

# Report 03-21 by the Committee on Standards of Conduct to the Senedd under Standing Order 22.9

February 2022



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February 2022



# About the Committee

The Committee was established on 28 June 2016. Its remit can be found at:  
<https://senedd.wales/SeneddStandards-5S>

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## Committee Chair:



**Jayne Bryant MS**  
Welsh Labour

## Current Committee membership:



**Rhun ap Iorwerth MS**  
Plaid Cymru



**Andrew RT Davies MS**  
Welsh Conservatives



**David J Rowlands MS**  
Independent Alliance for Reform  
Group

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## Recommendations

**Recommendation 1.** The Committee recommends to the Senedd, in accordance with 7.12(iii) of the Procedure for Dealing with Complaints against Members of the Senedd, that a breach has been found and that the Member should be excluded from Senedd proceedings for a period of seven calendar days.

## 1. Introduction

**1.** The terms of reference of the Standards of Conduct Committee (“the Committee”) are set out in Standing Order 22.<sup>1</sup> 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.”<sup>2</sup>

**2.** This report is made to the Senedd under Standing Order 22.9 and paragraph 8.1 of the Procedure for Dealing with Complaints against Members of the Senedd<sup>3</sup> (“the Procedure”), in relation to a complaint made against Neil McEvoy MS.

**3.** The report from the Acting 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.

**5.** This complaint was made to the Commissioner in 2019. The Committee consideration was delayed due to the investigation by South Wales Police, and Neil McEvoy MS exercising his right to make representations to the Committee which he was unable to do during his period of suspension from Senedd proceedings<sup>4</sup>.

**6.** Prior to considering the complaint, Rhun Ap Iorwerth MS informed the Committee that previously, in an official capacity within Plaid Cymru, he had had involvement in matters relating to Neil McEvoy MS while a Member of Plaid Cymru group. The Committee noted that the circumstances in question were not directly connected with this complaint and agreed that they did not impact on the Member’s ability to act impartially in relation to this complaint.

**7.** At the start of the evidence session, Neil McEvoy MS objected to Rhun Ap Iorwerth MS’s participation and questioned whether Members of the Committee

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<sup>1</sup> Standing Orders

<sup>2</sup> Standing Order 22.2(i)

<sup>3</sup> The Senedd’s Procedure for Dealing with Complaints Against Members of the Senedd

<sup>4</sup> Neil McEvoy MS was suspended from Senedd proceedings between 9 December 2020 and 20 January 2021 following a recommendation in SO22 03-20 report

were impartial given the previous decisions of the Committee in relation to complaints about his conduct.

**8.** Standing Order 22.5 sets out that (emphasis added):

“Where a member of the responsible committee is subject to, or otherwise directly connected with, a complaint under Standing Order 22.2(i), he or she may take no part in any consideration of the complaint by the responsible committee. In such circumstances and in relation solely to the consideration of the complaint concerned, that member may be replaced by his or her alternate member elected in accordance with Standing Order 22.4A. The alternate member may participate in the meetings of the responsible committee to consider the complaint as if he or she were a member of it.” (Emphasis added)

**9.** As the Standing Order sets out, there is no provision for Members to substitute themselves unless directly related to the complaint. The Committee agreed that no Member of the Committee was directly connected with the complaint.

## 2. Consideration of the Complaint

**10.** The complaint against the Member concerned, Neil McEvoy MS, alleges that by making covert recordings of conversations between the former Commissioner for Standards, Sir Roderick Evans and his staff, and publishing information he had recorded, Neil McEvoy had contravened provisions of the Code of Conduct for Members.

**11.** The complaint engaged paragraphs 4b (the integrity principle), 4e (the openness principle) 4g (the leadership principle) of the Code. The Commissioner also found a breach of paragraph 15 of the Code of Conduct which requires Members to cooperate at all stages with any investigation into their conduct by the Commissioner for Standards.

**12.** The Committee met on 12 January, 4, 10 and 23 February 2021 to consider and reach its conclusion in respect of this complaint.

**13.** The Committee's consideration of this complaint did not consider the content of the covert recordings made by Neil McEvoy MS. The complaint relates to the act of covertly recording private conversations on the Senedd estate and releasing this information to the media. Therefore, the content of the recordings made by Neil McEvoy MS is not relevant to this.

