

Eighteenth report to the Sixth Senedd under Standing Order 22.9

October 2024



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Standards of Conduct Committee
Welsh Parliament
Cardiff Bay
CF99 1SN

Tel: **0300 200 6565**

Email: **SeneddStandards@senedd.wales**

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About the Committee

The Committee was established on 23 June 2021. Its remit can be found at:
www.senedd.wales/SeneddStandards

Current Committee membership:



Committee Chair:
Hannah Blythyn MS
Welsh Labour



Mick Antoniw MS
Welsh Labour



Peredur Owen Griffiths MS
Plaid Cymru



Samuel Kurtz MS
Welsh Conservatives

The following Member was also a member of the Committee during this inquiry:



Mark Drakeford MS *
Welsh Labour

* Mark Drakeford was a member of the Committee at the time but had recused himself from Committee activities and therefore did not take part in the consideration of the report.

Contents

Recommendations	5
1. Introduction	6
2. Consideration of the Complaint	7
3. Committee’s Consideration of its Decision	8
The Committee’s Decision	8
The Committee’s recommendation	9
4. Lessons learnt from this complaint	11
Annex A: Report from the Commissioner for Standards	12

Recommendations

Recommendation 1. The Committee recommends to the Senedd, in accordance with paragraph 8.22(a) of the Procedure, that a breach has been found but no further action is required. Page 10

1. Introduction

1. The terms of reference of the Standards of Conduct Committee (“the Committee”) are set out in Standing Order 22¹. In accordance with the 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 Senedd under Standing Order 22.9 and paragraph 8.23 of the Procedure for Dealing with Complaints against Members of the Senedd³ (“the Procedure”) in relation to a complaint made against Andrew RT Davies MS.

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 Committee’s deliberations in arriving at its decision.

5. A copy of this report has been provided to the Member concerned and the Complainant.

¹ [Standing Orders](#)

² [Standing Order 22.2\(i\)](#)

³ [The Senedd’s Procedure for Dealing with Complaints Against Members of the Senedd](#)

2. Consideration of the Complaint

6. The Commissioner received a complaint in relation to a tweet posted by Andrew RT Davies MS. The tweet stated: “Vaughan Gething’s Labour government is embracing the same extreme ideology as its predecessor. Nothing has changed.”. He copied into his tweet from the Guido Fawkes website an image of Mr Gething and of a pregnant woman with the text “Welsh Government press release celebrates ‘birthing people.’ Wales makes womb for ‘birthing people.’”.

7. The Complainant considered this tweet to be “a blatant lie”, misleading and dangerous.

8. In his assessment of the complaint, the Commissioner considered the following rule from the Code of Conduct as the most relevant:

- Rule 3: Members must not act or behave in a manner that brings the Senedd, or its Members generally, into disrepute.

9. The Committee met on 23 September 2024 to consider the Commissioner’s report and reach its conclusion in respect of this complaint.

3. Committee's Consideration of its Decision

10. The Committee considered whether the Member was in breach of Standing Order 22.2(i).⁴

11. In considering whether a breach took place, the Committee reviewed the findings of the Commissioner as set out in his report.

12. The Member did not avail himself of the opportunity to make written or oral representations to the Committee.

The Committee's Decision

13. The Committee noted the Commissioner's remarks that, in considering this matter, he was conscious of the Member's right to Freedom of Expression under Article 10 of European Convention on Human Rights⁵ and of the need for the greatest care when doing anything to restrict the rights of politicians under it.

14. The Committee also noted the Member's representation that although he had personally composed and posted the tweet, he had not written the text copied from the article published in Guido Fawkes.

15. However, the Committee agreed with the Commissioner's finding that this was "irrelevant" and that:

"Members are fully responsible for any quotation they choose to include in a tweet in the same way as they are responsible for anything they retweet or any tweet that they like."

