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2009**

# **BILLET D'ÉTAT**

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**WEDNESDAY, 27th MAY, 2009**

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STATES ASSEMBLY AND CONSTITUTION COMMITTEE –  
STATES MEMBERS' CONDUCT PANEL  
FINDINGS OF THE INVESTIGATION PANEL INTO  
COMPLAINTS AGAINST DEPUTY  
MICHAEL JAMES PETER HADLEY

# ***B I L L E T   D ' É T A T***

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## **TO THE MEMBERS OF THE STATES OF THE ISLAND OF GUERNSEY**

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I have the honour to inform you that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE**, on **WEDNESDAY**, the **27<sup>th</sup> MAY, 2009**, immediately after the meetings already convened for that day, to consider the item contained in this Billet d'État which has been submitted for debate.

**G. R. ROWLAND**  
Bailiff and Presiding Officer

The Royal Court House  
Guernsey  
15 May 2009

# **STATES ASSEMBLY AND CONSTITUTION COMMITTEE**

## **STATES MEMBERS' CONDUCT PANEL FINDINGS OF THE INVESTIGATION PANEL INTO COMPLAINTS AGAINST DEPUTY MICHAEL JAMES PETER HADLEY**

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

11<sup>th</sup> May 2009

Dear Sir

### **EXECUTIVE SUMMARY**

This report lays before the States the report of the Investigation Panel into complaints against Deputy Hadley and recommends that he be formally cautioned for using the words 'dishonest' and 'lie' in e-mails sent on the 3<sup>rd</sup> February 2009.

### **REPORT**

1. Rule 33 of the Code of Conduct for Members of the States of Deliberation provides that where the Investigation Panel finds that a complaint has been substantiated and it is of the opinion that the Member should be formally reprimanded, suspended or expelled, or when a Member has refused to accept a caution, it shall report its findings to the States Assembly and Constitution Committee which, in turn, shall report to the States on the matter, with appropriate recommendations.
2. Appended to this report is a letter dated 29<sup>th</sup> April 2009 from the Chairman of the States Members' Conduct Panel together with the findings of the Investigation Panel into complaints against Deputy Hadley, which findings are self-explanatory.
3. In this present case the Investigation Panel concluded that a caution was the appropriate sanction. As Deputy Hadley has refused to accept that caution, the Investigation Panel was required to report to the States Assembly and Constitution Committee and, in turn, the Committee has to report to the States with an appropriate recommendation.
4. The Committee has given much consideration as to what the appropriate recommendation should be given the fact that Deputy Hadley has refused to

accept a caution. In accordance with legal advice we have concluded that, notwithstanding Deputy Hadley's refusal to accept the caution offered by the Investigation Panel, it remains open to the States to resolve that he be cautioned. In reaching this conclusion the Committee has noted that a dictionary definition of "caution" in this context is "*something intended or serving as a warning; admonition*".

**Recommendation**

5. The States Assembly and Constitution Committee therefore recommends the States to decide that Deputy Michael James Peter Hadley be formally cautioned pursuant to the Code of Conduct for Members of the States of Deliberation for using the words 'dishonest' and 'lie' in e-mails sent on the 3<sup>rd</sup> February 2009.

Yours faithfully

Ivan Rihoy  
Chairman

The Bailiff's Chambers  
Royal Court House  
St Peter Port  
GUERNSEY  
GY1 2PB

The Chairman  
States Assembly and Constitution Committee  
Sir Charles Frossard House  
La Charroterie  
St Peter Port  
Guernsey  
GY1 1FH

29 April 2009

Dear Sir

At the end of February 2009, the States Members' Conduct Panel received a complaint about the conduct of Deputy M P J Hadley from the Minister and three political Members of the Health and Social Services Department, as well as the Chief Officer of that Department.

The Investigation Panel convened in this case has concluded that Deputy Hadley was in breach of the Code, in respect of two out of the four complaints, and that a caution was the appropriate sanction. Deputy Hadley was so informed, necessarily being provided with a copy of the Panel's report to enable him to decide whether or not to accept that caution. He has informed the Investigation Panel in writing that he refuses to accept that caution. The Panel therefore reports its findings to your Committee in accordance with Rule 33, the Report being enclosed.

You will note that it is over two weeks since that Report was finalised. That delay is due to the fact that, having completed the Report, the Panel found it necessary to investigate various ancillary matters before reporting to you formally. The Panel has now done so to its satisfaction.