**14.** Neil McEvoy MS attended an evidence session of the Committee on 4 February 2021 in relation to this complaint.

**15.** At the request of Neil McEvoy MS, the Committee invited the Commissioner to attend the evidence session held on 4 February 2021.

### 3. Committee's Consideration of its Decision

**16.** The Committee considered whether the Member was in breach of Standing Order 22.2(i).<sup>5</sup>

**17.** In considering whether a breach took place, the Committee reviewed the facts found by the Commissioner and set out in his report, the Commissioner's opinion that a breach had taken place, representations from Neil McEvoy MS to the Commissioner, and written and oral representations to the Committee by Neil McEvoy MS.

**18.** Neil McEvoy MS provided oral evidence to the Committee on 4 February 2021.

**19.** During the evidence session, Neil McEvoy MS set out the reasons behind his decision to undertake the covert recordings. The Committee notes that a transcript of a hearing relating to the complaint made by Michael Deem<sup>6</sup> sent by the former Commissioner's office contained, presumably in error, extracts of part of a private conversation between the former Commissioner and his staff and included a number of ill-advised comments in relation to Neil McEvoy MS. The Commissioner's Report notes that in the course of one such conversation the former Commissioner is recorded as referring to Mr McEvoy as having "sociopathic tendencies". The Committee acknowledges the remarks made were likely to have caused distress and discomfort to Neil McEvoy MS and the Committee considers them to have been ill-judged.

**20.** The Committee recognises that a Member in Mr McEvoy's position would not unreasonably have felt compelled to take action. However, the Committee does not consider the approach taken by Neil McEvoy MS to have been an appropriate response. There were a number of legitimate routes for Mr McEvoy to have raised his concerns about the private comments recorded on the transcript. For example, concerns could have been raised with the former Commissioner, the Chief Executive and Clerk, the Llywydd, or the Member could have sought to bring forward a motion seeking the removal of the Commissioner for Standards from office (Standing Order 10.7-10.8).

**21.** Neil McEvoy MS did not pursue any of these courses of action open to him. Rather, he covertly recorded private conversations and released those recordings

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<sup>5</sup> [Standing order 22.2\(i\)](#)

<sup>6</sup> [Standards of Conduct Committee report, SO22 01-21](#)

to the press. The Committee firmly believes that these actions were wholly inappropriate.

**22.** The actions undertaken by Neil McEvoy MS in covertly recording conversations on the Senedd estate had a significant negative impact on a wide range of people across the Senedd and beyond. It undermined the public confidence in the Senedd, and particularly in the Standards regime.

**23.** The Committee notes that Neil McEvoy MS failed to respond to the questions posed by the Commissioner during his investigation and thus failed to engage in the process. The Committee also notes that Neil McEvoy did not avail himself of the opportunity to comment on the Commissioner's draft report. While the Committee acknowledges that the report was sent to Neil McEvoy during a period when he was suspended from the Senedd<sup>7</sup>, the suspension applied to proceedings of the Senedd and access to the Senedd estate, not to his responsibilities as a Member<sup>8</sup>. This was made clear to Neil McEvoy MS by the Commissioner in correspondence sent on 17 December, which stated:

“Your suspension was specific in its terms and was limited to your rights as a Member to participate in proceedings, to enter the Senedd estate and to be paid. These apart, your rights and duties as a Member were unchanged. One such duty is to comply with the Code of Conduct and in particular with paragraph 15 (Standards Investigations: Duties in respect of the Commissioner for Standards and the Committee on Standards of Conduct). Your suspension has no relevance to that duty.”

**24.** The consideration of this complaint was delayed due to an investigation by the South Wales Police into a related matter (regarding the conduct of the former Commissioner for Standards). This matter was concluded in October 2020 when the police confirmed that they will not be taking any further action. Neil McEvoy MS made representations that the Police process had not concluded, as he had submitted a victim's right of review of the decision. The Committee considered that as the police consideration of the original complaint had been completed

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<sup>7</sup> Neil McEvoy MS was suspended from 9 December 2020 to 20 January 2021 following a vote in the Senedd on the recommendation contain in SO22 03-20 report.