16. In his consideration of the facts, the Commissioner reported that the statement released by the Cabinet Secretary for Health and Social Care on 26 April 2024 was not issued as a press release and did not "celebrate the arrangements for women and birthing people". The statement quoted from the Health Inspectorate Wales's (HIW) report⁶, that:

"staff at all levels in the service work hard to provide a good experience and that sufficient arrangements are in place to provide safe and effective care to women and birthing people."

⁴ [Standing order 22.2\(i\)](#)

⁵ [Article 10, Freedom of Expression, European Convention on Human Rights](#)

⁶ [Significant improvement made to maternity services at Prince Charles Hospital in Merthyr Tydfil Healthcare Inspectorate Wales \(hiw.org.uk\)](#)

17. The Committee agreed with the Commissioner's consideration of the facts that:

"... the text was incorrect in material particulars. It was potentially misleading. There was no Welsh Government press release. Having read the Statement before posting the tweet the Member knew or ought to have known that it did not celebrate anything and that it dealt with the improved arrangements for all giving birth at the facility not just to those for birthing people."

18. The Commissioner concluded that:

"by posting the tweet including text that he knew or ought to have known was false in material particulars and potentially misleading without taking any steps to check its accuracy the Member brought the Senedd into disrepute."

19. Therefore, having considered the Commissioner's findings and conclusions, along with the supporting evidence provided, the Committee agreed that a breach of the Code of Conduct as identified by the Commissioner had occurred.

The Committee finds that Andrew RT Davies breached Rule 3 of the Code of Conduct.

The Committee's recommendation

20. The Committee considers a breach of the Code of Conduct by any Member of the Senedd to be a serious matter. The reputation of the Senedd as an institution, and the public's trust and confidence in it, rely upon Members demonstrating integrity and leadership through their actions.

21. The Standards Commissioner and the Committee have dealt with a number of complaints relating to Members' use of social media during the sixth Senedd. Whilst it can be used effectively as a tool for communication and debate, it is incumbent upon Members to determine the accuracy of the information they are posting and that every effort is made to differentiate between fact and an expression of opinion.

22. The Committee would also caution Members against quoting or actively repeating/reposting information they have not composed themselves, as we do

not consider this as absolving them of the responsibility to fact-check sources for accuracy.

23. In reaching its decision, the Committee took into account the Member's right to express his opinions on social media. However, by directly quoting from an article which contained inaccuracies, the Committee agrees that the Member did not carry out sufficient due diligence before posting his comments.

24. Although we consider the Member is in breach of the Code of Conduct, we do not consider that any further action is warranted.

Recommendation 1. The Committee recommends to the Senedd, in accordance with paragraph 8.22(a) of the Procedure, that a breach has been found but no further action is required.

4. Lessons learnt from this complaint

25. This is the seventh substantive report this Senedd relating to social media. The Committee would like to remind Members to give due regard to the factual accuracy of the information composed and/or shared, on social media platforms. As politicians we recognise that we must lead by example and our interactions on social media should be no exception. Members will also be aware that there is support available to deal with, and the correct and respectful use of, social media.

26. On 24 September 2024, in response to the increased volume of complaints considered by the Standards Commissioner relating to Member conduct on social media, the Llywydd wrote to the Committee inviting it to explore the issue in more detail. On 30 September, the Committee agreed to incorporate this work as part of its inquiry into Member accountability, with the intention of reporting back to the Senedd with proposals in due course.

Annex A: Report from the Commissioner for Standards

STANDARDS CONFIDENTIAL

REPORT by SENEDD COMMISSIONER FOR STANDARDS of the investigation of a complaint against ANDREW R T DAVIES MS

Introduction

1. On 26 April 2024 Anthony Jones (“the Complainant”) submitted a complaint to me about the conduct of Andrew R T Davies MS (“the Member”). In it he complained that a social media post by the Member earlier that day was “a blatant lie” and that it was misleading and dangerous. The tweet stated “*“Vaughan Gething’s Labour government is embracing the same extreme ideology as its predecessor. Nothing has changed.”* Copied into it from the Guido Fawkes website there was an image of Mr Gething and of a pregnant woman with the text “*Welsh Government press release celebrates ‘birthing people.’ Wales makes womb for ‘birthing people.’*”¹
2. I have considered the complaint in accordance with the Procedure for Dealing with Complaints against Members of the Senedd (“the Procedure”).
3. As required by paragraph 7.4(e) of that Procedure the complaint and all the evidence I relied upon in forming my opinion are at Appendix A. Footnote references have been provided where appropriate.

