

Senedd Cymru
Y Pwyllgor Safonau Ymddygiad
[Ymchwiliad i Urddas a Pharch](#)
DR05
Ymateb gan: Plaid Cymru

-
Welsh Parliament
Standards of Conduct Committee
[Dignity and Respect Inquiry](#)
DR05
Evidence from: Plaid Cymru

Adam Price AS/MS

Aelod o'r Senedd dros Ddwyrain Caerfyrddin
a Dinefwr

—
Member of the Senedd for
Carmarthen East and Dinefwr

Dr Elizabeth Haywood,
Chair of the Senedd's Independent Remuneration Board,
c/o Llinos Madeley, Clerk to the Board
Via e-mail: llinos.madeley@senedd.wales

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Dyddiad | Date: 05 Tachwedd 2021

Annwyl Elizabeth,

May I take this opportunity at the outset to welcome you to your post and to wish you well in carrying out the responsibilities it entails.

I am mindful that we have not yet had the opportunity to meet formally since you have taken on the post of Chair of the Board as the Fifth Senedd was drawing to a close against the unprecedented backdrop of the global pandemic, on top of the more familiar pressures associated with the pre-election period.

I would, nevertheless, welcome the opportunity to meet with you at a mutually convenient time to look forward to the aspirations we have for the Sixth Senedd – including in the crucial area of Senedd reform – and the Board's contribution to that all important work.

In the interim, there is one specific matter of concern which I would like to bring to the Board's attention and request that it be considered at your next meeting which I understand is scheduled to take place before the end of this month.

I am drawing the Board's attention to this matter on the basis of i) my responsibilities as the remunerated Group Leader in the employment of the Party Group's staff and ii) my understanding and interpretation of my wider leadership role as the remunerated Group Leader in having ultimate oversight of and responsibility for maintaining a cohesive, well governed and disciplined Group thereby contributing to the wider parliamentary framework and success of the Senedd institution.

The context of this correspondence is a request for legal advice on two specific matters towards the end of the Fifth Senedd in readiness for the Sixth Senedd, reflecting on experiences in operating as a Group during the period 2016-2021 and how procedures and employment

practices may be strengthened further as preparations for a new Group were underway. It was explained that it was not possible for the Senedd Commission's MBS Team or Legal Services to provide the advice sought, therefore an application was submitted to draw on remaining Group office costs to source external advice. This was turned down at the MBS level and at appeal by the Clerk through the established appeals procedure. The decision is recorded in the public facing appeals log (**[Formal Appeals on Members' Expenses \(senedd.wales\)](#)**) as follows:

'A Group sought access to funds, from their Group allowance, for external legal advice for two issues. Firstly, advice was sought about a potential internship scheme aimed at BAME candidates. Secondly advice was sought about internal Group arrangements. Paragraph 8.1.1 of the Determination provides that the allowance is for parties to assist in the discharge of their work in the Senedd. It is payable only in respect of costs which are wholly, exclusively and necessarily for the purpose of discharging their duties as Members. The Chief Executive and Clerk did not consider that the two requests fell within the scope of paragraph 8.1.1 and the appeal was dismissed.'

I have included as an annex to this letter an extract from exchanges between my Chief of Staff and an official within MBS in relation to the specific matter. The position taken is generally consistent with the Clerk's basis for rejecting the appeal. I should like to place on record that I make no criticism of officials who presumably took this position based on their own legal advice, but rather include it for context in relation to the application and interpretation of the relevant provisions of the Determination in this instance.

Without wanting to unhelpfully rehearse or appear to be attempting to reopen the appeals process which has clearly now been exhausted in the case of the specific applications made in the Fifth Senedd, and which is the responsibility of the Clerk, I will attempt to outline the potential wider significance of the matter for the future, drawing on the context of the legal advice that was being sought and why.

My objective in doing so is to query whether the Determination should be adjusted – whether in terms of substance or simply in terms of drafting to remove any uncertainty or ambiguity – to ensure that Party Groups in the Senedd are able to carry out their work in the most appropriate and comprehensive manner and are equipped and empowered with the necessary resources to do so.

BME parliamentary internship scheme

Summary of proposal and issue

It has been an aspiration of mine for a while to offer a parliamentary internship scheme, rewarded at the real living wage, which would be more structured and extensive in terms of duration than the brief periods of unpaid work experience we have offered in recent years. The renewed focus

on structural racial inequalities in Welsh society and around the world in light of the Black Lives Matter movement also resulted in renewed consideration of the diversity of our own workforce.

I was therefore keen to explore whether these two strands could be combined through the creation of a parliamentary internship role targeted specifically at people from black and minority ethnic backgrounds. Similar schemes have been successfully run by organisations in Wales and other parliaments too – that exist to support people from all backgrounds into politics.