Yours faithfully

A C K Day  
Chairman  
States Members' Conduct Panel

**STATES CONDUCT PANEL**  
**COMPLAINTS AGAINST DEPUTY M P J HADLEY**  
**FINDINGS OF THE INVESTIGATION PANEL**

1. Deputy Hadley entered the States in May 2008 and thereafter was elected as a Member of the Health and Social Services Department (HSSD). Deputy Hadley is a qualified pharmacist and worked as such, and as a community pharmacist, for many years before coming to live in Guernsey. In that time in England, he served on various Pharmaceutical and Disciplinary Committees, a Health Authority and an Advisory Committee to another. Clearly, he feels strongly about, and makes well known his opinions on, a number of issues directly or indirectly related, in his view, to the provisions of health services in Guernsey.
2. In pursuing those issues, Deputy Hadley found himself increasingly at odds with fellow members of, and senior advisors to, the Department. It is apparent from the minutes of the Department's meeting of the 18<sup>th</sup> November 2008, provided by Deputy Hadley himself, that there was widespread dismay amongst his colleagues at his conduct, and most particularly with regard to Deputy Hadley's statements to the Guernsey Press. It is quite clear that by that stage relations were approaching breaking point. In early December he tendered his resignation which, after debate, was overwhelming accepted by the States on the 30<sup>th</sup> January this year.
3. One matter on which Deputy Hadley and his political colleagues on the Department were progressively in dispute, was the provision of wheelchair services by the Department. Well before Deputy Hadley became a Member of the Department, senior officers had commissioned from their staff a report on the most appropriate model of service for improving the provision of wheelchairs and equipment locally ("*the wheelchair service report*", or "*report*"). That report was produced in 2007, but its proposals were not considered to be of sufficiently high priority to be allocated funding in 2008. That decision was presented to the Board at its meeting in early August 2008. The report itself was presented to the Board towards the end of September 2008, when it was decided to request a business case to see whether savings could be made to fund the improved service which all Members desired.
4. That business case was presented to the Board meeting on the 27<sup>th</sup> January 2009. The meeting agreed to defer a decision on the budgetary and staffing aspects of an enhanced service until it was considered in the context of other proposed service developments, in late March. Deputy Hadley was the only dissenting voice to that decision, and it was his last act as a Department Member, as he left the meeting at that stage. (Three days later, as stated, the States accepted his resignation). The Board proceeded also to agree to support the business case, but required further information on various budgetary and technical matters.

5. Thereafter, Deputy Hadley issued a press release, and HSSD responded with its own on the 3<sup>rd</sup> February. The rival contentions related to the wheelchair service.
6. Deputy Hadley did not allow the matter to rest. At about 15:30 hours on the 3<sup>rd</sup> February, he e-mailed the officer who had issued the Department's responding press release, which communication he copied to most States' Members. Deputy Hadley started that e-mail by stating that "*The response to my press release is dishonest and is not the truth. This would be obvious to anyone who reads the report*" (this is the subject of the first complaint or "*impugned statement*"). He continued by making various points in justification of the allegations he had just made.
7. At about 21:15 hours, still on the 3<sup>rd</sup> February, Deputy Hadley sent an e-mail to Deputy Maindonald, again copied to many other deputies. The subject matter of this communication again related to the wheelchair service, and the reasons for his "whistle-blowing" activities. In a separate paragraph, he boldly stated "*The HSSD prevaricate and lie*" (the "*second impugned statement*").
8. On the 6<sup>th</sup> of February Deputy Hadley again e-mailed at length a number of deputies regarding the wheelchair service in response to an e-mail from the Minister and Members of the Department. Included in that communication, he stated: "*this use (using the specialised services of Southampton) of the ring fenced budget which this year will hit £10 million is an irresponsible use of the fund and tax payer's money*" (the "*third impugned statement*").
9. A further issue which Deputy Hadley pursued related to resuscitation on the maternity ward at the PEH. The matter had apparently been raised at a board meeting in December 2008, and concerns were again raised at a board meeting on the 27<sup>th</sup> January 2009. Three days later Deputy Hadley e-mailed the Department's Chief Officer referring to some of the issues which he had previously raised on this matter. Within the hour or thereabouts the Chief Officer responded to Deputy Hadley in respect of the issues raised, but prefaced his remarks by expressing his concern at certain aspects of Deputy Hadley's conduct. In turn, Deputy Hadley responded to the Chief Officer and copied that e-mail to the Minister and members of the Department as well as certain civil servants including the two senior advisors to the Policy Council and the Chief Minister himself. In the final paragraph of that communication, Deputy Hadley stated "*I am surprised that yet again you are more interested in reprimanding me than in dealing with an issue that does put newly born babies at a significant extra risk*" (the "*fourth impugned statement*").
10. On the 25<sup>th</sup> February the Minister and three political members of the Department, as well as the Chief Officer, wrote formally to the States Conduct Panel complaining about the conduct of Deputy Hadley. Those complaints specifically relate to the four italicised statements from Deputy Hadley indicated above and the fact of their relatively widespread dissemination to others; but are also cited as examples of general behaviour which they considered to be