<sup>8</sup> See Standards of Conduct Committee report 02-21 which references the Committee was unable to progress that report due to the suspension of the Member. This is because the Member was unable to attend proceedings (a Committee meeting in this case) of the Senedd.

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the Committee could now continue with its consideration of the oral evidence stage of the process.

Having reviewed the report from the Commissioner for Standards the Committee finds a breach of paragraphs 4b, 4e, 4g and 15 of the Code of Conduct by Neil McEvoy MS.

### Committee's Recommendation – Sanctions available.

**25.** The Committee considers that a breach by any Member of the Senedd is 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 by their actions.

**26.** In reaching its recommendation, the Committee noted that Neil McEvoy MS did not acknowledge that his actions constituted a breach of the Code of Conduct and did not co-operate with the Commissioner's investigation.

**27.** This report is one of a series which represents a lack of engagement in the standards process by Neil McEvoy MS. He informed the Committee that he did not co-operate with the Commissioner as he did not have confidence in the office of the Standards Commissioner.

**28.** The Commissioner for Standards is an independent officeholder. The Commissioner is not subject to the direction of the Senedd or this Committee. A refusal to co-operate with the Commissioner is a breach of the Code of Conduct in itself and does nothing to build and maintain the public's trust in the Senedd.

**29.** The Committee considers this to be serious breach, and one that brought the Senedd into disrepute. It showed a lack of respect for colleagues, and it showed a lack of respect for the institution and its processes. The Committee would typically recommend a fourteen calendar day period of suspension for such an offence. However, the Committee considers the content of the hearing transcript forming part of the record of the former Commissioner's hearing into an earlier complaint about the member to be a mitigating factor in this case and is therefore recommending a suspension of seven calendar days.

**Recommendation 1.** The Committee recommends to the Senedd, in accordance with 7.12(iii) of the Procedure for Dealing with Complaints against Members of the Senedd, that a breach has been found and that the Member should be excluded from Senedd proceedings for a period of seven calendar days.

**30.** A copy of this report has been provided to the Member concerned, who was also notified of the right to appeal under section 8 of the procedure.<sup>9</sup>

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

**32.** The Committee reminds all Members of the Senedd, in the strongest possible terms, that any concerns about the standards regime should be raised with appropriate authorities. Members should not take matters into their own hands.

### Matters arising from this complaint

**33.** Neil McEvoy MS invited the Llywydd, as the complainant, to give evidence as part of its consideration of the report. The Llywydd declined this request and highlighted that she did not consider it appropriate for complainants to be asked to attend a Committee meeting. The Committee notes this and agrees it could be a factor in discouraging people with legitimate complaints from coming forward. The Committee intends to address this in the revised complaints procedure.

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<sup>9</sup> [The Senedd's Procedure for Dealing with Complaints Against Members of the Senedd.](#)

# Annex A: Report from the Commissioner for Standards

**REPORT**  
**by**  
**THE ACTING SENEDD COMMISSIONER FOR**  
**STANDARDS**  
**of the investigation of a complaint by**  
**THE LLYWYDD**  
**against**  
**NEIL McEVOY MS**

## 1 INTRODUCTION

1.1 By letters dated 15 and 21 November 2019 the Llywydd made a complaint that by making covert recordings of conversations between Sir Roderick Evans and his staff and publishing information he had recorded Neil McEvoy had contravened provisions of the Code of Conduct for Members (“the Code”).<sup>1</sup> This is the report of my investigation of that complaint.

1.2 Throughout this report the institution formerly known as the National Assembly for Wales is referred to as the Senedd.<sup>2</sup> Sir Roderick Evans resigned as Senedd Commissioner for Standards on 11 November 2019 and I was appointed as Acting Senedd Commissioner for Standards on 13 November 2019. Reference to ‘the Commissioner’ are to Sir Roderick and references to the ‘Acting Commissioner’ are to me.

1.3 Copies of the relevant documents are at Annex A. Footnote references and bookmark links are provided where appropriate. Quotations from legislation and documents are italicised. When not already in the public domain as a result of Mr McEvoy’s conduct, personal details have been redacted when they are of no evidential value.

