

Report 02-18 to the Assembly under Standing Order 22.9

July 2018



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About the Committee

The Committee was established on 28 June 2016 to carry out the functions of the responsible committee set out in Standing Order 22. These include:

- the investigation of complaints referred to it by the Standards Commissioner;
- consideration of any matters of principle relating to the conduct of Members;
- establishing procedures for the investigation of complaints; and
- arrangements for the Register of Members' interests and other relevant public records determined by Standing Orders.

Committee Chair:



Jayne Bryant AM

Welsh Labour
Newport West

Current Committee membership:



Gareth Bennett AM

UKIP Wales
South Wales Central



Paul Davies AM

Welsh Conservative
Preseli Pembrokeshire



Llyr Gruffydd AM

Plaid Cymru
North Wales

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Recommendation

Recommendation 1. The unanimous decision of the Committee is to recommend to the Assembly, in accordance with 7.12(v) of the Procedure for Dealing with Complaints against Assembly Members, that a breach has been found and that the Member should be sanctioned under Standing Order 22.10. The Committee agreed that the Member should be excluded from Assembly proceedings for the period of fourteen calendar days, commencing on the first day of the Assembly term after summer recess (17 September 2018).Page 8

1. Introduction

1. The terms of reference of the Standards of Conduct Committee (the Committee) are set out in Standing Order 22.¹ In accordance with functions set out in Standing Order 22.2 the Committee must:

“investigate, report on and, if appropriate, recommend action in respect of any complaint referred to it by the Commissioner for Standards.”²

2. This report is made to the Assembly under Standing Order 22.9 and paragraph 8.1 of the Procedure for Dealing with Complaints against Assembly Members³ (the Procedure), in relation to a complaint against Rhianon Passmore AM.

3. The report from the Commissioner for Standards (the Commissioner) on his investigation of the complaint is attached at Annex A. It sets out the details of the complaint and the findings of the Commissioner’s formal investigation.

4. This report sets out the details of the complaint and the way in which the Committee arrived at its recommendation.

¹ Standing orders

² Standing order 22.2(i)

³ The National Assembly for Wales’ Procedure for Dealing with Complaints Against Assembly Members

2. Consideration of the Complaint

5. The complaint alleged that the Member concerned failed to comply with paragraph 4b of the Code of Conduct for Assembly Members, which states:

“Integrity: Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in their performance of their official duties.

Assembly Members should 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 Assembly and refrain from any action which would bring the Assembly, or its Members generally, into disrepute.”⁴

6. The Member self-referred herself to the Commissioner for Standards on 6 March 2018 to report that she had been convicted of the offence of failing to provide a sample of breath for analysis and accepted that the conviction constitutes a breach of the Code of Conduct for Assembly Members.

7. In this instance, on 23 September 2017, Rhianon Passmore AM failed to provide a sample of breath for analysis when required to do so by a police officer. On 12 February 2018, Rhianon Passmore AM pleaded guilty to and was convicted of this offence.

8. The Commissioner for Standards was satisfied that the commission and subsequent conviction of the criminal offence of failing to provide a sample of breath for analysis is conduct which breaches paragraph 4b of the Code of Conduct for Assembly Members.

9. In her written statement, the Member concerned stated that she was aware of the Code of Conduct for Assembly Members and in particular of the requirement to comply with paragraph 4b of the Code. The Member stated:

“I deeply regret that I have breached the Code in this way, and wish to offer my sincere apologies for doing so.”⁵

10. The Committee met on Tuesday 26 June 2018 to consider the report of the Commissioner. The Committee was satisfied that the Commissioner’s report

⁴ Code of conduct

⁵ Statement of Rhianon Passmore AM, 16 June 2018

contained sufficient information upon which to base its deliberations, and that it was not necessary to seek further written or oral evidence.

11. The Committee met again on Tuesday 3 July 2018 and agreed its report in respect of this complaint.

Committee's Consideration of its Decision

12. The Committee considered whether the Member was in breach of Standing Order 22.2(i).⁶

13. In considering whether a breach occurred, the Committee reviewed the information within the Commissioner's report and the Commissioner's opinion that a breach had taken place.

14. The Committee noted that the Member concerned fully acknowledged that her actions constituted a breach of the Code of Conduct and has fully co-operated with the Commissioner's investigation. The Committee noted that the Member had referred herself to the Commissioner.

Having reviewed the report from the Commissioner for Standards, the Committee finds that a breach of the Code of Conduct has taken place by Rhianon Passmore AM in relation to bringing the National Assembly for Wales into disrepute.

Committee's Recommendation

15. The Committee considers that a breach by any Assembly Member is a serious matter. The reputation of the National Assembly for Wales as an institution, and the public's trust and confidence in it, rely upon Members demonstrating integrity and leadership by their actions.

16. The Committee notes that the Member has fully apologised in her written statement to the Commissioner. The Committee also noted that the Member referred herself to the Commissioner in a timely manner following her conviction.

17. The Committee considers a criminal conviction for a failure to provide a breath sample to be a serious breach of the Code of Conduct, which falls well below the standards expected of an Assembly Member.

