

Committee on Standards of Conduct STD 02-99 (min)

Date: 11th November 1999, at 2pm

Venue: Committee Room 2, Cardiff Bay

Attendance:

Members

Nick Bourne (Chair) Mid & West Wales

Janet Davies South Wales West

Brian Hancock Islwyn

Gareth Jones Conwy

Richard Edwards Preseli Pembrokeshire

Val Feld Swansea East

John Griffiths Newport East

Christine Humphreys North Wales

Officials

Barbara Wilson Clerk to the Standards Committee

Julie Grant Deputy Clerk to the Standards Committee

Keith Bush Office of the Counsel General

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

1. The Chair opened the second meeting of the Standards Committee, drawing Members' attention to the new Clerk Barbara Wilson and the representative from the Office of the Counsel General, Keith Bush.

2. Apologies were received from Karen Sinclair, Clwyd South.
3. The Chair said that he had been giving some thought to the implications of his becoming party leader on his position as Chair of the Standards Committee. After careful consideration, he had decided to stand down. He had discussed his decision with the Presiding Officer and the Business Secretary and it had been agreed that the Chair would pass to another Conservative. A motion would be tabled in due course.
4. He was grateful to officials and Members for their support during his time as Chair.
5. Minutes of the last meeting were confirmed for accuracy. Christine Humphreys requested a change to the first page which listed her as "did not attend". There had been a mix-up and she had neither received notification of, nor papers for, the first meeting.
6. The Chair confirmed that, further to the discussion at the first meeting (page 2, paragraph 6 of the minutes) about a handful of potential complaints, the Presiding Officer had decided that there was insufficient evidence to warrant a referral to the Committee.

Action:

1. Chair/Secretariat to liaise with Business Secretary to secure slot for motion to elect new Chair.
2. Reference to non-attendance by Christine Humphreys to be amended to reflect mix-up over notification.

Item 2: Quarterly update and review of action arising from STD-01-99

Papers produced by Secretariat – STD02-05-99; STD02-06-99; &

STD02-07-99

7. The Committee noted the Secretariat's report; the key points arising from the discussion were as follows:

Open microphones

Secretariat's recommendation agreed.

Cardiff County Club

The Chair complimented Val Feld on appearing on the "Week In, Week Out" television programme about Cardiff County Club. It was agreed that the item would be carried over to the next meeting and that the Secretariat should prepare a paper for consideration at that meeting. The key issue was identifying those areas where there is potential for a conflict of interest to develop, which are not picked up by other means.

Action - Paper to be brought to next meeting, drawing on comparative experiences in other legislatures and organisations.

Members' Interests

It was noted that some members are inclined to register more than is actually required to be registered, despite discouragement from the Table Office team. There was concern about the perception this might create, and the scope for unfavourable comparisons. It was agreed that Members should be reminded of the basic requirements; that the Table Office would continue to discourage over-registration; and that the introduction to future publications of the Register would spell out the basic requirements and the preference of some Members to "declare all".

Declaration of Interests and Section 72 of the Government of Wales Act

The Office of the Counsel General (OCG) outlined the further advice on section 72 and confirmed that the Assembly has no flexibility to deal in-house with "de-minimis" cases. The prosecuting authority does, however, have some discretion and Officials are in the process of agreeing a draft protocol with the Police and the Crown Prosecution Service, which will set out a standard procedure for handling such cases. Failure to register was not a criminal offence (but could be the subject of a complaint to the Standards Committee); participating in proceedings having failed to register and/or declare was the problem.

There was some discussion of the precise requirements (including wording) in respect of declaration of interests and concern expressed as to whether Members were in fact complying with, and/or clear about, the requirements. The point was made that the Assembly's rules appeared to be less rigorous than those in operation in the local government sector and that, perhaps, changes were needed to the standing orders.

The meaning of "sponsorship" had been raised in the context of registration of election expenses (paragraph 5 of STD02-06-99) and it was apparent that views differed as to what was required.

Action –

1. Note to be included in the Introduction to future publications of the Register to make the point that some Members choose to register more than is necessary.
2. Practical guidance to be prepared and circulated to Members on the application of the existing rules for registration and declaration.
3. Secretariat to seek definitive legal opinion on "sponsorship of election expenses" for inclusion in guidance to Members.
4. Paper to be prepared on comparisons between Assembly arrangements and those in operation elsewhere.

