

Committee on Standards of Conduct STD 03-99 (min)

Date: 10th February 2000, at 2pm

Venue: Committee Room 1, Cardiff Bay

Attendance:

Members

David Melding (Chair)
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 Committee Clerk
Julie Grant Deputy Clerk
Keith Bush Office of the Counsel General

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

1. This was the third meeting of the Committee but the first under the chairmanship of David Melding. The Chair said that he welcomed the opportunity to sit on the Committee and looked forward to working with its members. Apologies had been received from Janet Davies, South Wales West.

2. The minutes of the last meeting were confirmed as an accurate record.

Item 2: Quarterly update and review of action arising from STD-02-99

Paper produced by Secretariat - STD03-10-99.

3. The Committee noted the Secretariat's paper and the supplementary oral report in

respect of private members clubs (action item 2).

Cardiff County Club

The Clerk reported that the Secretariat had met with other Assemblies/Parliaments, the Parliamentary Commissioner on Standards and representatives of the Neill Committee on 7th February. The Committee's concerns about private members clubs had been raised but the unanimous response was that this had not been an issue elsewhere or even one which had been considered. On the contrary, the representatives could see enormous difficulties on enforcement and definition.

It was noted that there were a number of emerging inconsistencies between standing order 4, the Annex and the Assembly's guidance on interests. There was a need to undertake a review, and should the Committee agree, it would be possible to look at the issue of private members clubs as part of that review.

Val Feld indicated that she was content and reported that she had also drawn the matter to the attention of the Equal Opportunities Committee. The proposal was therefore agreed. [Discussed further under item 3]

Item 3: Register of Members' Interests & Guidance

4. Oral report & papers from the Secretariat STD03-11-99 & STD03-12-99.

The Register

It was noted that the next quarterly report of the register of members' interests would be published at the end of February. As agreed at the last meeting, the foreword would draw readers' attention to the fact that some Members persist in registering more than they are actually required to register. The Secretariat confirmed that the Table Office had been asking Members to review unnecessary registrations and had observed practices changing as a result. There were still some Members, however, who wished to exercise their prerogative to "tell all".

Sponsorship

OCG ran through the paper (STD03-11-99), highlighting the key points. The bottom line was that financial support provided by a political party was not sponsorship as such and did not

therefore need to be registered either as election expenses or ongoing support. Trade Union support was a different matter, however, and should be registered. [In fact, the register showed that this was the approach that Members had adopted to date.] "Self-sponsorship" was not a concept that came within the definition of sponsorship in standing order 4.

It was also confirmed that if a Member stood for election as an independent member of a political party (but not as the official candidate) and received financial support from that party then it should be registered.

The Committee agreed that the advice contained in the paper should be disseminated as guidance for Members.

Declaration of Interests & Voting

At its last meeting the Committee had requested further advice on how detailed and how frequent declaration ought to be. Paper STD03-12-99 sought to address this and the associated issue of voting.

The difficulty in all of this was identifying the group of people who might benefit from any decision. Might the decision result in a direct financial advantage greater to the Member than to the group generally? It was difficult to be precise and the guidance had gone about as far as it could - ultimately it was a matter for individual Members. The best advice that could be offered, in view of the fact that failure to comply could result in criminal proceedings, was if in doubt don't vote.

It was noted that there is no such rule in the Scottish Parliament. Should a Member fail to declare and/or vote then the member may be excluded. Also that there is nothing in the rulebook to say that Members can't vote - only that they must declare an interest. By contrast, local government legislation requires members with a "pecuniary interest" to leave the room during discussion and/or votes to which that interest relates.

OCG explained that having an interest doesn't stop a Member from participating; the strict requirement relates to the taking of decisions. The practice of affording Assembly Members the opportunity to declare any interests on the Assembly Question (AQ) forms was erring on the side of caution. The Committee endorsed this approach and agreed that Members should be reminded of the need to declare any interest when asking supplementary questions in the

Chamber [something which had not generally happened to date].

Richard Edwards reiterated the point he made at the previous meeting which was 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.

It was explained that the Assembly's rules were a compromise between the relatively broad requirements in Westminster and the extremely rigorous approach in local government. These arose from the different responsibilities. In Westminster general principles and legislation are considered while in local government specific decisions are more likely to affect individuals directly. In the interests of integrity an attempt had been made to adopt something closer to the local government model but those designing the system had had to recognise the wider Assembly remit and powers. Wholesale application of the local government model could have a significant impact on Members' ability to participate in proceedings.