18. In coming to its conclusion on what sanction to recommend, the Committee took account of the considerations outlined in paragraph 7.13 of the procedure for dealing with complaints against Assembly Members.

⁶ Standing order 22.2(i)

19. We believe that such a breach should carry a penalty of 21 days exclusion from Assembly proceedings. However because the Member showed remorse for her actions through her self-referral and co-operation with the Commissioner for Standards, we are proposing this should be reduced to 14 days.

Recommendation 1. The unanimous decision of the Committee is to recommend to the Assembly, in accordance with 7.12(v) of the Procedure for Dealing with Complaints against Assembly Members, that a breach has been found and that the Member should be sanctioned under Standing Order 22.10. The Committee agreed that the Member should be excluded from Assembly proceedings for the period of fourteen calendar days, commencing on the first day of the Assembly term after summer recess (17 September 2018).

20. A copy of this report has been provided to the Member concerned, who was also notified of her right to appeal under section 8 of the procedure.⁷

21. The Committee Chair has tabled a motion (in accordance with Standing Order 22.11 and paragraph 9.1 of the procedure) calling on the Assembly to endorse the Committee's recommendation.

Matters arising from this Complaint

22. This was the first instance where a Member has referred themselves to the independent Commissioner for Standards. This is a practice that the Committee welcomes as it makes clear the recognition by the Member that they are aware of requirements in the Code of Conduct and shows intent to make amends for their contravention of this.

⁷ The National Assembly for Wales' Procedure for Dealing with Complaints Against Assembly Members

Annex A: Report from the Commissioner for Standards

From: Sir Roderick Evans, Commissioner for Standards

To: Standards of Conduct Committee

FORMAL INVESTIGATION REPORT

Rhianon Passmore AM

The Complaint

1. On 6th March 2018, Rhianon Passmore AM wrote to me to refer herself for investigation following her conviction on 12th February 2018 at Gwent Magistrates Court of an offence of failing to provide a specimen of breath for analysis under the breathalyser procedure. She had pleaded guilty to the charge and the magistrates fined her £1,000, imposed a Victim's Surcharge of £100 and ordered her to pay £620 costs. Mrs Passmore was also disqualified from driving for a period of 20 months. Documentation confirming the conviction and these penalties was enclosed with Mrs Passmore's letter.
2. I treated this referral as a complaint that Mrs Passmore had breached paragraph 4b of the Code of Conduct for Assembly Members which reads:

“Assembly Members should 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 Assembly and refrain from any action which would bring the Assembly, or its Members generally, into disrepute.”

On preliminary consideration of the matter, it appeared that there was enough evidence to suggest that the Member's admitted conduct might amount to a breach of the Code. I was satisfied that the requirements of paragraph 3.1 (i)-(vi) of the Procedure for Dealing with Complaints against Assembly Members had been fulfilled and that the complaint was admissible. Accordingly, I moved to the formal investigation stage.

The Investigation

3. On 13th March 2018, I interviewed Mrs Passmore in order to obtain more information about the offence and the circumstances in which it came to be committed. She confirmed the details set out in paragraph 1 above and told me that the offence took place early on Saturday 23rd September 2017.

4. Mrs Passmore told me that on the previous Friday evening, she left the Assembly about 7.00 o'clock. She left her car in the Assembly car park and went into Cardiff to meet a friend with whom she had a meal and two possibly three glasses of wine. At the end of the evening she made her way back to the Assembly to collect her car, as she was later to travel that night to an arranged paid for and pre-booked hotel in England. On the way to her car she suffered an acute asthma attack and when she got to her car she took emergency high dose of prednisone medication in tablet form which she carries with her for sudden onset acute asthmatic episodes. She decided to drive to her mother's house but in St Mellon's her car broke down. She pulled into a lay-by and phoned the AA. While awaiting the arrival of the AA, the police arrived. The police asked Mrs Passmore to give a sample of breath; she tried but was unable to do so. She was arrested and taken to the police station where she was asked to provide a sample of her breath for analysis. Again she tried but was unable to do so. This was the basis of the charge to which she pleaded guilty.

Facts Found by the Commissioner

5. On 23rd September 2017, Mrs Passmore failed to provide a sample of breath for analysis when required to do so by a police officer.
6. On 12th February 2018, Mrs Passmore pleaded guilty to and was convicted of the offence of failing to provide a sample of breath for analysis.

Conclusion

7. I am satisfied that the commission and subsequent conviction of the criminal offence of failing to provide a sample of breath for analysis by a Member of the Assembly is conduct which breaches paragraph 4b of the Code of Conduct for Assembly Members and that Mrs Passmore, therefore, falls to be dealt with by the Standards of Conduct Committee under Standing Order 22.2.
8. In my view, this complaint does not, of itself, raise any new issues of general principle.

Requirements under the Procedure for Dealing with Complaints

9. I confirm that the Member concerned has been provided with a draft of my final report and given the opportunity to comment on any factual inaccuracy. She has raised no issues.

