgement in relation to any matter that they deal with in their official capacity	
Has compromised or attempted to compromise the impartiality of anyone who works for or on behalf of Chief Pleas	
Improperly disclosed confidential information	
Prevented someone from getting information to which they are entitled by law	
Bringing their office or Chief Pleas into disrepute	
Improperly using their position to confer an advantage or disadvantage on themselves or another	
Improperly using the resources of Chief Pleas	
Failure to have regard to the advice of the President of Chief Pleas, Greffier, Senior Administrator, Treasurer or Law Officer	
Has failed to give reasons for making a decision	
Has participated in the scrutiny of a matter on which the person has previously made a decision	
Has failed to correctly register interests as set out in the Code	
Has, at a meeting or any government activity or when making a decision, failed to disclose a registered or registerable interest where it is appropriate to do so	
Has, at a meeting or when making a decision, failed to disclose an interest even though the interest need not be registered	
Has made a decision when they should not have done so because of an interest that they had at the time	
Has failed to absent themselves from the room or Assembly Room where a matter in which they have an interest in is being discussed, whether or not they have disclosed the interest	
Has made a decision where they do not have the power vested in them to do so	
Other, please specify	

Your complaint

Having regard to the guidance notes, please provide us with the full details of your complaint. Continue overleaf and then on a separate sheet if there is not enough space on this form.

(There is more space to detail your complaint on the next page)

Your complaint – please continue here if there is insufficient space on the previous page.

If you still need more room, please continue on a separate sheet.

Witnesses to the alleged conduct

Please provide details of witnesses to the alleged conduct and their contact details. If you do not provide contact details we will not be able to contact the witnesses. We will choose who to contact, if anyone, and so we may not contact all or any of the witnesses whose details you give. Continue on a separate sheet if there is not enough space on this form.

Title	First name	Last name	Home Address telephone number, email if available

Previous action you have taken about this complaint

We need to know whether you have previously referred this complaint to another body, e.g. a committee of Chief Pleas. Please complete the table to indicate to whom you have referred the complaint.

Ministry of Justice	Yes	No
Privy Council	Yes	No
Lieutenant Governor	Yes	No
Other (please specify below)	Yes	No

If you have answered 'Yes' to any of the above please confirm in the box below which organisation the matter was referred to, when it was referred, the reference number that was allocated if you know it and the outcome.

Please continue on a separate sheet if you need more room.

Confidentiality

Only complete this next section if you are requesting that your identity is kept confidential

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

Please date your complaint here:

Please sign your complaint here:

(use these additional lines where there is more than one Complainant)

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Additional help

Complaints must always be submitted in writing. However, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint or makes it difficult for you to submit your complaint in writing.

We may also be able to help if English is not your first language.

If you need any support in completing this form, please let us know as soon as possible.

If you are not submitting your complaint on paper you must submit your complaint using one of the following:

E-mail: conduct.panel@gov.sark.gg

All submissions must be sent or delivered to:

Confidential
The Conduct Panel
Committee Offices
Chasse Murette
Sark
GY10 1SF

Other contact details:

Telephone: Committee Office 01481 832118

Web site: www.gov.sark.gg