

## COMMITTEE ON STANDARDS OF CONDUCT STD 04-02 (DRAFT MIN)

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Date: 31st October 2002, at 10.00 am

Venue: Committee Room 2, Cardiff Bay

Attendance:

### *Members*

David Melding, South Wales Central (Chair)

Cynog Dafis, Mid and West Wales

Pauline Jarman, South Wales Central

Lynne Neagle, Torfaen

Karen Sinclair, Clwyd South

Gwenda Thomas, Neath

Kirsty Williams, Brecon & Radnorshire

### *Officials*

Andrew George, Committee Clerk

Steve George, Deputy Committee Clerk

David Lambert, Legal Adviser to the Presiding Office

### *Other*

Richard Penn, the Assembly's Independent Adviser on Standards

Prof Diana Woodhouse, Expert Adviser to the Committee

### **Item 1: Minutes of the last meeting and Chair's introductory remarks**

1. The Chair welcomed everyone to the meeting, and in particular Pauline Jarman AM who was attending her first meeting as the replacement for Brian Hancock AM. The Chair recorded the Committee's thanks to Mr Hancock for his contribution to the work of the Committee.
2. The Chair also welcomed Professor Diana Woodhouse to her second meeting of the Committee.
3. Apologies had been received from Christine Gwyther AM and Gareth Jones AM.
4. The Committee confirmed that the minutes of the meeting on 10 July 2002 were an accurate record.

### **Item 2: Update and review of action arising from STD 03-02**

Paper STD-04-02(01)

5. The Chair invited the Committee Clerk to provide an oral update on the paper.
6. The Committee Clerk informed the Committee that Plenary debates on the Committee's Annual Report and on Freemasonry were likely to be held on 13 November 2002. A debate on the Committee's report on Oral Declarations of Interest was to be held on 5 November 2002. The action point on the timing of future Committee meetings was now redundant because meetings were being held in the morning.
7. The Committee noted the paper.

### **Item 3: The Committee's Annual Report 2000-2001**

Paper: - STD 04-02(02)

8. The Chair invited Members to comment on the draft of the Committee's Annual Report for the period 1 August 2001 to 31 July 2002 and to agree a final version.
9. The Committee approved the report subject to clarification, in the final version of the report, of the actual number of "hits" on the Register of Members' Interests page on the Assembly website.
10. The Committee agreed that the Chair should open and close the plenary debate on the Annual Report on behalf of the Committee.

### **Item 4: Review of Standards Procedures (Woodhouse Review)**

Papers: - STD 04-02(03)

11. The Chair welcomed Professor Woodhouse to the meeting. He congratulated her on her final draft report. He felt this was a very clear piece of work, which gave the Committee an excellent framework for taking forward their review. He invited Professor Woodhouse to give a brief overview of the report before Members commented on it in more detail.
12. Professor Woodhouse said that the report could be divided into 3 main parts. These related to the Code of Conduct (recommendations 1-16), the Complaints Procedure (recommendations 17-29) and Roles Relating to Standards of Conduct (recommendations 30-31).
13. Since the last draft, which the Committee had considered in July, she had added a number of recommendations about the Codes of Conduct. These

were mainly to emphasise the need to consolidate the various codes and to establish it as a framework around which other parts of the Standards procedure could be built.

14. No changes had been made to the recommendations about the Complaints Procedure but there had been a number of additions to the supporting text. The key areas of this section related to the processes for dealing with complaints, trivial complaints and on appeals.
15. The final section on roles relating to Standards of Conduct was concerned with the role of the Presiding Officer and whether there needed to be a statutory Commissioner for Standards.
16. The Chair then invited discussion on the report by Members under each of the broad headings identified by Professor Woodhouse. In discussion the following points were made:

#### **Code of Conduct (Recommendations 1-16)**

##### Recommendation 2 - para 2.3.3 (Pocket Guide)

- This was felt to be an excellent idea.

##### Recommendation 4 - para 2.4.5 (Disrepute)

- This recommendation could change the nature of the standards regime in the Assembly, making it more akin to local authority codes of standards. It would widen the scope for complaints and could lead to intrusive complaints, possibly, concerning Members' lifestyles. This could discourage people from entering politics.
- Set against this, the Assembly had adopted very strict codes for Members of local authorities who were equally open to complaints that might impinge on their life choices. Although there were clear differences between the roles of Assembly Members and local authority members, it was important not to have double standards. The House of Commons and the Northern Ireland Assembly had this sort of requirement as well.
- There was a consensus that this was a very significant recommendation, which would need to be considered very carefully. Any such requirement might need to make it clear that private activities were beyond the scope of the code of conduct (as in Northern Ireland).