The driver for my interest in setting up such a programme as an employer of Party Group staff is that I want to make sure that we do not miss out on diversity of thinking, skills and experience in our own workforce, as well as ensuring we play our part in tackling structural underrepresentation of people from black and minority ethnic backgrounds in Welsh politics and Welsh public life more broadly. I want to ensure that our own workforce within the Senedd Group reflects the Wales that we serve and proactively leads the way towards the new Wales we are determined to create. Setting up a scheme of this nature would be one positive step in this direction, though would need to be considered alongside other wider changes to make progress on several fronts.

My team took advice from the Members' Business Support team in the Senedd Commission and shared our proposal. The principle of offering a temporary (3-6 months contract) Band 3 post as an internship opportunity, paid the real living wage in the pay framework set by the Remuneration Board, was not queried. MBS sign posted my team to other organisations and advised on the general principles of positive action, which was useful to an extent. Following advice, we then undertook an anonymous workforce diversity monitoring survey at the end of the last Senedd to develop the evidence base for the proposal and to verify that it could reasonably be defended as a proportionate means of achieving a legitimate aim.

However, given this was uncharted territory for the Group and given the potential for reputational damage if it was challenged, I felt we needed a suitably qualified person to provide assurance that as an employer the legality of both the process undertaken to capture the diversity profile of our workforce and the wording and presentation of the proposed scheme was robust – to sense check the documentation that had been prepared and to give the 'green light' to advertise.

Regrettably, given the inability to obtain the legal advice and assurance required, the scheme has been unable to proceed further. Alongside this letter I have provided, by way of further context, a copy of the draft documentation prepared at the end of the Fifth Senedd; I am anxious to ensure that the scheme can proceed at the earliest convenience in this Sixth Senedd.

Significance

My observation would be that:

- Equality has been enshrined into the foundations of the devolution arrangements established in 1999, with the then National Assembly's founding legislation, the Government of Wales Act 1998, requiring the new institution to '*make appropriate arrangements with a view to securing that its functions are exercised with due regard to the principle that there should be equality of opportunity for all people*'.
- As far as I am aware, equality has never been viewed as something that is desirable, additional or nice to have: it is, and should continue to be, enshrined into every aspect of our work and this proposal, in my own view, follows in that trajectory.
- If this basic premise is accepted, I believe that it follows logically that explicit confirmation be ensured that the Determination is a document to empower and support Members in their role as employers to proactively take positive action and to enhance equality and diversity by whatever means that are deemed appropriate and necessary.

In addition to asking the Board to consider what changes, if any, may be required to the Determination itself so as to explicitly enable Groups to seek the sort of advice required and operate to proactively strive for equality in its widest sense, I would be grateful for any guidance that can be given in the meantime to allow the proposal to proceed given that if the Board considered changes to the Determination necessary then it will likely involve a consultation process which would not be concluded presumably until the next financial year 2022-23.

Governance of Group disciplinary arrangements

Summary of proposal / issue

Again in the context of preparing for the Sixth Senedd, the Group undertook a review of its governance arrangements. The need for specific legal advice arose in the context of reviewing the section of our Group standing orders relating to the discipline and conduct of Members. At a fundamental level, it appears that there is no consensus on the principle that Groups/Group Leaders have a legitimate role in maintaining robust and effective processes to maintain discipline and can therefore legitimately make use of resources provided under the Determination to discharge such an obligation. The position taken is that these are matters belonging exclusively to the party, rather than parliamentary space.

Significance

My observation would be that:

- Party Groups are not creatures that exist in a vacuum in any parliamentary context. Senedd Groups are usually an organ or entity within a wider whole of a political party – in the case

of Plaid Cymru and most others – a membership organisation. That may very often be seen in the case of disciplinary processes and procedures where there are *parallel* processes in the parliamentary and party space, clearly requiring read across from time to time, but which does not take away from the fact that parliamentary Groups have obligations to uphold and maintain discipline. For instance, the “removal of the whip” is fundamentally a parliamentary concept, not a party political one. Jeremy Corbyn MP is back in the Labour *Party*, but currently has not been readmitted into the *Parliamentary* Labour Party in the UK Parliament.

- One consideration which featured in the context of changes discussed to the Senedd’s own Standing Orders in preparation for the Sixth Senedd was about how many members constitute a group and the wider matter of the conditions around Members being able to switch Groups within a Senedd term, including as a result of the formation of new groups. The specific concern raised in Business Committee papers prepared was the potential risk that limiting the ability of Members to establish new groups within the term could lead to dissenting members remaining in current groups and speaking out against the agreed Group line and causing disruption, which would suggest that it is generally accepted that Groups and Group discipline are an important component in the maintenance of order and the proper functioning of the wider institution.
- The Dignity and Respect Policy (**Welsh Parliament Dignity and Respect Policy (senedd.wales)**) agreed by the Senedd Plenary states that complaints can be raised through one of two routes, but not both.

‘Choose option A or B but not both.

