

**ANNUAL REPORT OF THE
NATIONAL ASSEMBLY FOR WALES'
COMMITTEE ON
STANDARDS OF CONDUCT
2001 - 2002**

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COMMITTEE ON STANDARDS OF CONDUCT

REPORT TO THE ASSEMBLY

1. Introduction

- 1.1 This is the third annual report to the National Assembly for Wales by its Committee on Standards of Conduct, as required by Standing Order 16. It covers the 12-month period from 1 August 2001 to 31 July 2002.
- 1.2 The Committee on Standards of Conduct is one of the Assembly's six Standing Committees. The Committee is chaired by David Melding AM, and its membership during the period of this report was Eleanor Burnham AM (until 31 January 2002), Cynog Dafis AM, Janice Gregory AM (until 27 November 2001), Christine Gwyther AM, Brian Hancock AM, Gareth Jones AM, Lynne Neagle AM (from 27 November 2001), Karen Sinclair AM, Gwenda Thomas AM and Kirsty Williams AM (from 31 January 2002).
- 1.3 The Committee would like to thank Eleanor Burnham AM and Janice Gregory AM for their contribution to its work during their period of membership.
- 1.4 During its third year, the Committee met on five occasions and considered one complaint against an Assembly Member. In accordance with standing orders, its meetings were held in public and available for broadcast - with the exception of the oral complaint hearing held at the end of the Committee meeting in December 2001, which was held in closed session.
- 1.5 Details of the Committee's work programme and activities during the year are outlined below.

2. The Committee's Remit

- 2.1 Standing Order 16 sets out the remit of the Standards Committee, and the requirements as to its membership, the role of the Independent Adviser on standards, meetings and reports. A copy of Standing Order 16 is at Annex A.
- 2.2 The key function of the Committee is to consider complaints referred to it by the Presiding Officer and any matters of principle relating to the conduct of Assembly Members generally. The Committee also oversees the Register of Members' Interests.

3. Work Programme and Activities

- 3.1 Despite the fact that there was only one complaint referred to the Committee during the year, the Committee's workload was high. A number of major issues were considered during the year.

Complaints Referred to the Committee

- 3.2 Standing Order 16 limits the Committee's powers of investigation to complaints which have been referred to it by the Presiding Officer. Between the period 1 August 2001 to 31 July 2002, only one complaint was referred. This case related to a breach of the Code of Standards for Assembly Members, and was upheld by the Committee. A copy of the Committee's report was published on the Intranet and Internet following completion and is at Annex B.

The Independent Adviser

- 3.3 Mr Richard Penn was appointed as the Assembly's Independent Adviser on Standards of Conduct on 15 March 2000. Standing Order 16.3 requires him to act as the independent adviser to the Presiding Officer on matters relating to the conduct of Assembly Members and to assist the Committee, by invitation, in its investigations. Mr Penn has been active in both roles and the Committee would like to thank him for his contribution to their work.

The Register of Members Interests

- 3.4 During the course of the year the Register was maintained and published by the Table Office in accordance with the published guidance and Standing Orders. A report on the Register is now available on the Assembly's Intranet and Internet sites, which provides a comprehensive picture of all entries made in the Register. The report is now updated as entries are received, replacing the quarterly updates published previously. The Clerk to the Committee also provides oral updates on developments with the Register at Committee meetings.
- 3.5 It is now possible to identify the number of 'hits' on the Register section of the Assembly's Web-site. Full figures for the year are not yet available but the information, which is available, suggests an average of over 600 hits per month. Table Office continues to receive a number of queries in relation to the interests of individual Members and AMs as a whole.

Queries received are in the main from members of the public or the press.