## 2. THE INVESTIGATION

2.1 My investigation of this complaint has been delayed because it was necessary to suspend it for periods totalling almost eight months to avoid a perceived risk of prejudicing police consideration of complaints to them by the Llywydd that Mr McEvoy was guilty of misconduct in public office (‘MCIPO’) and by Mr McEvoy that the Commissioner and three members of Senedd Commission staff were guilty of that offence.

2.2 The Llywydd’s complaint was made on 15 November 2019 with further detail being provided on 21 November 2019.

2.3 On 22 November 2019 I told Mr McEvoy that I would be taking no action on the complaint to avoid any risk of prejudicing either the police consideration of his allegations of MCIPO or the complaint against him of that offence.

2.4 On 16 July 2020 I was informed by the police that the complaint to them alleging MCIPO by Mr McEvoy had been withdrawn and was led to believe that the way was

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<sup>1</sup> [Letter Llywydd – Acting Commissioner 15 November 2019](#) | [Letter Llywydd – Acting Commissioner 21 November 2019](#) | [Report – Neil McEvoy Report Recordings of Standards Commissioner](#) | [Transcript – Press conference 12 November 2019](#)

<sup>2</sup> The name was changed on 6 May 2020 by virtue of the coming into force of section 2 of the Senedd and Elections Wales Act 2020

now open for me to continue my consideration of the Llywydd's complaint against Mr McEvoy.

2.5 On 26 July 2020 I provided Mr McEvoy with a copy of the complaint and afforded him the opportunity to submit representations regarding its admissibility.

2.6 On 13 August 2020 I informed Mr McEvoy of my decision that the complaint was admissible and asked him to complete and return interrogatories, giving his answers to questions to assist in my investigation.

2.7 On 17 August 2020 I began to gather evidence relevant to the complaint by way of interrogatories.

2.8 On 4 September 2020, having been informed by the police that they had told Mr McEvoy not to disclose anything to me until a decision on whether to investigate his allegations of MCIPO had been made, I again suspended my consideration of the Llywydd's complaint.

2.9 On 30 October 2020 I was advised by the police that there would be no police investigation of Mr McEvoy's allegations of MCIPO by the Commissioner or the three members of Commission staff.

2.10 On 1 November 2020 I informed Mr McEvoy that I was resuming my consideration of the Llywydd's complaint and gave him a new deadline of 18 November 2020 for completion and return of the interrogatories sent to him in August.

2.11 On 3 November 2020 I served a Notice under section 11 of the National Assembly for Wales Commissioner for Standards Measure 2009 ('the Measure') on South Wales Police requiring production to me of specified documents including transcripts of the covert recordings and statements made by Mr McEvoy. The documents were provided on 19 November 2020

2.12 On 5 November 2020 I advised Mr McEvoy that I did not accept his contention that I should not resume my consideration of the complaint until he decided whether or not to seek a review of the police decision not to undertake an investigation of his complaint of MCIPO. I reminded him of the deadline for completion and return of the interrogatories, that if he failed to return them by that date I was likely to proceed to draft my report and of his duty to co-operate with my investigation. He did not return the completed interrogatories by the deadline and still has not returned them.

2.13 In view of Mr McEvoy's failure to complete and return the interrogatories, first sent to him in August 2020, by the date specified I considered whether to serve on him a Notice under section 11 of the Measure requiring him to attend to answer questions on oath. Having regard to the practical difficulties due to Covid 19, the availability, from the documents provided by the police, of Mr McEvoy's answers to

many of the questions I would have asked and the further delay that would have been occasioned to an already old investigation, I decided against doing so. I concluded my investigation and commenced drafting this report.

### **3. RELEVANT PROVISIONS**

3.1 The provisions of the Code of Conduct for Senedd Members (“the Code”) and the Measure at paragraphs 3.2 and 3.3 have particular relevance to this complaint.

