

NATIONAL ASSEMBLY FOR WALES

STANDARDS COMMITTEE FIRST REPORT 2000

Complaint against a Member

Standards Committee Terms of Reference and Membership

The Standards Committee has been elected under Standing Order 16 to consider complaints referred to it by the Presiding Officer about breaches or possible breaches of the requirements of Standing Order 4 or any Assembly resolution relating to the financial or other interests of Members or paragraph 2.8 of Standing Order 2; or of any of the approved protocols or guidance relating to Members' standards of conduct approved by Assembly resolution; or of the guidance for Assembly Secretaries approved by the Assembly under paragraph 2.7 of Standing Order 2.

The Committee is chaired by David Melding. Its members are

David Melding (Chair)	South Wales Central	Conservative
Janet Davies	South Wales West	Plaid Cymru
Richard Edwards	Preseli Pembrokeshire	Labour
Val Feld	Swansea East	Labour
Janice Gregory	Ogmore	Labour
Brian Hancock	Islwyn	Plaid Cymru
Christine Humphreys	North Wales	Liberal Democrats
Gareth Jones	Conwy	Plaid Cymru
Gwenda Thomas	Neath	Labour
Clerk	Barbara Wilson	
Deputy Clerk	Julie Grant	

Purpose and Scope of Report

This report is laid before the Assembly in accordance with Standing Order 16.6. It relates to a complaint about an alleged breach of the Code of Conduct for Assembly Members resolved to be adopted by the Assembly on 18 May 1999, by alleged misuse of Assembly Stationery.

The complaint was dealt with in accordance with a draft procedure considered by the Standards Committee at its meeting on 11 November 1999 and circulated to all Assembly Members for comment in December 1999. The Committee is currently considering the comments received and has asked the recently appointed Independent Adviser on Standards for advice on the draft and the comments before finalising the procedure. It has, nonetheless, used the draft procedure in dealing with this complaint.

The first main stage of the draft procedure, following the initial reference of a complaint, is a preliminary investigation to establish whether this is a case to be considered fully. This stage is intended to preserve as much anonymity as possible to protect all concerned, not least the Member being complained about.

This preliminary investigation is carried out by the Independent Adviser. It is intended to establish whether there is a possible breach of the relevant Standing Orders, Assembly resolutions or the approved protocols or guidance (or a possible offence under Section 72 of the Government of Wales Act 1998 which requires reporting to the police) and if so whether a further full investigation would be justified. The Independent Adviser's report makes a recommendation on these matters to the Committee for it to decide what to do next.

In the case under consideration the Committee has decided that the case should be dismissed, for the reasons summarised below. In accordance with the draft procedure this report does not identify the Member concerned. The Committee considers that the handling of this particular case raises a number of issues, which are also outlined below.

Summary of the Committee's consideration

The complaint against the Member was made by the recipient of a letter on Assembly stationery from the Member. The letter was an invitation to an event held in the National Assembly building and appeared to the complainant to have been circulated widely. The person making the complaint asserted that the letter was an improper use of the free stationery provided by the National Assembly for Wales and should have come on unheaded notepaper provided personally by the Member.

On receipt of the letter the Independent Adviser was asked to carry out a preliminary investigation and prepare a report for the Standards Committee. The member concerned was informed and was subsequently provided with a copy of the Adviser's report at the same time that it was despatched to the Committee.

The Committee met on 11 May in private (under Standing Order 16.5) to consider the complaint. The Member concerned had indicated that he wished to make representations to the Committee and was invited to do so. The oral representation was heard by the Committee on 11 May.

The allegation centres on the appropriate use of Assembly headed stationery. The Code of Conduct for Assembly Members adopted by the Assembly on 18 May 1999 is the main relevant code. Paragraph 5 of the 'Principles into Practice' of the Code states that

"No improper use shall be made of any payment or allowance made to Members for public purposes and the administrative rules which apply to such payments and allowances must be strictly observed".

Guidance relating to the use of National Assembly stationery and other resources has been considered by the House Committee and approved by the Presiding Officer but had not yet been issued at the time of the Standards Committee meeting. The draft guidance states that Assembly stationery should not be used for personal correspondence, for party political or campaigning purposes. Circulars should not be sent on original headed stationery unless sent in direct connection with a Member's duties, or as provided in the Guidance. The initial recommendation of the Independent Adviser on Standards was that, based on the provision of the Guidance, there may have been some substance to the complaint and that a full

investigation should be carried out to establish the facts of the case.