Indirect Interests

- 3.6 In December 2001, the Committee completed its review of the arrangements for the registration and declaration of Members' "Indirect Interests".
- 3.7 The Committee had identified an overlap between the interests set out in the Annex to Standing Order 4 (to which the criminal sanctions of Section 72 of the Government of Wales Act 1998 apply), and the interests set out in the Assembly's Resolution of 19th May 1999 (which has no associated sanctions).
- 3.8 The conclusion of the review was that the Annex to Standing Order 4 should be revised to include those provisions, which were previously classed as 'indirect interests'. In effect, these would become direct interests and the term 'indirect interests' would become obsolete.
- 3.9 The categories of interests included in the Annex to Standing Order 4, would also be extended to include the interests of a partner or dependent child (as was identified in the Assembly's Resolution of 19th May 1999). This required a more robust definition of 'dependent child' and 'partner' because of the criminal sanctions associated with registration and declaration of these interests now that they are included within Standing Orders.
- 3.10 The Committee's conclusions were approved by the Assembly's Business Committee and were subsequently adopted by the Assembly on 5 February 2002.

Oral Declarations of Interest

- 3.11 Concern has been expressed about the current arrangements for declaring interests in Plenary (and Committees). There is a view that these arrangements are not fully understood by Members and can detract from the dignity of the Assembly in Plenary.
- 3.12 In the light of this, the Committee - acting on advice from the Secretariat and the Presiding Officer's legal adviser, David Lambert - considered the arrangements and whether they could be simplified to avoid disruption, while maintaining the integrity and rigour of the current arrangements.

- 3.13 Having looked again at Section 72 of the Government of Wales Act, the Committee concluded that the Assembly's current requirements may be overly focused on Section 72(1) (registration of interests) and have paid insufficient attention to Section 72(2) (declaration of interests - particularly financial interests).
- 3.14 In order to redress the balance, the Committee has proposed amendments to Standing Orders which it believes will offer greater clarity and simplicity, and will maintain rigorous standards with no loss of transparency. They will further highlight, to Members and the public, the importance of the Register of Interests and will be less disruptive in Plenary sessions.
- 3.15 All the current registrable interests would remain and their status would not be affected. Members would still be required to register the interests specified in the Annex to Standing Order 4 and would remain subject to the criminal law if they took part in proceedings having failed to register an interest.
- 3.16 The proposed amendments will be brought before the Assembly in the autumn.

Freemasonry

- 3.17 The Committee has considered the Assembly's requirement for Members to register their membership of the Freemasons on 4 occasions and has twice taken evidence directly from representatives of the Freemasons. The Committee has also received advice from the Presiding Office's legal adviser, David Lambert.
- 3.18 The Committee has concluded that despite the public misgivings about the activities of the Freemasons there is no conclusive evidence of misconduct against the Freemasons as an organisation. It was difficult to establish that the Freemasons are a unique organisation, which might then justify treating them differently to all others. It was also established that no other legislature in the UK had a similar requirement to the Assembly's with regards to Freemasonry.
- 3.19 It was the view of the Committee that the Assembly's current requirements, which singled out the Freemasons were difficult to defend in principle, and ran the risk of a successful legal challenge. It was agreed that they should be replaced by a more legally robust

requirement, but one which still required Members to register their membership of the Freemasons.

- 3.20 The Committee has recommended that the current requirements should be amended so that a wider range of organisations, including the Freemasons, would be required to be registered. This would also be more in line with the requirement the Assembly has placed on local authorities in Wales.
- 3.21 To achieve this, the Committee has proposed that a new standing order, for the 'Recording of Membership of Societies' should be created, and that relevant standing orders and guidance are amended accordingly. The new Standing Order will set out the types of organisations that members need to record. These recommendations will be put to the Assembly in the Autumn.
- 3.22 The Committee believes that the proposed changes will provide a far more legally robust system of registering membership of the Freemasons and other organisations and meet public concern on this issue.

Review of Procedures for Standards

- 3.23 In November 2001, Professor Diana Woodhouse was appointed as an expert advisor to the Standards Committee, charged with undertaking a comprehensive review of Standards Procedures within the Assembly. Currently Professor of Law and Head of the Law Department at Oxford Brookes University, Professor Woodhouse has extensive experience in the field of Standards and has worked in many parliamentary settings across western Europe and Australia. She is also a co-opted member of the Standards Committees of Oxford City Council (Deputy Chair) and Cherwell District Council.
- 3.24 The review focuses on five main areas: the Committee's jurisdiction; the effectiveness of the complaint procedure; the role of the Presiding Officer; the role of the Independent Advisor on Standards of Conduct; and comparable arrangements in other democratic institutions in the UK. A first draft report has been prepared by Professor Woodhouse - it is anticipated that the final report will be presented to the Committee by November 2002.