It was clear from the discussion that there was concern about this whole area and perception in some circles that double standards were being applied. The Secretariat further outlined their proposal [briefly discussed under item 2] that there should be a review of standing order 4, the annex to the standing orders and the Guidance on Members' Interests, which had been adopted by the Assembly in May 1999. This could be undertaken as part of the Committee's annual review and the outcome reported in the Committee's annual report to the Assembly in September.

The Committee welcomed the proposal, subject to there being full consultation with Members and/or parties on identifying the shortcomings and the proposed changes. In the short-term it was agreed that the Secretariat should issue additional guidance on the specific issues raised by the Committee and that the covering note should inform Members of the Committee's intention to undertake a full review.

Action

Secretariat to implement the recommendations in paragraphs 6, 10 & 11, of STD-3-12-99 as agreed by the Committee. Subject to:

1. Informing Members of the Review

2. Reinforcing the "golden rule" in the draft basic advice at paragraph 11.

Item 4: The Assembly Complaints Procedure

5. The Secretariat ran through the responses that had been received (paper STD03-13-99) and the late response from the Labour Party. The latter had 2 concerns - firstly that the procedure was being finalised in advance of the appointment of the Assembly Independent Adviser on Standards and secondly that there should be no question of the procedure extending to complaints about the quality of service provided by an Assembly Member.
6. The Committee agreed that it had never been their intention to make final decisions until the Adviser was in post and had had the opportunity to comment on the procedure. Also that complaints about the role of Members would be outwith the jurisdiction of the Committee and therefore sifted out at the initial stage.

The comments

7. OCG offered thoughts on a possible response to the comments that had been received:
 1. No problem with informing the complained against Member when a complaint was made but as some complaints might carry criminal implications, which would need to be brought to the attention of the police first, the notification needed to occur after the initial sift stage.
 2. "Triage" had medical connotations but it should be easy to find a more neutral word to replace "filter out".
 3. Members complained against have a right in standing orders to be accompanied at any hearing with the Committee. There is no definition of "person" and so this could include a lawyer. It would be good practice to replicate this procedure at the earlier stage including interviews with the Independent Adviser.
 4. It would be difficult to impose target times for the completion of action that may be outside the Committee's control (eg police consideration of a complaint).
8. The Committee was in general agreement with the proposed responses, with the exception of comment 4). There was some discussion about target timescales and it was

agreed that consideration should be given to setting deadlines for the completion of individual stages. Next steps - there should be no further action until the Adviser was in post.

9. There was concern that the draft procedure (taken from standing orders) assumed that the complaint would be made initially to the Presiding Officer. What would happen in the theoretical situation of a complaint being made against the Presiding Officer? And how would it be handled? It was essential that the Presiding Officer's rights as a Member were protected and that he was treated fairly. The Secretariat confirmed that work was in hand to change standing orders to make explicit the Deputy Presiding Officer's role in "deputising" for the Presiding Officer. If a complaint were about the Presiding Officer then the Deputy would handle it initially and then the normal procedures (of referral to the Independent Adviser, etc) would kick in.

Item 5: Appointment of an Assembly Adviser on Standards

10. The Secretariat updated the Committee on progress with the appointment. Members had received details of the applicants and the shortlist. Interviews had been arranged for 14th February 2000.

11. Val Feld was unhappy that the Presiding Officer had decided to overrule the Committee's decision to increase its representation on the sift and interview panels to one Member per party (as opposed to just the Chair). Her comments were echoed by a number of the Committee Members, who felt that it was important that the appointee had the full backing of all parties. The Clerk explained that the Presiding Officer had wanted to keep the appointment panel small. It was therefore agreed that the preferred candidate would be notified to party leaders before the appointment was formally confirmed in order that they might have the opportunity to comment.

Action

Secretariat to prepare joint note for the Chair and the Presiding Officer to send to party leaders as soon as possible after the interviews had taken place.

Item 6: Any Other Business and date of next meeting

12. The next quarterly meeting was scheduled for 2pm on the 11th May. A short meeting had

also been pencilled into the schedule for 13th April at 2pm. The purpose of this meeting was to enable the Committee to meet with the new Adviser at an early stage.

The Committee then went into closed session to briefly discuss the shortlist of candidates.

Standards Committee Secretariat

Office of the Presiding Officer