unacceptable. The Chairman concluded that an investigation panel should consider the complaints and Deputy Hadley was informed accordingly, as well as being provided with the full documentation which had been forwarded to the Panel with the complaint itself. An Investigation Panel was in due course convened comprising Advocate N J M Tostevin (who was Deputy Hadley's nominee) and Mr Peter Crook as well as the Chairman.

11. Deputy Hadley provided a full written response to the complaint and was afforded, in accordance with the rules, the opportunity to present his case in person to the Investigation Panel, which he so did.
12. The complainants allege that in making these statements Deputy Hadley is in breach of Rule 9 of the States Members Code of Conduct and possibly Rule 8.
13. Rule 9 is as follows:

*"Members shall at all times treat other Members, Civil Servants and members of the public with respect and courtesy and without malice, notwithstanding the disagreements on issues and policy which are a normal part of the political process."*

14. Rule 8 is in the following terms:

*"Members shall at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of the States of Deliberation and never take any action which would bring the States, or its Members generally, into disrepute."*

15. The complainants allege that all four of the impugned statements contravene Rule 9, in respect of the fourth complaint confining it to a sufficient lack of respect and courtesy to a civil servant. Further, the complainants allege at least a potential contravention of Rule 8, in that had any of the first three statements reached the media then they would in various ways be likely to affect adversely the public's trust and confidence in the integrity of the States of Deliberation, in that the members and/or officers of the Department are being accused of lying and being irresponsible in the use of money entrusted to them.
16. Deputy Hadley's basic defence is that all of the statements are true and made without malice, the first three having been made generally about the HSSD Department. Further, he contends that only the first statement was effectively made in public, the others being private e-mails to other Members of the States, or senior civil servants; and if it were to be held that making these statements of themselves breached the code, then representatives would be severely hampered in the exercise of their primary duty to the electorate.
17. Specifically with regard to the first impugned statement, he states that if the documents are read, particularly referring to the wheelchair service report, it is



apparent that the statements in the press release are indeed misleading and not the truth. He then refers to various matters by way of illustration.

18. With regard to the second impugned statement, Deputy Hadley contends that, apart from it not being made in the public domain, the whole history of the introduction of a wheelchair service has been one of evasion and equivocation, and in what ways that was so.
19. Furthermore, as the central complaint against him is the way that he has handled the wheelchair service report, he has now been vindicated by the public apology of the Minister for the way his Department have handled the report. In addition, he maintains that his general allegations of dishonesty, untruthfulness, prevarication and lying, do not relate to any particular statement at any particular time, but refer to a variety of incidents and that the veracity of his statements, whilst not necessarily obvious at the time, has now become clear.
20. With regard to the fourth impugned statement, relating to discourtesy and lack of respect to the Chief Officer of the Department, he contends that as the letter's reprimand was in the first paragraph in a long e-mail to him, he does not think it was unreasonable to infer that the reprimand was of more importance to the Chief Officer than the issues to which he then proceeded to refer.
21. We take the first two complaints together. Deputy Hadley considers that the Investigation Panel seems to wish to tie his two comments to specific statements, and that we are concerned with the chronology. He respectfully disagrees that this should be necessary and argues that, as already stated, his statements were referring to a variety of incidents.
22. We, for our part, disagree with that analysis. These two impugned statements refer specifically to the Board's response to the Deputy's earlier press release, the first explicitly and the second implicitly. To be dishonest is to mislead by deliberate misrepresentation or lies. Lies are untrue statements, deliberately used to mislead. If one were to examine the Department's response to Deputy Hadley's press release, fully informed of all the facts, one might or might not agree with it, or the accuracy of its contents, or its interpretation of events. To our eyes, however, it cannot be said for one moment that that response was unquestionably untrue and deliberately used to mislead; and therefore dishonest and lies.
23. However, that is not the fundamental issue in this instance. Whether someone has lied or not can only effectively be established by examination in person. That is not a process that this Panel can undertake. What however is crucial is the use of the words dishonest and lies about another politician, let alone a senior civil servant. It is totally unparliamentary. That is in contrast to saying that something is not true, or that somebody has prevaricated or is wrong, which is essentially a matter of opinion and political judgment, and does not impugn that person's honesty and character.