Preliminary Investigation

4. On 29 April I told both parties that I was undertaking a preliminary investigation to inform my decision on the admissibility of the complaint and allowed them 14 days within which to make submissions to me on that issue.^{2 3} The Complainant made no submission. The Member responded the same day asserting that when he referred to the Welsh Government policy as extreme ideology, he was expressing an opinion and was exercising his right to freedom of expression under Article 10 of ECHR. He said also that ta Ministerial Statement (“the Statement”) sent to and read by him on 26 April had referred to ‘birthing people.’⁴

¹ [Complaint](#)

² [Letter to Member 29 April 2024](#)

³ [Letter to Complainant 29 April 2024](#)

⁴ [Letter from Member 29 April 2024](#)

5. On 3 May I asked the Member for a copy of the Welsh Government press release or a link to it.⁵ He responded by email referring me to the Statement.⁶
6. On 21 May I wrote to the Member asking if he accepted that there was no such press release and the action, if any, that he took to check the accuracy of the Guido Fox article before he posted the tweet.⁷ He responded on 24 May stating that he had not seen any Welsh Government press release but that when including the Guido Fawkes text in his tweet he had acted in good faith believing that the text was accurate. He offered to apologise if there was no such press release.⁸
7. I obtained confirmation from the Welsh Government press office that no press release had been issued about the arrangements for '*birthing people*'.
8. On 24 May, having considered all the available information, I was satisfied that the alleged conduct may have taken place and that, if proved it might amount to a breach of the Code of Conduct. As all the other admissibility criteria had been fulfilled, I decided that the complaint was admissible.
9. On 29 May I informed both parties of my decision and that I had started my formal investigation of the complaint. I requested both of them to provide me with the names and contact details of all persons whom they believed might have evidence relevant to my investigation. I offered the Member a meeting to discuss the investigative process but not the merits of the complaint.^{9 10}

Formal investigation

10. On 24 June I told the Member that I wished to interview him. The interview under oath took place on 15 July. On 18 July I sent him a copy of the audio recording of his interview and of the transcript and allowed him time to suggest any changes to it. On 26 July he confirmed that he was content with the accuracy of the transcript.^{11 12}
11. On 26 July I told both parties that I had completed my investigation and sent them my Findings of Fact. I allowed them until 9 August to submit written representations or corrections regarding them.^{13 14}
12. The Complainant made no submission. On 9 August the Member submitted his representations by way of a revised version of the Findings sent to him.¹⁵

⁵ [Letter to Member 3 May 2024](#)

⁶ [Email from Member 3 May 2024](#)

⁷ [Letter to Member 21 May 2024](#)

⁸ [Letter from Member 24 May 2024](#)

⁹ [Letter to Complainant 29 May 2024](#)

¹⁰ [Letter to Member 29 May 2024](#)

¹¹ [Transcript of Member's interview](#)

¹² [Letter from Member 26 July 2024](#)

¹³ [Letter to Complainant 26 July 2024](#)

¹⁴ [Letter to Member 26 July 2024](#)

¹⁵ [Member's representations 9 August 2024](#)