#### **3.2 General Standards of Conduct:**

##### ***Personal conduct***

*4. Members of the Senedd should observe the seven general principles of conduct identified by the Committee on Standards in Public Life. The seven principles are:*

***(b) Integrity:*** *Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.*

*Members of the Senedd should at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of the Senedd and refrain from any action which would bring the Senedd, or its Members generally, into disrepute. Members should not ask Senedd Commission or Welsh Government staff to act in any way which would compromise the political impartiality of the Civil Service and/or Senedd Commission staff or conflict with the Civil Service Code and/or the Senedd Commission Staff Code of Conduct.*

***(e) Openness:*** *Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions, and restrict information only when the wider public interest clearly demands.*

*Members of the Senedd must not prevent any person from gaining access to information which that person is entitled to by law, but must not disclose confidential information, including confidential information from Senedd Committees, without consent unless required to do so by law. Any such confidential material received by Members in the course of their Senedd duties should only be used in connection with those duties and must never be used for the purpose of financial gain. In any activities in relation to, or on behalf of, an organisation with which a Member has a financial relationship, including activities which may not be a matter of public record such as informal meetings and functions, Members must always bear in mind the need to be open and frank with other Members of the Senedd, and with officials.*

*(g) Leadership: Holders of public office should promote and support these principles by leadership and example.*

***Standards Investigations: Duties in respect of the Commissioner for Standards and the Committee on Standards of Conduct***

*15. Members shall cooperate, at all stages, with any investigation into their conduct by the Commissioner for Standards; or by the Committee on Standards of Conduct in accordance with Standing Order 22.2(i).*

***3.3 National Assembly for Wales Commissioner for Standards Measure 2009***

***1. The Commissioner***

*(1) There is to be a Senedd Commissioner for Standards (in this Measure referred to as “the Commissioner”)*

*(6) A person who has been appointed as the Commissioner may at any time—*

*(a) resign by notice given to the Senedd, or*

*(b) be removed from office by the Senedd.*

*(7) A person may not be removed from office as the Commissioner under subsection (6)(b) unless—*

*(a) the Senedd so resolves, and*

*b) if the resolution is passed on a vote, the number of votes cast in favour of the resolution is not less than two thirds of the total number of votes cast.*

**4. FACTS ESTABLISHED**

4.1 I found the following facts established to the required standard:

- i. On 9 August 2018 the Commissioner found admissible a complaint by Michael Deem alleging improper use of Senedd resources by Mr McEvoy. The Commissioner decided to proceed by way of hearings at which Mr Deem and Mr McEvoy would be present, give their evidence and be open to cross-examination. Between 19 November 2018 and 5 July 2019 12 such hearings

were held in various rooms on the Senedd estate. The Commissioner caused an audio recording to be made of these hearings;<sup>3</sup>

- ii. On 30 November 2018 Mr McEvoy asked to be provided with copies of the transcripts of the audio recordings of the four hearings that had by then been held. As the Commissioner had decided that transcripts were unnecessary Mr McEvoy's request was declined. On 13 February 2019, in response to a new request, copies of the audio recordings of the seven hearings that had by then taken place were sent to Mr McEvoy. To enable me to evaluate the evidence given at the hearings conducted by the Commissioner I considered it necessary to obtain transcripts of them. When that was done copies of the transcripts of all 12 hearings were sent to Mr McEvoy on 22 May 2020;<sup>4</sup>
- iii. On listening to that copy recording Mr McEvoy found that it contained not only what had been said during the hearing but also private conversations between the Commissioner and his staff that had taken place during breaks in the proceedings and after they had concluded for the day. In the course of one such conversation the Commissioner referred to Mr McEvoy as having *sociopathic tendencies*.<sup>5</sup> Mr McEvoy did not raise his concerns about this matter with the Commissioner nor did he take any overt action in relation to it. He did, however, commence his covert recordings of the hearings;<sup>6</sup>
- iv. Mr McEvoy made covert recordings on his mobile phone of the hearings on 18 March 2019, 29 March 2019, 17 June 2019 and 5 July 2019. It was his practice to enter the room where the hearing was to take place before it was due to start and leave his phone, set to record, on a table, in his jacket or in a bag.<sup>7</sup> The phone remained recording everything that took place in the hearing room including private conversations between the Commissioner and his staff during breaks in, and after the end of, the proceedings;<sup>8</sup>
- v. On 25 September 2019 at a meeting with [REDACTED] Mr McEvoy asked for advice on how the Standards Commissioner could be removed from office. He was advised of the procedure under section 1 of the Measure.<sup>9</sup> At that meeting Mr McEvoy made no mention of the covert recordings or anything contained in them;<sup>10</sup>