24. If in the debating chamber one Member referred to another as being dishonest or lying, the Presiding Officer would, without question, immediately bring that Member to order. This has always been the case, because to use such language of another is to attack their very integrity and character, not their judgement. Such disapproval and admonition must be equally appropriate with regard to similar statements made by States Members outside the debating chamber, whether or not disseminated solely to other States Members. We do not consider it significant whether or not only the first impugned e-mail apparently went immediately into the public domain.
25. The third impugned statement of Deputy Hadley, namely his reference in a further disseminated communication that the Department's use of the fund for off-Island placements was irresponsible, we consider falls more into the area of acceptable political comment. The political members of Departments and their senior advisors have necessarily to be thick skinned, as we are sure they all appreciate.
26. The fourth impugned statement, namely the e-mail sent by Deputy Hadley to the Chief Officer of the Department, with copies being forwarded to others, we consider to be no more than a spat between the two of them, unnecessarily distasteful as it was, which would not have given rise to any complaint on its own to this Panel. Rather, it was used as a further illustration of the complainants' general unhappiness with Deputy Hadley's conduct.
27. So our conclusion is that we consider the use of the word 'dishonest' and 'lie' in the first two impugned e-mails are in breach of Rule 9 of the States' Members Code of Conduct. We do not uphold the other complaints.
28. We do not consider, in the circumstances of this case, that we should recommend to the States Assembly and Constitution Committee that Deputy Hadley be formally reprimanded, suspended or expelled, so that the Committee would refer our findings to the States of Deliberation, with its own recommendations, for the States itself to pass any Resolution it considered appropriate in the matter.
29. Rather, we think that this case falls under Rule 32, in that though we find two of the complaints have been substantiated, the breach of conduct is of a sufficiently minor nature to be disposed of by cautioning Deputy Hadley. If such caution was accepted, a report of our decision would then be forwarded to the Presiding Officer and to Her Majesty's Greffier, so that the report can be made available to members of the public.
30. We would make two further general observations arising from this case.
31. The first relates to a potential unfortunate aspect of the e-mail culture, particularly when practised amongst politicians. That is the belief that all

communications should be instant, without proper reflection on their contents. We would hope that if Deputy Hadley had paused somewhat longer, he might have appreciated that the use of the words ‘dishonest’ and ‘lies’ was to be avoided, in contrast to saying that something was ‘inaccurate’ or that somebody was ‘prevaricating’, which generally would be part of the acceptable cut and thrust of political argument.

32. A further unfortunate aspect of this trigger happy culture is the belief that it is necessary to disseminate a particular communication, not just to the immediate recipient, but to others generally, whether or not they are part of a select group, such as fellow States Members. Moreover, it seems to us that to believe that, in all cases, all States Members made privy to such communications will not disseminate them further, is to be excessively naive.
33. The second area which gives us concern is a States Member’s proper appreciation of his responsibilities on being a Member of a Department.
34. Far be it from us to attempt to lay down any rules as to how Deputies should behave as Members of a Department (or Committee). Nor is it our remit or desire to seek to stifle proper debate, or discourage disagreements on issues and policies. But, membership of a Department must require some disciplined responsibility. In this jurisdiction, there must be a clear division between the function of the politician (to set policy) and the function of the civil servants (to carry out the policies as part of their general administrative functions). Proper respect should be given to that division, for example respect for the procedural guidelines or rules that have been established within that Department. Relations with the media should also be considered carefully. Whilst not disagreeing with Deputy Hadley’s contention that a Member’s primary duty is to the electorate, there must come a time when the duty to disagree and criticize is better exercised outside rather than inside the Department, for the better discharge of that Department’s responsibilities.

*(signed)*

Advocate N J M Tostevin

*(signed)*

Mr P G Crook

*(signed)*

Mr A C K Day

Dated 15<sup>th</sup> April 2009

The States are asked to decide:-

Whether, after consideration of the Report dated 11<sup>th</sup> May, 2009, of the States Assembly and Constitution Committee, they are of the opinion:-

That Deputy Michael James Peter Hadley be, and hereby is, formally cautioned pursuant to the Code of Conduct for Members of the States of Deliberation for using the words 'dishonest' and 'lie' in e-mails sent on the 3<sup>rd</sup> February 2009.