Findings of Fact

13. I had due regard to the representations made by the Member and set out in my Consideration how I dealt with them.

I found the following facts established -

- I. On 26 April 2024 the Cabinet Secretary for Health and Social Care published the Statement which included the following text *“The final report following an unannounced HIW inspection at Prince Charles Hospital is being published today. It concludes that staff at all levels in the service work hard to provide a good experience and that sufficient arrangements are in place to provide safe and effective care to women and birthing people.”*¹⁶
- II. In that Statement the Cabinet Secretary did not *“celebrate the arrangements for women and birthing people.”* In that Statement she quoted from the HIW inspection report *“staff at all levels in the service work hard to provide a good experience and that sufficient arrangements are in place to provide safe and effective care to women and birthing people”* and stated that as a result of the inspection she was *“in a position to de-escalate the health board to routine arrangements for maternity and neo-natal services.”*
- III. The Welsh Government did not issue any press release in relation to the HIW inspection of the arrangements at Prince Charles Hospital for women and birthing people.
- IV. Healthcare Inspectorate Wales (HIW) is the independent inspectorate and regulator of healthcare in Wales. HIW inspects NHS services, and regulates independent healthcare providers against a range of standards, policies, guidance and regulations to highlight areas requiring improvement. HIW is operationally independent but receives the majority of funding from the Welsh Government. Both its postal and email address refer to the Welsh Government.
- V. HIW is not part of the Welsh Government.
- VI. The HIW inspection report did not *“celebrate the arrangements for women and birthing people.”*
- VII. The HIW did not issue any press release in relation to its inspection of the arrangements at Prince Charles Hospital for women and birthing people. HIW published on its own website a copy of the inspection report with a brief summary of the key points and a statement by its Chief Executive welcoming the significant improvements since their last inspection.¹⁷
- VIII. On 26 April a copy of the Statement was sent to the Member.
- IX. On 26 April, after he had read the Statement, the Member posted a tweet including the following text *“Vaughan Gething’s Labour government is embracing the same extreme ideology as its predecessor. Nothing has changed.”* He copied into his tweet from the Guido Fawkes website an image of Mr Gething and of a pregnant woman with the text *“Welsh Government*

¹⁶ [Written Statement 26 April 2024](#)

¹⁷ [Significant improvement made to maternity services at Prince Charles Hospital in Merthyr Tydfil | Healthcare Inspectorate Wales \(hiw.org.uk\)](#)

press release celebrates 'birthing people.' Wales makes womb for 'birthing people.' “

- X. *That tweet was composed and posted by the Member.*
- XI. The Member took no steps to check the accuracy of the Guido Fawkes text before including it in his tweet.

Consideration

14. I consider first a number of matters arising from the Member's interview. The Member deponed that the Complainant had “*serially complained about me*” and that his complaints were vexatious and “*didn't deserve determining.*”¹⁸ Since July 2023 the Complainant has made four other complaints about the Member's conduct. Three of these were inadmissible and the fourth was the subject of the Committee's Eighth Report. I do not consider that any of the four complaints were vexatious.
15. The Member also told me at interview that although he had personally composed and posted the tweet he had not written the text copied from Guido Fawkes that he copied in it.¹⁹ I am clear that is irrelevant. Members are fully responsible for any quotation they choose to include in a tweet in the same way as they are responsible for anything they retweet or any tweet that they like. That has been made clear to Members repeatedly including during at least two awareness sessions I delivered at which the Member was present.
16. Third, the Member failed to answer when asked whether when he posted the tweet he was aware that paragraph 59 of the Guidance on the Code of Conduct which states “*Members are expected to reasonably fact check and verify their assertions.*”²⁰ As a former Member of the Standards of Conduct Committee I consider it inconceivable that he was not aware of that text. The Member did, however, confirm that he was familiar with the text of paragraph 19 of the Committee's Eighth Report which included the admonition “*It is incumbent on all Members to uphold the high standards expected of us as elected representatives when debating issues in the public domain, whether on social media or elsewhere. This means Members should take care to not intentionally make statements which are imprecise and inaccurate.*”²¹ When he was asked if he accepted that a Member making a statement which he knew or ought to have known was false and misleading would belikely to bring the Senedd into disrepute, the Member responded “*If someone deliberately did that, of course, that would be a case of bringing the Senedd into disrepute. But I don't accept that in this case one iota*”²²
17. Turning now to the Member's representations about the Findings of Fact, I accepted the thrust of the Member's representation regarding Finding II and have included the quotations from the Statement that he requested. I note, however, that the quotations are about the improvement to the arrangements now in place for “women