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<sup>3</sup> Please refer to the as yet unpublished report of the complaint by Michael Deem against Neil McEvoy MS

<sup>4</sup> Please refer to the as yet unpublished report of the complaint by Michael Deem against Neil McEvoy MS

<sup>5</sup> [Neil McEvoy – Criminal Justice Act 1967 section 9 statement paragraph 13](#)

<sup>6</sup> [Neil McEvoy – Criminal Justice Act 1967 section 9 statement paragraphs 20 – 23 | Transcript – Press conference 12 November 2019 - page 2](#)

<sup>7</sup> [Transcript – Press conference 12 November 2019 - pages 2, 6 & 7 | Report – Neil McEvoy Report Recordings of Standards Commissioner - pages 2 & 3](#)

<sup>8</sup> [See for example Report – Neil McEvoy Report Recordings of Standards Commissioner pages 22 – 23 | Transcript – Press conference 12 November 2019 - pages 8 - 10](#)

<sup>9</sup> [REDACTED]

<sup>10</sup> [REDACTED]

- vi. On 11 November 2019 Mr McEvoy released to the media his Report 'Recordings of Standards Commissioner';<sup>11</sup> He intended to provide all his media contacts with a copy of the transcripts of the covert recordings he had made. By mistake not all his contacts received copies.<sup>12</sup> The Commissioner resigned later that day;
- vii. On 12 November 2019 Mr McEvoy held a press conference at which he explained how and why he had made the covert recordings and disclosed further information on their contents;<sup>13</sup>
- viii. The resignation of the Commissioner caused significant disruption of, and delay to, the completion of investigation of Mr Deem's complaint and other complaints that passed to the Acting Commissioner on his appointment. One of the other complaints was against Mr McEvoy; and
  - i. The report and the transcripts of the hearings Mr McEvoy passed to the media contained confidential information not only about Mr Deem's complaint and two other then current complaints against Mr McEvoy but also about other confidential matters considered by the Commissioner.<sup>14</sup>

## 5. CONSIDERATION

5.1 This report is concerned solely with my investigation of the complaint by the Llywydd against Mr McEvoy. It does not address the quite separate issues of whether anyone was guilty of MCIPO or whether any of the comments allegedly made by the Standards Commissioner and his staff were appropriate. Nor is it concerned with whether, as alleged by Mr McEvoy, these persons were biased against him or whether the Senedd was institutionally racist in its dealings with him. All these matters are outside my remit as the Acting Commissioner for Standards.

### Failure to co-operate

5.2 Paragraph 15 of the Code of Conduct requires Members, inter alia, to '*cooperate, at all stages, with any investigation into their conduct by the Commissioner for Standards*'. Mr McEvoy failed to co-operate both with the investigation of the complaint against him by Michael Deem and with the present complaint.

5.3 His action in making the covert recordings and disclosing transcripts of them resulted in the resignation of the Commissioner. Whilst I was very quickly appointed as Acting Commissioner it took time to become familiar with the evidence that had

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<sup>11</sup> [Report – Neil McEvoy Report Recordings of Standards Commissioner](#)

<sup>12</sup> [Transcript – Press conference 12 November 2020 - page 11](#)

<sup>13</sup> [Transcript – Press conference 12 November 2020](#)

<sup>14</sup> [Report – Neil McEvoy Report Recordings of Standards Commissioner - pages 15 – 23 | Transcript – Press conference 12 November 2020 - pages 4 – 11 | Neil McEvoy – Criminal Justice Act 1967 section 9 statement - paragraphs 9 - 15](#)

already been gathered. Only after that was done was it possible for me to resume the investigation.