A. Report directly to the Senedd's Standards Commissioner

or

B. Report to the political party's own procedures if that is your preference’

- If, as I suggest, it is accepted that Groups/Group Leaders both as employers and in their wider leadership role have such an obligation and responsibility, it would appear to follow logically that they must be equipped with the means and resources, including the ability to obtain advice, to ensure proper processes are in place to allow them to discharge those responsibilities effectively.
- The suggestion that matters of Group discipline belong exclusively to the party sphere is potentially problematic and possibly incompatible with the reporting routes for the Dignity and Respect Policy, specifically in particular respect of any dignity and respect complaints raised by Party Group/Support Staff employees. There is a potential issue of confidentiality meaning that were it the desire of staff to raise complaints through an internal route, rather than the Standards Commissioner route, it may not be appropriate to refer complaints relating to the Party Group to the wider Political Party, which in such a scenario would appear to be in employment terms a separate entity/organisation. The duty of the employer to have a procedure to address workplace harassment complaints and to have a robust mechanism to take action when necessary and if complaints are upheld, including

potentially against Members of a Party Group, surely cannot be outsourced to another entity/employer.

Again, I would be grateful to understand the Board's position on this matter and whether any changes may be required to the Determination in the interests of clarity.

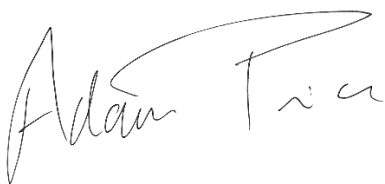
Finally, I believe there is one wider point to highlight. The instances referred to above are examples where there was a proactive desire (i) to take positive action to improve the diversity of our workforce and also (ii) to review and strengthen the Group's procedures to ensure robust procedures to provide a safe workplace for staff, fellow Members and other colleagues and to uphold and enhance the Senedd's reputation – in other words *going over and above* the minimum and seeking assurances to err on the side of caution. However, in the event that advice would need to be taken in a reactive context and if the position stands that MBS nor the Legal Services can provide such advice, I would welcome the Board's guidance on who would have to meet the costs considering legal advice can be costly in employment/dispute contexts and may impact budgets – with Group/support for political parties budgets having to cover staff and office costs.

For completeness, I should mention that I understand that following the most recent meeting of the Member and Support Staff Representative Groups the Board proactively requested specific information around the procurement of offices for new Members and other matters for consideration at your November meeting. My colleague Rhun ap Iorwerth MS has been diligently coordinating feedback from fellow Members on that specific request in his role as the Group's representative on the Board's Member Representative Group which I hope the Board will be able to also consider at its next scheduled meeting.

However, given that the issues raised in this letter directly relate to specific responsibilities conferred on me as the employer of Group staff and my understanding of my wider leadership responsibilities, I considered it best to write to you directly on this specific matter.

I shall look forward to hearing from you in due course. Please let me know if there is any further information or points of further clarification which would be useful to the Board in relation to this particular matter.

Yn ddiffuant,



Adam Price AS/MS

Arweinydd Plaid Cymru / Leader of Plaid Cymru

Appendix 1 – extract of reasoning of MBS official in correspondence with CoS

"I have considered both requests in further detail and discussed with colleagues. On the basis of the description provided, we cannot see a sufficient link between the legal advice being sought and what might be considered the duties of a Member. It does not appear that either set of costs would be incurred *"wholly, exclusively and necessarily for the purpose of discharging their duties as Members"*. As such, they do not fall within the scope of the Support for Political Parties allowance under the Determination.

The Determination states that the Support for Political Parties allowance *"exists to assist parties and individual Members in the discharge of their work in the Assembly"*. It goes on to say that the allowance is only payable for costs *"wholly, exclusively and necessarily for the purpose of discharging their duties as Members"* (paragraph 8.1.1 of the Determination).

The duties of Members are not defined in the current Determination, although they may reasonably be expected to cover constituency and regional business arising from their election.

In relation to the legal advice on employment matters, although the development of a BME internship scheme and recruitment policies aimed at increasing the diversity of the group's workforce may be seen as a positive step, they are not matters which *"wholly, exclusively and necessarily"* arise in order for the group to support its Members to discharge their duties. Although Members are required to comply with various obligations as employers, including those under the Equality Acts, those obligations do not require a scheme or policies of the like being sought.

In relation to the legal advice on the discipline of Members, having considered the Senedd's Standing Orders, the Code of Conduct for Members of the Senedd, Guidance on the proper conduct of Senedd business (issued by the Llywydd) and the Dignity and Respect Policy, there does not appear to be any obligations on Group Leaders in relation to discipline, as suggested in your email. Although all of those documents, to one extent or other, set out rules concerning the conduct of Members, there does not appear to be an obligation on either a Group or a Group Leader to put in place the *"robust and effective processes to maintain discipline"* mentioned. As such, the development of such rules is a matter for the political party rather than a duty of Members of the Senedd."