¹⁸ [Transcript of Member's interview page 13 lines 20 - 25](#)

¹⁹ [Transcript of Member's interview page 2 line 21 – page 3 line 3; page 10 lines 23-24](#)

²⁰ [Transcript of Member's interview page 7 lines 2 - 9](#)

²¹ [Eighth Report to the Sixth Senedd under Standing Order 22.9](#)

²² [Transcript of Member's interview page 13 lines 4 - 10](#)

and birthing people” not just to those for birthing people. I note also that the HIW inspection report states no more than these arrangements are sufficient to provide safe and effective care.

18. The Member also invited me to find that he considered that the terms “*press releases*” and “*ministerial statements*” to be synonymous. I am not satisfied that was the Member’s belief when posting his tweet and so have not changed Finding III. If it was his belief, it was erroneous. There is a clear distinction, that would be recognised by those reading his tweet, between a ministerial statement and a press release.
19. The Member invited me to delete Finding V (HIW is not part of the Welsh Government) and instead find that HIW is part of the Welsh Government. I am satisfied that HIW is not part of the Welsh Government within the accepted usage of that phrase. I therefore did not alter Finding V.
20. I have not accepted the Member’s proposed re-writing of Finding VI because there was no evidence before me in relation to it. But even if there had been, I would not have accepted that the text referred to could reasonably be considered to be celebrating the improved arrangements for birthing people. I note again that these improvements were for all those giving birth and not, as implied in the tweet, just for “birthing people.”
21. Nor have I accepted the Member’s proposed changes to Finding VII but I have added text making clear that HIW published on its website a copy of the inspection report with a brief summary of the key points and a statement by its Chief Executive welcoming the significant improvements since their last inspection. In that summary reference was made to the improved arrangements for women and birthing people not just to those for birthing people as implied in the tweet. I do not accept that the summary could reasonably be considered to be celebrating the improved arrangements for birthing people.
22. For a number of reasons, I do not accept the Member’s proposed deletion of Finding XI and substitution of his proposed text. First, the proposed text refers to “*the Welsh Government press release*” but there was no such press release. Second, it is not in accord with the evidence given by the Member. When asked what steps, if any, he had taken to check the accuracy of the Guido Fawkes article before reproducing part of it in his tweet the Member answered “*Having read the article and comparing it back to the statement, obviously I was familiar with the terminology that was in the statement ... I reposted the Guido Fawkes article.*”²³ Finally, I do not accept that, having read the Statement which was about the now satisfactory arrangements for all those giving birth at the facility, the Member could reasonably have concluded that the extract from the Guido Fawkes article that he included in his tweet was a fair reflection of the Statement.

²³ [Transcript of Member’s interview page 9 lines 7 - 13](#)

23. I now turn to each of the three allegations of misconduct set out in the complaint, namely that -
- the Member's tweet "*was a blatant lie*"
 - the Member "*was trying to confuse people who may not know what the HIW is or that they are independent to sow division and hate towards not only the welsh (sic) government but also trans people*"
 - "*Calling it an "extreme ideology" is dangerous language especially since the uk (sic) government is leading a campaign of hate towards trans people at the moment.*"
24. In considering these matters I was very conscious of the Member's right to Freedom of Expression under Article 10 of ECHR and of the need for the greatest care when doing anything to restrict the rights of politicians under it. "*Whilst in a political context, Article 10 protects the right of politicians to make incorrect but honestly made statements, it does not protect statements which the publisher knows to be false.*"²⁴ Nor, in my opinion, does it protect the right of politicians to make statements which they know or ought to know were incorrect and likely to mislead or to make incorrect statements recklessly and without making appropriate checks on their accuracy.
25. As the Member explained at interview the "extreme ideology" he referred to was the concept that anyone other than a person born a woman could give birth. I agree with him that he was quite entitled to express his opinion about that concept and to describe it in the manner he did.
26. I am not satisfied that the Member "*was trying to confuse people who may not know what the HIW is or that they are independent*" and attempting to sow division and hate towards trans people. Whilst his tweet may well have caused such confusion, I am clear that was not the Member's intention. Rather he was attempting to gain political advantage by ridiculing what he perceived to be the Welsh Government approach to transgender issues. He was entitled to do so provided he did so in a respectful way that was not misleading.
27. If it was the case that the Member's tweet "*was a blatant lie*" that would amount to a breach of the duty to act truthfully set out in Rule 2 of the Code. In its Eighth Report the Committee quoted from and approved the following extract from my investigation report "*Untruthfulness, like dishonesty, requires some element of deceit, fraud or moral turpitude.*"²⁵ Whilst I have no doubt that the Member's tweet, and in particular that part of it copied from Guido Fawkes, was incorrect and potentially misleading I am not satisfied that on the evidence it can be found to have been untruthful. I am therefore not satisfied that the Member breached Rule 2 of the Code of Conduct.