**5.4 I am satisfied that Mr McEvoy's conduct constituted a failure to co-operate with the investigation of the complaint against him by Michael Deem.**

5.5 In relation to this complaint Mr McEvoy has, despite reminders and advice as to the likely consequences, failed to complete and return the interrogatories sent to him on 1 November 2020. The time allowed for their completion and return was generous given that the questions asked in them were straightforward and the same as those asked of Mr McEvoy more than three months earlier. I note that at no stage did Mr McEvoy ask for additional time to complete and return the interrogatories. He has asserted that I should not be continuing the investigation of this complaint because police action on his complaint of MCIPO is not complete. That is incorrect.

5.6 The police have made clear that, having taken legal advice from the Crown Prosecution Service, it has been decided not to investigate Mr McEvoy's allegations of MCIPO. They have also told me that although Mr McEvoy can seek a review of that decision he has not done so. Even had he sought a review, it is unlikely that I would have considered that sufficient reason not to complete my work on this quite separate complaint. That is because there is no way in which my work could prejudice any police investigation. Mr McEvoy would be the 'victim' not a suspect in any such investigation. None of the four persons who could be suspects in such an investigation have been involved in my investigation of this complaint. The two matters are quite distinct. I do not accept Mr McEvoy's reason for failing to complete and return the interrogatories.

**5.7 I am satisfied that his failure constituted a failure to co-operate with my investigation.**

Openness Principle

5.8 The Openness Principle set out in paragraph 4e of the Code requires Members *to be as open as possible about all the decisions and actions that they take*. The descriptive text makes clear that Members *must not disclose confidential information .... without consent unless required to do so by law* and that *Members must always bear in mind the need to be open and frank with other Members of the Senedd, and with officials*.

5.9 Mr McEvoy was not open and frank with the Commissioner and his staff when he made covert recordings of their private conversations, he was not open and frank with [REDACTED] present at the meeting on 25 September 2019: although he asked about the process for removal of the Standards Commissioner he made no mention of the covert recordings or the comments in them that he found unacceptable.

5.10 Mr McEvoy was not open about his decision to make covert recordings of the complaint hearings. Indeed he made no mention of them until he gave the media his Report on 11 November 2019.

5.11 All information given to the Commissioner during the investigation of a complaint is rightly regarded as private and confidential until the report of that investigation is published. In his Report, Mr McEvoy disclosed confidential information including discussions with his staff about and details of (1) the investigation of the complaint against him by Mr Deem;<sup>15</sup> (2) two other complaints against him;<sup>16</sup> (3) complaints by and against other Members;<sup>17</sup> and (4) private conversations between the Standards Commissioner and his staff.<sup>18</sup> At his press conference on 12 November 2019 he gave information on all these confidential matters and when answering questions disclosed that he had provided transcripts of the recordings he had made of the hearings to the media. These transcripts included all the evidence, including personal data, taken at the hearings on 18 March, 29 March, 17 June and 5 July 2019 in the complaint by Mr Deem.

5.12 Mr McEvoy has said from the outset that he made the covert recordings having heard the description of him as having *sociopathic tendencies* and other comments he regarded as inappropriate on the audio recording of the Deem complaint hearing on 19 November 2018.<sup>19</sup> He has claimed that the making of the covert recordings, the provision to the media of transcripts of them and the information he gave at his press conference was in the public interest.<sup>20</sup> He has also asserted that the making of the covert recordings *was to protect himself from potential complaints against him and the very biased approach of the Standards Commissioner.*<sup>21</sup> At his press conference he denied that his disclosures were an attempt to delay the investigation of the complaints against him.<sup>22</sup> When asked what made him *think this was the correct route to go down, rather than to raise your concerns in a more conventional manner* he responded *Because I think we see with the recordings that there's collusion between staff in this institution and the commissioner for political purposes, I would say. The reason being was because what they said was highly derogatory about me on an open mike. I mean, because they maybe (sic) covered the mike and spoke, they possibly thought, quietly, these things were still picked up, and I felt that*

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<sup>15</sup> [Report - Neil McEvoy Report Recordings of Standards Commissioner - pages 9 & 21 – 22](#) | [Transcript - Press conference 12 November 2020 - pages 4 - 6](#) | [Neil McEvoy – Criminal Justice Act 1967 section 9 statement - paragraphs 9 15](#)

