

Standards of Conduct Committee

**Report 01-17 to the Assembly
under Standing Order 22.9**

August 2017



National Assembly for Wales
Standards of Conduct Committee

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August 2017



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The Committee was established on 28 June 2016 to carry out the functions of the responsible committee set out in Standing Order 22. These include:

- the investigation of complaints referred to it by the Standards Commissioner;
 - consideration of any matters of principle relating to the conduct of Members;
 - establishing procedures for the investigation of complaints; and
 - arrangements for the Register of Members' interests and other relevant public records determined by Standing Orders.
-

Current Committee membership:



Jayne Bryant AM
Welsh Labour
Newport West



Gareth Bennett AM
UKIP Wales
South Wales Central



Paul Davies AM
Welsh Conservative
Preseli Pembrokeshire



Llyr Gruffydd AM
Plaid Cymru
North Wales

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Recommendations

Recommendation 1. The unanimous decision of the Committee is to recommend to the Assembly, in accordance with 7.12(iv) of the Procedure for Dealing with Complaints against Assembly Members, that a breach has been found and that the Member should be censured under Standing Order 22.10.

01. Introduction

1. The terms of reference of the Standards of Conduct Committee (the Committee) are set out in Standing Order 22.¹ In accordance with functions set out in Standing Order 22.2 the Committee must:

“investigate, report on and, if appropriate, recommend action in respect of any complaint referred to it by the Commissioner for Standards.”²

2. This report is made to the Assembly under Standing Order 22.9 and paragraph 8.1 of the Procedure for Dealing with Complaints against Assembly Members³ (the Procedure), in relation to a complaint made against Neil McEvoy AM.

3. The report from the Commissioner for Standards (the Commissioner) on his investigation of the complaint is attached at Annex A. It sets out the details of the complaint and the findings of the Commissioner’s formal investigation.

4. This report sets out the details of the complaint and the way in which the Committee arrived at its recommendation.

¹ Standing orders

² Standing order 22.2(i)

³ The National Assembly for Wales’ Procedure for Dealing with Complaints Against Assembly Members

02. Consideration of the Complaint

5. The complaint alleged that the Member concerned failed to comply with paragraph 10 of the Code of Conduct for Assembly Members, which states:

“Members are required to comply with the ‘Guidance for Members on the Use of Assembly Resources’ and any guidance on the use of Assembly resources specifically relating to an election campaign.”⁴

6. In this instance, the Member did not restrict his use of the Media Briefing Room on 14 March 2017 to his activities as an Assembly Member, instead using it for party political and campaigning activities. This is against Rule 12 of the Rules and Guidance on the Use of Assembly Resources which states:

“Assembly Members must ensure that they use Assembly Resources for the purpose of their activities as Assembly Members only and not for the purposes listed below which are prohibited:

Personal, business or commercial communications

Party political activity of any kind, for example party-political fund-raising, recruitment of party members and the organisation and publicising of party political meetings; and

Campaigning for the election or re-election of particular candidates for any public office (including the Member in question.”⁵

7. In a written statement the Member concerned stated that he booked the room to hold a press conference to explain his position following his suspension from the Plaid Cymru group in the Assembly. He said that he distributed copies of a document which contained seven policies relevant to the local elections [which were being held on 4 May 2017] upon which Plaid Cymru was going to hold a consultation because:

“These policies were relevant to my suspension as the first of the proposed pledges was to restructure Cardiff Council’s senior management. I was suspended as a Councillor after being overheard saying to an Eviction Officer that I couldn’t wait to restructure Cardiff Council, which was judged by an Adjudication Panel to be bullying behaviour. This led to my suspension from the Plaid Cymru group in the National Assembly. By showing the proposed 7 pledges at the press conference, I was demonstrating that I had the full backing of my party in Cardiff, who had agreed to make the restructure pledge number one on the list of pledges. However, I was asked questions about these pledges, in particular the restructure pledge relevant to my suspension.”⁶

⁴ Code of conduct

⁵ Rules and Guidance on the Use of Assembly Resources.