Attachments

10. I attach:

- (i) a Notice of fine and collection order
- (ii) Statement of Rhianon Passmore AM

A handwritten signature in cursive script that reads "Roderick Evans". The signature is written in black ink and is positioned above a horizontal line that serves as a separator.

Sir Roderick Evans

15 June 2018



Ms RHIANNON PASSMORE

Division: 089

Account number: [REDACTED]

Case number: [REDACTED]

Born: [REDACTED]

Notice of fine and collection order

Offences and penalties

Date	Offences and Impositions		Amount £
12 Feb 2018	1 / Fail to provide specimen for analysis - vehicle driver.	Fine	1,000.00
		Victim Sur	100.00
		Costs	620.00
Total: £			1,720.00

You must pay £100.00 per month commencing 1 March 2018

Paid in full

The court has made a **Collection Order** to collect the sum due.

See reverse for details on how to pay. Failure to pay as ordered will make you liable for further enforcement action, unless you pay the full balance immediately. This could include:

- Deductions from your earnings
- Deductions from your benefit
- A warrant of control being issued to the enforcement agents to take control of your goods (which will incur additional costs)
- Warrant for your arrest to return you to court
- Increasing your fine by 50%
- Clamping, removal and sale of your vehicle
- Registering the account in the Register of Judgements, Orders and Fines (affecting your ability to obtain credit)
- If after these sanctions have been imposed, your fine remains outstanding, the court may order that you are imprisoned for non-payment.

If you have difficulties in paying the amount you must immediately contact the Enforcement Team on the number above.

All enquiries regarding this notice should be made to the above address.

Stephen Whale Clerk to the Justices

Justices' Clerk

Date: 12 February 2018

Statement of Rhianon Passmore AM:

1. I am the Assembly Member for the Islwyn constituency elected in May 2016.
2. I acknowledge that I am aware of the Code of Conduct for Assembly Members and in particular of the requirement to comply with paragraph 4b of the Code which reads:

“Assembly Members should 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 Assembly and refrain from any action which would bring the Assembly, or its Members generally, into disrepute.”

3. On 12th February 2018, I pleaded guilty at the Newport Magistrates’ Court to an offence of failing to provide a specimen for analysis under the breathalyser procedure. The offence took place on 23rd September 2017. I was ordered to pay a total of £1720.00 made up of a fine of £1000, a Victim Surcharge of £100 and costs of £620. I have paid the total sum in full. I was also disqualified from driving for a period of twenty months although the court agreed to shorten this period by twenty two weeks if I satisfactorily complete an approved course by 12 March 2019.

4. On 6th March 2018, I wrote to the Commissioner for Standards to report to him the fact that I had been convicted as set out above as I accept that the conviction constitutes a breach of the Code of Conduct for Assembly Members. I deeply regret that I have breached the code in this way and wish to offer my sincere apologies for doing so.

5. The offence took place early on Saturday 23rd September 2017. On the previous Friday evening, I left the Assembly about 7.00 o’clock. I left my car in the Assembly car park took a taxi into Cardiff to attend a pre-arranged meeting with a friend. We talked about some important issues and consumed a meal and possibly two or three glasses of wine. I made my way back to the Assembly to collect my car but on the way I suffered an asthma attack. I suffer from chronic and acute asthmatic exacerbations and on reaching my car I took emergency medication which I carry with me. I immediately took my emergency prednisolone tablet medication for acute asthma episodes as I was very short of breath. (I have emergency medication additional to inhalers to treat my chronic asthmatic exacerbations which are life threatening). I am authorised to carry an emergency steroid prednisone pack for acute episodes. As a chronic asthmatic I carry a tablet form of steroid emergency medication and carry a steroid ‘licence’ which lists my medication for medical professionals when episodic. This is necessary because of the sudden and potentially fatal nature of my condition. I decided to drive to my mother’s house but in St Mellon’s my car broke down. I pulled into a lay-by and phoned the AA. The car would not start and this was verified by the independent garage. While I waited for the arrival of the AA, the police arrived. The police asked me to give a sample of breath; I tried but was unable to do so. I was arrested and taken to the police station where I was asked to provide a sample of breath for analysis. Again I tried but was unable to do so. This was the basis of the charge to which I pleaded guilty.

6. I do not know why I was unable to provide a sample of my breath. I did not intentionally fail to do so and it may be that my asthmatic condition was a contributory factor to my failure. During the process I was very distressed and this was exacerbated because despite my condition I could not access my medication. When my asthma medication was eventually offered I was prevented from taking the required and necessary dose. I believe this and the fear of my condition being left untreated and in addition to being in shock after the attack strongly contributed to being unable to provide a sample as required. I was later taken by ambulance to hospital. A doctor was called to the police station to examine me because of my condition and the doctor gave me oxygen and summoned an ambulance which took me from the police station to hospital. On the way to hospital I was put on a post medication drip. I was detained in hospital until the Saturday afternoon.

7. Whatever the cause of my failure, I want to repeat and emphasise my apology for this breach of the Code of Conduct.

Signed:

A handwritten signature in black ink, appearing to be 'D. J. Jones' or similar, written in a cursive style.

Dated:

15/6/18 -