##### Recommendation 5 - para 2.6.3 (Value of Gifts) -

- Some Committee Members felt that a percentage of salary rather than a flat rate amount was simpler and fairer. Others felt a more concrete figure was preferable but with the figure being reviewed on a regular basis. Whether the percentage was of a Member's total salary or excluded any Ministerial etc element would need to be clarified. The view was also expressed that Members should not be allowed to accept any "tangible gifts" in line with local government practice.

#### Recommendation 6 - para 2.6.4 (Value of Shareholdings)

- This recommendation needed to be considered alongside Recommendation 5. It was accepted that there were merits on both sides of the argument on this issue as well.

#### Recommendation 8 - para 2.9.1 (Paid Advocacy)

- There was general agreement that using the phrase "lobbying for reward or consideration" instead of, or to supplement, the term "paid advocacy" was a more accurate reflection of what was involved.

#### Recommendation 9 - para 2.10.1 (Objective Voting Test)

- Concern was expressed that the proposed test was conceptually complicated and would be difficult for Members to interpret.
- The concept of an "informed member of the public" meant someone who knew, to some extent, the implications of a particular decision. For high profile or topical issues this could mean anyone.
- There was general assent to the suggestion that the English Model Code of Conduct for Councillors offered a reasonably robust definition of a test particularly if the word "could" was substituted for the words "is likely to".
- The Welsh local government code was considered very restrictive by some. Under it, Councillors had to withdraw from meetings where they had an interest as their mere presence could be said to be influencing a decision. However, this might be considered to be unnecessary in the Assembly as an all-Wales parliamentary body.

### **The Complaints Procedure**

#### Recommendation 18 - para 3.2.1 (Trivial Complaints)

- A robust definition of "trivial" was needed (although the recommendation was mainly a legitimisation of current practice in

some cases). This might include whether a Member had acted in ignorance or, conversely, whether a Member had shown wilfulness. Who decided whether a complaint was trivial would also need to be resolved.

Recommendation 20 - para 3.3.3 (Naming of parties to a complaint)

Recommendation 22 - para 3.4.4 (Holding Hearings in public)

- These recommendations needed to be considered together. There was concern that "mud sticks" and that too open a system could cast doubts on Members' ethical standards even where a case is subsequently not found. This could lead to an increase in "tit for tat" complaints. A policy of naming only complainants who are Members might offer a solution but might also displace the problem to proxy complainants.
- The system needed to be as open as possible in line with the Assembly's general policy on openness. At present complainants were able to leak information about their complaints. It would be better if information on cases came from the Committee.

Recommendation 27 - para 3.9.2 (Appeals Options)

- What a "senior Member" meant needed some clarification.
- The involvement of the Presiding Officer (or Deputy Presiding Officer) did not necessarily ensure the independence of the process. The Presiding Officer was a politician and susceptible, at least to some degree, to political pressures. An external Chair of the panel, or even a completely external panel, would ensure greater independence. On the other hand, an appeal panel with party balance would demonstrate sufficient independence and would also demonstrate trust in the Assembly's ability to regulate its own affairs.
- Appeals would only be on the facts of a case not on the sanctions imposed. Any appeals committee would not be able to impose additional sanctions. Where new facts arose it might be better if a case was referred back to the Standards Committee.
- Only the Scottish Parliament allowed appeals to the Parliament as a whole. In an appeal to Plenary it might be difficult for Members to separate their political role from their role as a tribunal.
- The Committee was minded to recommend some type of appeals system although the precise mechanism would need further thought.

**Roles Relating to Standards of Conduct**

Recommendation 30 - para 4.1 (Role of Presiding Officer)

- There was general support for this recommendation.

Recommendation 31 - para 4.2.13 (Commissioner for Standards)

- There was support for the recommendation but also concern that it might represent a "sledgehammer to crack a nut". It was also recognised that, even if the Committee and Assembly accepted the recommendation, implementation was not wholly within the Assembly's gift. However, the report also recommended possible interim arrangements and these would also need to be explored.

17. Summing up, the Chair thanked the Committee for the way they had approached the discussion. He suggested that the Secretariat should now draw up an action plan, for consideration by the Committee, setting out how the recommendations might be taken forward. He also felt that the report should be published formally and all AMs should be invited to offer comments on it. In asking for Members' comments, it should be emphasised that the Committee believed the report was a serious contribution to the development of the Assembly's standards' agenda.
18. The Committee was content with the Chair's summing up and for the Secretariat to proceed accordingly. The Committee's also recorded its thanks to Professor Woodhouse for her work on behalf of the Committee.

**Item 5: Any other business and date of next meeting.**

19. A meeting had been pencilled in for Thursday 28 November. The Chair suggested that the weight of business did not appear to merit a meeting then.
20. In the light of this, the Committee agreed to meet next after the Christmas recess unless there was a need for an oral hearing of a complaint.
21. The Chair declared the meeting closed at 11:25am.

Standards Committee Secretariat