Item 3: Complaints & the Role of the Independent Adviser (Main Business) (60 minutes)

Papers for consideration & approval - STD02-08-99, Annexes 1-3

8. The Chair confirmed that the Secretariat would circulate the draft advertisement (referred to at paragraph 2 of the paper), within the next day or two. Members' comments were invited.

Action – Secretariat to circulate advert; members to respond with comments.

9. The OCG introduced the paper and the basic principles that underlay the proposed arrangements for handling complaints against Members. The criminal provisions of section 72; the fact that the Assembly is a small body; and that investigations will inevitably involve a person known to the committee (and from one of the Members' parties) all mean that the procedures must be – and be seen to be – fair and impartial.

10. The Committee was invited to consider and approve the two proposals for standing instructions:

1. *automatic referral of all complaints to the Independent Adviser for preliminary investigation* – this would ensure minimal delay following referral by the Presiding Officer to the Committee and maximum protection for Members against unsubstantiated or vexatious complaints.
2. *automatic referral to the police of any potential section 72 cases identified by the Adviser* – lawyers' advice was that there must be no suggestion that Members had a hand in

whether a case should be referred to the police and also that the Committee should be protected from the risk of prejudicing a possible criminal case.

Both were agreed.

11. The Committee was also invited to indicate its views on whether it should adopt a House of Commons type approach to what constitutes a complaint. (The House of Commons does not entertain anonymous complaints; nor does it regard a complaint founded on no more than a newspaper story or television report as a substantiated allegation. STD02-08-99, page 4, italicised note refers.) There was support for this approach, provided that it did not rule out consideration of a series of articles or reports which would in the Committee's view constitute reasonable evidence. The Committee was also content that its role should be to carry out a review-type function as envisaged in the italicised note on page 6 of STD02-08-99.

12. There was some concern about the formality of the procedure and a brief discussion of the scope for an informal procedure for handling "minor" misdemeanours. It was agreed that OCG should explore this and report back.

13. OCG confirmed that the Committee's ability to recommend penalties to the Assembly was limited to exclusion of the Member concerned, although in accordance with standing order 4.8 they would have some discretion to specify the period of the exclusion.

14. It was agreed that, subject to a few small points here and there, the proposed procedure was clear and acceptable. The Secretariat should proceed with making the arrangements as set out in Annexes 2 and 3 to STD02-08-99. In addition, given the sensitivities involved, it was felt that all Members should be

given the opportunity to comment on the draft – although this need not hold up the move to the next stage.

15. There was a short discussion of annexes 2 and 3 (draft motion and recruitment plan). The Committee agreed that the motion should be tabled in all Members' names and that it should be heard in plenary before the end of the month. The Committee further agreed that its representation on the sift and interview panels for the appointment of the Independent Adviser should be increased from 1 (the Chair) to up to 4 Members. Their view was that the Assembly Permanent Secretary's role should be to support the process rather than to participate in the selection process.

Action -

1. Consideration to be given to the scope for including an "informal" procedure for complaints within the proposed system.

2. Members to be consulted on the draft complaints procedure; note to include the full context of standing orders and flow diagram.
3. Assembly Resolution on the appointment of an Independent Adviser: Slot to be secured before end of November; motion to be tabled in the name of the Chair & Committee Members.
4. Panel to include more Members from the Committee (possibly up to 4). Arrangements to be agreed and confirmed with Committee Members prior to the next meeting.
5. Permanent Secretary to be deleted from Sift/Interview Panel for the Independent Adviser.

Item 4: Any Other Business and date of next meeting

16. The next meeting was scheduled for 2pm on the 10th February. Concern was expressed about the need for an earlier meeting and the Secretariat agreed to explore whether this would be possible. It was noted that against the background of a pressurised Committee timetable and the impending Christmas Recess, this may prove difficult. In any event, papers could be circulated and views sought outside of a formal meeting and the Secretariat undertook to keep Members informed of progress.

Action –

Scope for an additional meeting, ie before 10th February, to be explored.

Standards Committee Secretariat

Office of the Presiding Officer