⁶ Statement of Neil McEvoy AM, 9 May 2017

8. The Member concerned acknowledged that “this may have given the impression that the press conference was a launch of Plaid Cymru’s consultation on these pledges”.⁷

9. He also accepted that:

“This was not appropriate. I accept that it was in breach of the Code of Conduct and in particular in breach of Paragraph 12 of the Rules and Guidance on the Use of Assembly Resources referred to in paragraph 2 above. However, I wish to emphasise that it was never my intention to contravene the Code of Conduct and I wholeheartedly and sincerely apologise, without reservation, for having done so.”⁸

10. The Committee met on Tuesday 11 July 2017 to consider the report of the Commissioner. The Committee was satisfied that the Commissioner’s report contained sufficient information upon which to base its deliberations, and that it was not necessary to seek further written or oral evidence.

11. The Committee met again on Tuesday 18 July 2017 to agree its report in respect of this complaint.

Committee’s Consideration of its Decision

12. The Committee considered whether the Member was in breach of Standing Order 22.2(i).⁹

13. In considering whether a breach took place the Committee reviewed the information within the Commissioner’s report and the Commissioner’s opinion that a breach had taken place.

14. The Committee noted that the Member concerned fully acknowledged that his actions constituted a breach of the code of conduct and has fully co-operated with the Commissioner’s investigation.

Having reviewed the report from the Commissioner for Standards the Committee finds that a breach of the Code of Conduct has taken place by Neil McEvoy AM in relation to the improper use of Assembly resources.

Committee’s Recommendation - Sanctions available.

15. The Committee considers that a breach by any Assembly Member is a serious matter. The reputation of the National Assembly for Wales as an institution, and the public’s trust and confidence in it, rely upon Members demonstrating integrity and leadership by their actions.

16. The Committee notes that the Member has fully apologised in his written statement to the Commissioner, and further apologised to the Committee on receipt of the Commissioner’s report.

Recommendation 1. The unanimous decision of the Committee is to recommend to the Assembly, in accordance with 7.12(iv) of the Procedure for Dealing with Complaints against Assembly Members, that a breach has been found and that the Member should be censured under Standing Order 22.10.

⁷ Statement of Neil McEvoy AM, 9 May 2017

⁸ Statement of Neil McEvoy AM, 9 May 2017

⁹ Standing order 22.2(i)

17. A copy of this report has been provided to the Member concerned, who was also notified of his right to appeal under section 8 of the procedure.¹⁰

18. The Committee Chair has tabled a motion (in accordance with Standing Order 22.11 and paragraph 9.1 of the procedure) calling on the Assembly to endorse the Committee's recommendation.

¹⁰ The National Assembly for Wales' Procedure for Dealing with Complaints Against Assembly Members

From: Sir Roderick Evans, Commissioner for Standards

To: Standards of Conduct Committee

FORMAL INVESTIGATION REPORT

Neil McEvoy AM

The Complaint

1. By letter dated 15th March 2017 the then Chief Executive and Clerk to the Assembly, Claire Clancy, referred to me pursuant to S9 of the National Assembly for Wales Commissioner for Standards Measure 2009 a matter which related to the booking and use of a room on the Assembly estate which she suspected was in breach of the Rules and Guidance on the Use of Assembly Resources.
2. In accordance with the provisions of S9 I have treated this reference as a complaint to which S6(1)(a) of the Measure applies.
3. On preliminary investigation, it appeared that on Monday 13th March 2017 the Media Briefing room had been booked on behalf of Neil McEvoy AM to hold a press conference the following day and at that press conference he had discussed the then forthcoming local elections and elements of Plaid Cymru's election campaign.
4. Therefore, I was satisfied that the complaint was admissible as it appeared that the press conference related to party political campaigning and activities rather than only to the activities of Mr McEvoy as an Assembly Member. I was also satisfied that the requirements of paragraph 3.1(i)-(vi) of the Procedure for Dealing with Complaints against Assembly Members had been fulfilled and that the complaint was admissible. Accordingly, I moved to the formal investigation stage.

