



Code of Conduct for Members of the Judiciary of the Isle of Man

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Introduction by His Honour the Deemster Doyle Her Majesty's First Deemster and Clerk of the Rolls

We are justifiably proud of the existing high standards of judicial conduct in this jurisdiction. Judges undertake their duties in accordance with their oaths and their terms and conditions of service. The oath of a Deemster requires the Deemster to "without respect of favour or friendship, love or gain, consanguinity or affinity, envy or malice, execute the laws of this Isle justly betwixt our sovereign Lady the Queen and her subjects within this Isle, and betwixt party and party as indifferently as the herring backbone doth lie in the midst of the fish."

It is important that the community is aware of the high standards of conduct rightly required of the judiciary. Maintaining and enhancing such standards is essential if the community is to continue to have confidence in the judiciary. This Code of Conduct is based on the six *Bangalore Principles of Judicial Conduct* which are well recognised internationally and which are concerned with (1) judicial independence, (2) impartiality, (3) integrity, (4) propriety, (5) equality of treatment and (6) competence and diligence. The principles were stated to "establish standards for ethical conduct of judges. They are designed to provide guidance to judges and to afford the judiciary a framework for regulating judicial conduct. They are also intended to assist members of the executive and legislature, and lawyers and the public in general, to better understand and support the judiciary."

An important distinction must be drawn between a mistake by a judge which could form part of an appeal and misconduct by a judge which could form part of a complaint. Judges can make mistakes like every other human being. When a party to litigation thinks that a judge has made a mistake then that party may, subject to the necessary jurisdictional requirements being met, appeal such decision to a higher court. Appeal courts can affirm, set aside or vary the decisions made by other judges. The fact that an appeal court has overturned a judge's decision does not mean that the judge's conduct was improper. If a party wishes to make a complaint about the personal conduct of a judge rather than about a judge's judicial decision or case management then such complaint may be made in writing to the Judicial Conduct Office. If a party disagrees with a judge's judicial decision or case management then the proper course to consider is an appeal.

It is hoped that the publication of this Code of Conduct will assist in underlining to the community the high standards of conduct rightly expected from judges in this jurisdiction. It will also be a useful document for the Manx Judiciary in considering the high standards expected of them in their judicial and personal lives.

Deemster Doyle

Code of Conduct for Members of the Judiciary of the Isle of Man

The following Code of Conduct has been adopted for members of the judiciary of the Isle of Man:

1. Members of the judiciary shall uphold the integrity and independence of the judiciary and perform their duties with competence, diligence and dedication.
2. Members of the judiciary shall decide cases assigned to them within a reasonable time, according to the means and resources placed at their disposal by the Government of the Isle of Man and to the volume of work assigned to them. They are to ensure that justice is done by giving each party a fair hearing according to law.
3. In order to be able to perform their respective judicial functions competently members of the judiciary shall, within the limits of the means and resources that the Government of the Isle of Man places at their disposal, use their best endeavours to keep themselves informed regarding developments in legal and judicial matters both on the Island and elsewhere affecting their particular functions. Members of the judiciary should take all reasonable steps to maintain and enhance the knowledge and skills necessary for the proper performance of their judicial duties insofar as resources and time permits.
4. Members of the judiciary shall carry out their duties with dignity, courtesy and humanity. Furthermore, they are to ensure as far as practicable that good order and decorum are maintained in the courtroom where they preside. The dignity of the court should at all times be maintained. Discourtesy, or overbearing conduct, towards those appearing in court as parties, counsel, or witnesses, is to be avoided. Members of the judiciary should seek to be courteous, tolerant and punctual and should respect the value and dignity of everyone. All that stated, members of the judiciary are well entitled, and perhaps in certain circumstances obliged, to make known in clear and robust terms their displeasure if satisfied that those appearing before them, in whatever capacity, are failing in their duties or obligations to the court.
5. Members of the judiciary shall carry out their duties according to their oaths, their terms and conditions of service and the dictates of their conscience objectively and without fear, favour or partiality and in keeping with the laws and customs of the Island. They shall decide cases objectively and solely on their legal and factual merits.
6. Members of the judiciary shall conduct themselves, both in court and outside court, in such a manner as not to put in doubt their independence and impartiality or the independence and impartiality of the office which they hold. Judicial independence is sometimes mistakenly perceived as a privilege enjoyed by judges, whereas it is in fact a cornerstone of our system of government in a democratic society and a safeguard to the freedom and rights of the citizen under the rule of law. The judiciary, whether viewed as an entity or by its individual membership, is and must be seen to be, independent of the legislative and executive branches of government. Members of the judiciary shall not only be free from inappropriate connections with, and influence by, the legislative and executive branches of government, but must also appear to a reasonable observer to be free therefrom. The relationship between the judiciary and the legislative and executive branches of government should be one of mutual respect, each recognising the proper role of the others. Members of the judiciary should

always take care that their conduct does not undermine or appear to undermine their institutional or individual independence.