Other Issues

3.25 Over the course of the year the Committee has considered and provided advice to the Presiding Officer and others on a range of issues. These include, the confidentiality of Committee reports and the disclosure of private proceedings of Committees, Assembly privilege, the use of Assembly resources and possible conflicts of interest in Subject Committee investigations. Some of these issues are also being looked at within the Review of Procedures on Standards.

4. The Committee's Conclusions in respect of Ethical Standards (SO 16.1(v))

- 4.1 As part of the Review of Procedures for Standards, the Committee has also been considering how to build upon current ethical standards to create a "Standards Culture" in the Assembly. However, as noted above, only one complaint was referred to the Committee during the period of this report. From the evidence presented to the Committee there seem to be few grounds for concern about the ethical standards of Members.
- 4.2 However, the Committee continues to be aware that the potential to use the Assembly's procedures and resources for the pursuance of party political advantage remains. The Committee would be concerned if this type of activity were allowed to affect its ability to carry out its serious role.

**STANDARDS COMMITTEE
NOVEMBER 2002**

STANDING ORDER 16 - Committee on Standards of Conduct

Title and Terms of Reference

16.1 There shall be a Committee on Standards of Conduct, which shall:

(i) investigate, report on and, if appropriate, recommend action in respect of any complaint referred to it by the Presiding Officer that a Member has not complied with standing order 4 or any Assembly resolution relating to the financial or other interests of Members, or that a Minister has not complied with the requirements of paragraph 2.8;

(ii) investigate, report on and, if appropriate, recommend action in respect of any complaint referred to it by the Presiding Officer that a Member has not complied with any Assembly resolution relating to Members' standards of conduct or with the guidance for Ministers which the Assembly has approved in accordance with paragraph 2.7;

(iii) consider any matters of principle relating to the conduct of Members generally;

(iv) supervise the arrangements for the compilation, maintenance and accessibility of the Register of Members' Interests, and the form and content of the Register; and

(v) present an annual report to the Assembly on the complaints made to the Presiding Officer under (i) and (ii) and the action taken, and on its conclusions in respect of ethical standards in the conduct of the Assembly's business.

Membership

16.2 The Assembly shall elect a Member to chair the Committee, together with other Members elected so far as practicable to reflect the balance of political groups in the Assembly. The Presiding Officer shall not be a member of the Committee, but shall be entitled to attend any meeting of the Committee, or submit papers to it, for the purpose of drawing to its attention such considerations as he or she considers appropriate.

Independent Adviser

16.3 The Assembly shall appoint a person who is not an Assembly Member or a member of its staff to provide advice and assistance to the Presiding Officer on any matter relating to the conduct of Members; and the Committee may, in addition to the appointment as appropriate of its own advisor under paragraph 8.14, invite the Assembly's appointee to investigate factual matters arising out of any matter before it.

Meetings

16.4 The Committee shall meet as soon as may be after a complaint has been laid before it by the Presiding Officer; and at other times as convened by the chair.

16.5 The Committee may meet in public or in private, but when considering a complaint, the Committee shall meet in private unless it resolves otherwise. Any Member who is or may be the subject of an investigation by the Committee shall at his or her request be permitted to make oral or written representations to it and may be accompanied at oral hearings by another person (who may participate in the proceedings with the permission of the chair).

Reports

16.6 If the Committee has investigated a complaint laid before it by the Presiding Officer, it shall report to the Assembly as soon as may be after completion of the investigation. The Committee may report to the Assembly on other matters within its remit from time to time.

THE NATIONAL ASSEMBLY FOR WALES: COMMITTEE ON STANDARDS OF CONDUCT

REPORT 01-2002 - Presented to the National Assembly for Wales
on 11th January 2002 in accordance with Standing Order 16.6

COMPLAINT AGAINST PETER ROGERS AM

Purpose and Scope of Report

1. This is a report to the Assembly by the Committee on Standards of Conduct under Standing Order 16.6 about a complaint which it has considered against Peter Rogers AM. The complaint related to a breach of the Code of Standards for Assembly Members.