The Investigation

5. On 16th March I wrote to Mr McEvoy to inform him that his use of the Media Briefing Room had been referred to me by the Clerk to the Assembly and I met him on the 4th April to discuss the matter. He wrote to me on 5th April confirming the content of our conversation and on 9th May he supplied me with a signed statement in which he confirmed that:
 - (a) following his suspension on Friday 3rd March from the Plaid Cymru Group in the Assembly he decided to hold a press conference to explain that despite that suspension he was still an active member of the Assembly and of Plaid Cymru

- (b) in order to illustrate this point he took with him with a view to distribution at the Press Conference a document which contained a list of seven policies relevant to the local elections upon which Plaid Cymru was going to hold a consultation
- (c) he distributed the documented as planned and stated that he would be campaigning on these policies
- (d) he was asked questions about these policies and accepts that the impression might have been given that the Press Conference was the launch of Plaid Cymru's consultation on these pledges.
- (e) he accepts that the manner in which this Press Conference was conducted was in breach of the Code of Conduct, emphasises that he never intended to breach the Code and unreservedly apologises for having done so.

Facts Found by the Commissioner

6. The relevant facts which I find to be established are as follows:

- (a) the use of the Media Briefing Room was booked on Mr McEvoy's behalf by his AMSS. This is normal practice. When the booking was made the member of the Commission's staff who took the booking asked the necessary questions and received appropriate answers for her to create the booking.
- (b) The press conference of 14th March dealt with matters outside the scope of Mr McEvoy's activities as an Assembly Member and extended to his party political activities and Plaid Cymru's local election campaign.

Conclusion

7. I am satisfied that there has been a breach of paragraph 10 of the Code of Conduct by Neil McEvoy AM in that he failed to comply with the Rules and Guidance on the Use of Assembly Resources by not restricting his use of the Media Briefing Room on 14th March to his activities as an Assembly Member and by using it for party political and campaigning activities contrary to Rule 12.

8. In my view this complaint does not raise any new issue of general principle.

Requirements under the procedure for dealing with Complaints

9. I confirm that the Member concerned and the present Chief Executive and Clerk to the Assembly, Manon Antoniazzi, have been provided with a draft of my report and wished to raise no factual inaccuracy.

Attachments

10.I append to this report:

- (i) the original letter of complaint dated 15th March 2017
- (ii) the signed statement of Neil McEvoy AM dated 9th May 2017

A handwritten signature in black ink that reads "Roderick Evans". The signature is written in a cursive style and is underlined with a single horizontal stroke.

Sir Roderick Evans

Commissioner for Standards

10th June 2017

Claire Clancy

Prif Weithredwr a Chlerc y Cynulliad
Chief Executive and Clerk of the Assembly

Assembly Restricted

Sir Roderick Evans
Commissioner for Standards
National Assembly for Wales
Cardiff Bay
CF99 1NA

15 March 2017

Dear Rod

IN CONFIDENCE - Neil McEvoy AM

I am writing to refer to you a matter relating to Neil McEvoy AM. I do so under section 9 of the National Assembly for Wales Commissioner for Standards Measure 2009 which, as you know, provides that:

*“If the Clerk has reasonable grounds for suspecting—
(a) that the conduct of an Assembly Member has, at a relevant time, failed to comply with a requirement of a relevant provision, and
(b) that the conduct in question is relevant to the Clerk's functions under section 138 of the Act (Clerk to be the principal accounting officer for the Commission),
the Clerk must communicate those grounds in writing to the Commissioner and the Commissioner must treat the communication as a complaint to which section 6(1)(a) applies.”*