7. Members of the judiciary have every right to administer their personal assets and property in accordance with the law and in the manner most beneficial to them. However, they shall not engage in any activity which is in its very nature incompatible with the office they hold.
8. Members of the judiciary shall not engage in any profession, business or trade which conflicts with their judicial obligations. Members of the judiciary shall not hold any office or post, even though of a temporary, voluntary or honorary nature, and may not perform any activity, which may compromise or prejudice their independence or the performance of their duties or functions.
9. Members of the judiciary have a right to their private lives. However, in this context, members of the judiciary are to ensure that their conduct is consistent with their office and that it does not tarnish their personal integrity and dignity which are indispensable for the performance of their duties.
10. Members of the judiciary shall not engage in any kind of political activity and in particular shall not join any political organisation, association or body, nor one which, by reason of its nature or purpose, could conflict with judicial independence or impartiality; nor shall members of the judiciary participate in, provide financial assistance to or show support for any such organisation, association or body. Members of the judiciary should avoid involvement in political controversy, unless the controversy itself directly affects the operation of the courts, the independence of the judiciary, or the administration of justice. The views of the judiciary on such matters would normally be expressed by the First Deemster on behalf of the judiciary or by such member of the judiciary as the First Deemster appoints to undertake such role.
11. Members of the judiciary shall not, while out of court, discuss cases that are pending in court except with members of court staff or others insofar as discussion is appropriate and necessary to enable members of the judiciary to fulfill their duties. Members of the judiciary should discourage persons from discussing, in their presence while out of court, cases that are sub judice. Members of the judiciary, like other citizens, are entitled to freedom of expression but in exercising such right members of the judiciary should always conduct themselves in such a manner as to preserve the dignity of judicial office and the impartiality and independence of the judiciary. Members of the judiciary may write, lecture, teach and participate in activities concerning the law, the legal system and related matters provided that such activities do not compromise or prejudice the performance of their duties or functions.
12. Members of the judiciary shall not grant interviews to the media or speak in public on matters which are sub judice.
13. There is no objection in principle to members of the judiciary giving references in respect of character or professional competence for persons who are well known to them. Plainly members of the judiciary should guard against inappropriate requests. Members of the judiciary should take particular care where character evidence in court is requested and any such request should be undertaken only exceptionally due to the risks inherent in the judge entering the arena and the pressure such evidence may put on the judge dealing with the case. Consultation with the First Deemster is advisable before taking a decision to give evidence.

14. Members of the judiciary should not use or lend the prestige of judicial office to advance their private interests or the interests of others. Care should be taken in considering whether, and if so to what extent, the name and title of a member of the judiciary should be associated with an appeal for funds, even for a charitable organisation. Such association could possibly amount to an inappropriate use of judicial prestige and might be seen by potential donors as creating a sense of obligation. Official notepaper should not be used other than for official purposes.
15. Members of the judiciary within the Appeal Division shall not disclose to others the content of discussions between members of that court when reaching a decision in a case.
16. Members of the judiciary shall at all times show respect towards their colleagues and particularly towards the judgments they pronounce. Nothing stated here should be understood as inhibiting appropriate comment, whether critical or otherwise, upon a judgment within the context of an appeal process. Nevertheless, even in that context, an appeal judge should always exercise courtesy and discretion when commenting upon the judgments of other members of the judiciary. To disregard this principle may inappropriately undermine confidence in the judiciary.
17. Members of the judiciary shall not sit in a case where they have a financial interest or where the circumstances are such that a fair minded and informed observer, having considered the facts, would conclude that there was a real possibility that the tribunal was biased: in all other cases they are bound not to abstain from their duty to sit.
18. Members of the judiciary shall not accept any gifts, favour or benefit, which might possibly influence them in the proper fulfillment of their judicial duties or which might give an impression of improper conduct. Members of the judiciary shall avoid impropriety and the appearance of impropriety in all of their activities.
19. Members of the judiciary shall notify the First Deemster if they are charged with a criminal offence, whether in the Island or elsewhere, and shall keep the First Deemster informed as to the progression of such criminal proceedings including but not limited to any conviction.
20. Members of the judiciary should conduct themselves and proceedings before them with due regard to the need to ensure equality of treatment to all before the courts according to law.
21. Members of the judiciary shall endeavour to make themselves aware of diversity in the community and the profound effect judicial decisions may have not only on the lives of those before the courts but sometimes upon issues of great concern to the community. Members of the judiciary should, insofar as their office permits, participate in the life and affairs of the community which they serve.
22. This Code of Conduct will be kept under review from time to time and may be amended in the future.