²⁴ [Heesom v Public Service Ombudsman for Wales \[2014\] EWHC 1504 \(Admin\) per Higginbotham J, Para 38](#)

²⁵ [Eighth Report to the Sixth Senedd under Standing Order 22.9 paragraphs 14 and 16](#)

28. Had he not quoted the text from Guido Fawkes in his tweet, I would have had no hesitation in giving my opinion that he had breached no provision of the Code of Conduct or of any other relevant provision.
29. However, the Member accepted that he, personally, had composed and posted the tweet including that text copied from Guido Fawkes. That text was incorrect in material particulars. It was potentially misleading. There was no Welsh Government press release. Having read the Statement before posting the tweet the Member knew or ought to have known that it did not celebrate anything and that it dealt with the improved arrangements for all giving birth at the facility not just to those for birthing people. I am unable to accept that in these circumstances it was sufficient for the Member to rely on his asserted belief that *“the article published in Guido Fawkes, a mainstream, reputable and widely read news outlet, was accurate.”*²⁶ I note that during his interview the Member gave an apparently inconsistent account when he deponed *“I believe that I fact checked and satisfied myself that I’d acted reasonably and within the Code”* but that he provided no information as to the checks that he claimed to have carried out”.²⁷ I am satisfied that the Member made no attempt to check the accuracy of the text from Guido Fawkes that he copied into his tweet. He simply accepted what was in the Guido Fawkes article. I am satisfied that he knew or ought to have known that the copied text was false in material particulars and that it was potentially misleading. I am also satisfied that persons reading the text would be likely to be misled by it into believing that the Welsh Government had issued a press release which celebrated the arrangements for birthing people.
30. I am satisfied that by posting the tweet including text that he knew or ought to have known was false in material particulars and potentially misleading without taking any steps to check its accuracy the Member brought the Senedd into disrepute.
31. It is my opinion that by his conduct the Member breached Rule 3 of the Code of Conduct.

Douglas Bain CBE TD

Senedd Commissioner for Standards

13 August 2024

²⁶ [Member’s representations 9 August 2024 Finding XI](#)

²⁷ [Transcript of Member’s interview page 7 lines 15 -16](#)

STANDARDS CONFIDENTIAL

Document Number	Title
1	Complaint
2	Letter to Member 29 April 24
3	Letter to Complainant 29 April 24
4	Letter from Member 29 April 24
5	Letter to Member 3 May 24
6	Email Member 3 May 24
7	Letter to Member 21 May 24
8	Letter from Member 24 May 24
9	Letter to Complainant 29 May 24
10	Letter to Member 29 May 24
11	Transcript Member interview
13	Finding of Fact to Complainant 26 July 24
14	Finding of Fact to Member 26 July 24
15	Revised Finding of Fact from Member 9 August 24
16	Ministerial Statement
17	Eighth Report of the Standards of Conduct Committee
18	Heesom v Public Services Ombudsman