The Committee noted the Adviser's report and the representations made by the Member concerned. However, the committee considered that, since the guidance has not been formally issued and the draft guidance does not contain any explicit link between it and the Code of Conduct for Assembly Members, the complaint should not be pursued further and the case dismissed at this stage.

Issues arising from this case

A number of issues arise out of the consideration of this particular case.

1. Anonymity

As noted above, the complaints procedure is designed to protect Members so far as possible and therefore the early stages are designed to preserve the Member's anonymity as much as possible. In this case the Member has chosen to publicise the case widely, including in the media. The Committee very much regrets this. Therefore, in keeping with its clear preference, and to reserve its position in handling any future complaints, this report does not name the Member. For similar reasons the detailed material considered by the Committee and the minutes of the meeting held to consider the case will not be made publicly available.

The Committee intends to consider further the arrangements for keeping the procedures confidential, including the perceived obligations of the complainant, the Member against whom a complaint has been made and the Members of the Committee.

2. Flow of information

Neither Standing Orders, nor the current draft complaints procedures, contain any details of when or how a Member should be informed about a complaint, nor any proposals for interaction with the Committee except to allow for oral and/or written representations to be made during an investigation (in accordance with Standing Order 16.5).

The Committee considers that, once a complaint has been referred to it by the Presiding Officer, the Member concerned should be informed. An exception to this may need to be made when it appears that there may be a breach of S.72 of the Government of Wales Act. In these cases under the protocol under consideration with the police the case would in the first instance be referred to them and the decision on when to inform the Member would be taken in consultation with the police and the Crown Prosecution Service.

In cases considered by the Standards Committee the Member against whom a complaint had been made would receive a copy of the Independent Adviser's report. He or she would be able to make oral or written representations to the Committee. If the Assembly considers the Committee's report in plenary session the Member will, again, have an opportunity to make representations and/or a personal statement.

3. Timescale

The draft complaints procedure does not contain any timescales. Standing Orders 16.4

and 16.6 say that the Committee should consider any complaint and report to the Assembly "as soon as may be". The Committee is concerned that cases should be dealt with expeditiously. This particular case was notified to the Office of the Presiding Officer on 10 April 2000 and referred to the Independent Adviser on 14 April. The Committee and the Member concerned were informed on 26 April. The Committee met to consider the case on 11 May and the Chair wrote to inform the Member of its decision later that day. This report has been laid on 26 May.

The Committee considers this to be a reasonable timescale but will keep the matter under review. An investigation should take as long as necessary in order to ensure that all the appropriate evidence is collected and assessed.

4. Jurisdiction

A particular difficulty in this case has been the need to determine whether the complaint fell within the Committee's remit. The Committee consider that a link between the Guidance on the use of National Assembly stationery and resources needs to be established with the 'payments and allowances' principle of the Code of Conduct. The Committee considers that within the terms of the Guidance, Members should be able to use Assembly stationery (and the postal service) to send out invitations to events which are of general interest and related to Assembly business, as opposed to invitations or other letters relating to personal or party political matters, business or for campaigning purposes. In general, decisions about appropriate use of stationery and other resources should, as now, be a matter for the Presiding Officer and for the Clerk and his staff, acting on his behalf.

Nonetheless breaches might give rise to a complaint to the Standards Committee. The Committee considers, therefore, that the Guidance should be reviewed again before it is issued, to make these points clear. The Committee further recommends that other relevant guidance should be reviewed to clarify the extent to which it falls within the Committee's jurisdiction and, where this is possibly the case, the situation should be made clear to Members.

Implications for Complaints Procedure

The Committee intends to take account of the above before finalising and adopting the complaints procedure. In addition, and particularly since any further cases may well raise other issues, the Committee expects to review the procedure again in time for its second annual report to the Assembly in 2001.

Summary

This is the first report by the Standards Committee on a complaint it has considered using the draft procedure. Following a preliminary investigation by the Independent Adviser on Standards and representations made by the Member concerned, the Committee has decided to dismiss the case. There are, however, a number of issues arising from the case which will be taken into account in finalising the complaints procedure and the Committee will continue to keep the procedure under review. The scope of relevant guidance should also be reviewed by the Presiding Officer and his staff.