Standards Committee Terms of Reference

2. Standing Order 16(ii) provides for the Committee on Standards of Conduct to:

Investigate, report on and, if appropriate, recommend action in respect of any complaint referred to it by the Presiding Officer that a Member has not complied with any Assembly resolution relating to Members' standards of conduct...

An extract from Standing Orders which sets out the Committee's remit in full is at Annex A. A list of the Committee's membership is at Annex B.

The Complaint

3. The complaint against Mr Rogers was that he had breached the Code of Standards for Assembly Members by publicly naming and criticising an official of the National Assembly's Agriculture Department. Mr Rogers had issued a press release on 16 April 2001 in which he had called for an immediate enquiry into the conduct of the official.

4. The Code of Standards for Assembly Members adopted by the Assembly on 18 May 1999 states that:

"Members shall comply with the Assembly's standing orders and its codes of practice and protocols."

The Protocol for Relationships between Assembly Members and Assembly Staff which was adopted by the Assembly on 19 May 1999 states that:

"Relationships between Assembly Members and Assembly staff shall be professional and based on mutual respect."

Summary of the Committee's Investigation

5. The complaint was dealt with in accordance with a procedure approved by the Standards Committee on 6 July 2000 following consultation with all Assembly Members.

6. The complaint was made to the Presiding Officer on 19 April 2001. He invited the Independent Adviser on Standards to conduct a preliminary investigation to establish whether it should be considered fully by the Committee on Standards of Conduct. The Independent Adviser concluded that it was a formal complaint properly presented by the complainant on a matter that fell within the jurisdiction of the Committee. In the light of the report on the preliminary investigation the Presiding Officer decided to refer the complaint to the Committee and to ask the Independent Adviser to undertake a formal investigation to establish the facts of the case.

7. The Independent Adviser reported to the Committee on 5 December 2001. A copy of his report was also sent to Mr Rogers. The Committee met on 12 December to consider the complaint. The public was excluded from the Committee proceedings in accordance with Standing Order 16.5. Mr Rogers made oral representations to the Committee and answered questions from Members. The Committee wishes to record that Mr Rogers fully co-operated with the process throughout.

8. The background to the complaint was the foot and mouth crisis in Wales in the late spring of 2001. In order to control the spread of the disease the movement of susceptible animals was being allowed only under strict licensing conditions set by MAFF. The Divisional Offices of the Assembly's Agriculture Department were operating under an agency arrangement with MAFF and were processing a large number of animal movement licensing applications under very difficult circumstances.

9. Peter Rogers readily acknowledged that he was deeply involved in the foot and mouth crisis, both as an Assembly Member for his area and as a local farmer. He spoke of his extensive contact with Assembly officials throughout this period. Mr Rogers had been understandably 'wound up' during the foot and

mouth crisis and he stated that things had become particularly fraught during Easter Weekend - which led to the press release being issued.

10. In the course of the Independent Adviser's investigation, Mr Rogers confirmed that he was generally aware of the Code of Standards for Assembly Members. He further acknowledged that he had acted inappropriately in publicly criticising officials in a press release and that he should not have named the official involved. Mr Rogers had issued a further press release to acknowledge this and also undertook to write an unequivocal apology to the official and did so on 18 July 2001.

Committee's Conclusion

11. The Committee has considered the Adviser's report and the representations made by Mr Rogers. It considers that in publicly naming and criticising an Assembly official in a press release Peter Rogers AM has breached the Code of Standards for Assembly Members.

12. The action which the Committee would normally recommend in these circumstances would be an unequivocal apology from Mr Rogers to the official concerned. However, Peter Rogers has accepted that he was wrong to bring an official's name into the public domain. He has issued a further press release to acknowledge this and he has also written to the official concerned to apologise for his action. As a result, no further action is felt to be appropriate.

13. The complaints procedure is intended to preserve as much anonymity as possible to protect all concerned. Because the Committee has decided that the complaint should be upheld, this report identifies Mr Rogers. However, other names, including that of the complainant, have been withheld to protect confidentiality.

**Committee on Standards of Conduct
January 2002**