The grounds for my concern relate to the booking and use of Assembly facilities for a press conference yesterday. The purpose of the press conference appears to be in breach of paragraph 12 of the Rules and Guidance on the Use of Assembly Resources: http://www.assembly.wales/en/memhome/code-conduct-mem/Documents/Standards%20Compendium_draft_October%202015_v2-FINAL.pdf and the guidance on the use of meeting rooms and public



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areas in the Senedd, Ty Hywel, Pierhead and North Wales office:

<http://members/efm/room->

[bookings/guidance%20for%20booking%20rooms.v3%20english%202015\[8\].pdf](http://members/efm/room-bookings/guidance%20for%20booking%20rooms.v3%20english%202015[8].pdf)

I am attaching a note setting out the relevant facts as I understand them. Given the circumstances, I believe that I have reasonable grounds for suspecting that the circumstances raise concerns relevant to my functions as principal accounting officer for the Commission.

Although each case must clearly be judged on its own merits, you are aware that a similar case was considered during the Fourth Assembly. The Standards of Conduct Committee's Report is at

<http://www.assembly.wales/laid%20documents/cr-ld10508/cr-ld10508-e.pdf>

As Neil McEvoy emailed me asking for my comments, I have made him aware that I have written to refer the matter for your consideration. I am attaching a copy of his email and my two responses.

Commission staff will be available to provide any further information that you might require.

Yours sincerely



Claire Clancy

Prif Weithredwr a Chlerc/Chief Executive and Clerk
Cynulliad Cenedlaethol Cymru/National Assembly for Wales



Statement of Neil McEvoy AM.

1. Since the Assembly elections on 6th May 2016 I have been an Assembly Member for the South Wales Central Region.
2. I acknowledge that I am aware of the Code of Conduct for Assembly Members and in particular, in relation to this complaint, of the requirement to comply with the “Rules and Guidance on the Use of Assembly Resources” contained in paragraph 10 of the Code.
3. On Friday 3rd March 2017 I was suspended from the Plaid Cymru group in the Assembly and for the period of the suspension became an independent Member of the Assembly. This attracted a lot of press attention and caused considerable confusion among people who had voted for me. A number of people asked me questions such as whether I was still a member of the Assembly and whether I would still be able to assist them in issues which I was pursuing on their behalf.
4. I wanted to assure people that I was still an Assembly Member, that I could still deal with matters on behalf of constituents and that I would be continuing to work as usual. Accordingly, I decided to hold a press conference in a room in the Senedd at 11.00am on Tuesday 14th March at which I intended to make it clear that, despite my suspension, my work as a campaigning Assembly Member and member of Plaid Cymru would carry on as before and in order to illustrate this I took with me copies of a document which contained a seven policies relevant to the forthcoming local elections upon which Plaid Cymru was going to hold a consultation. That consultation commenced on the Friday of that week.
5. I distributed copies of this document at the press conference, said that the policies would be going out for consultation and that I would be campaigning on these policies. These policies were relevant to my suspension as the first of the proposed pledges was to restructure Cardiff Council’s senior management. I was suspended as a Councillor after being overheard saying to an Eviction Officer that I couldn’t wait to restructure Cardiff Council, which was judged by an Adjudication Panel to be bullying behaviour. This led to my suspension from the Plaid Cymru group in the National Assembly. By showing the proposed 7 pledges at the press conference, I was demonstrating that I had the full backing of my party in Cardiff, who had agreed to make the restructure pledge number one on the list of pledges. However, I was asked questions about these pledges, in particular the restructure pledge relevant to my suspension, and I accept this may have given the impression that the press conference was a launch of Plaid Cymru’s consultation on these pledges.
6. This was not appropriate. I accept that it was in breach of the Code of Conduct and in particular in breach of Paragraph 12 of the Rules and Guidance on the Use of Assembly Resources referred to in paragraph 2 above. However, I wish to emphasise that it was never my intention to contravene the Code of Conduct and I wholeheartedly and sincerely apologise, without reservation, for having done so.

Signed:



Neil McEvoy AM/AC South Wales Central/Cymru De Canol

Dated: 9th May 2017.