<sup>16</sup> [Report - Neil McEvoy Report Recordings of Standards Commissioner - pages 18 - 20, 22 - 23](#) | [Transcript - Press conference 12 November 2020 - pages 3, 8 - 10, 11](#)

<sup>17</sup> [Transcript – Press conference 12 November 2020 - pages 4, 6, 7, 9, 12 - 18, 24](#) | [Report – Neil McEvoy Report Recordings of Standards Commissioner - pages 4 & 10](#)

<sup>18</sup> [Transcript – Press conference 12 November 2020 - pages 4 - 11](#)

<sup>19</sup> [Report – Neil McEvoy Report Recordings of Standards Commissioner - pages 2 & 3](#)

<sup>20</sup> [Report – Neil McEvoy Report Recordings of Standards Commissioner - page 3](#) | [Transcript – Press conference 12 November 2020 - pages 4, 6 & 9](#) | [Email McEvoy - Acting Commissioner 7 August 2020](#)

<sup>21</sup> [Report – Neil McEvoy Report Recordings of Standards Commissioner - page 3](#)

<sup>22</sup> [Transcript – Press conference 12 November 2020 - page 6](#)

*I wanted more evidence. And then what I found was that every hearing there would be more and more and more and more. So it was pretty frustrating, really, to go along with the process, but I wanted to expose the wrongdoing in the public interest.*

5.13 I have given careful consideration to Mr McEvoy's assertions but cannot accept that they provide a defence to his contravention of the Openness or Integrity Principles. Mr McEvoy did not have consent to disclose any of the confidential information nor was he under any legal requirement to disclose it. There is in the civil law of England and Wales no general "public interest" rule that excuses or justifies what would otherwise be in breach of the law. Nor is there in the Code any provision for a Member alleged to have breached its provisions to excuse his or her conduct on the grounds that it was in the public interest. Had that been the policy intention it would have been straightforward to include in the Code a provision to the effect that a Member shall be excused of conduct that would otherwise be in breach of the Code if it is shown, on balance, that the conduct complained of was in the public interest. Alternatively, a 'without reasonable excuse' defence could have been made available in all complaints. In February 2019, when he became aware to the *sociopathic tendencies* comment Mr McEvoy should have acted on it. He could have raised it direct with the Standards Commissioner either in private or during a hearing which would have ensured that his representations were recorded. He could have raised his concerns with the Chief Executive and Clerk, the Llywydd or the Standards of Conduct Committee. He could have sought the support of five other Members for the tabling of a motion to remove the Commissioner from office as provided for in section 1 of the Measure.<sup>23</sup> He did not do so: instead he decided to make the covert recordings. At the meeting with [REDACTED] on 25 September 2019 he was advised about the procedure for removing a Commissioner from office. He made no attempt to use it and took no action until he issued his Report on 11 November 2019. I note that although by that time the Commissioner had completed his evidence gathering exercise in relation to the Deem complaint and was about to start drafting his report to the Committee, Mr McEvoy has denied that it was his intention to disrupt that investigation. He must, however, have known that disruption was the inevitable consequence of his conduct.<sup>24</sup>

#### **5.14 I am satisfied that Mr McEvoy contravened the Openness Principle.**

##### Integrity Principle

5.15 The Integrity principle set out at paragraph 4b of the Code requires Members *at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of the Senedd and refrain from any action which would bring the Senedd, or its Members generally, into disrepute.* In the course of my investigation I took evidence by way of interrogatories from the

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<sup>23</sup> Please see paragraph 3.3 above

<sup>24</sup> [Transcript – Press conference 12 November 2020 - page 6](#)

Llywydd, [REDACTED] The Llywydd noted the concern expressed by all Senedd Commissioners and party representatives that Mr McEvoy's conduct had undermined the integrity of the standards regime, the concerns about the conduct expressed to her by a number of Members, the need to be able to guarantee the confidentiality of conversations between Members, staff and members of the public if public confidence in the Senedd was to be maintained. She was of the opinion that Mr McEvoy's conduct had brought the Senedd into disrepute.<sup>25</sup> [REDACTED] believed that Mr McEvoy's conduct posed a risk to the reputation of the Senedd and noted the concern that it had caused to many Members and staff.<sup>26</sup> [REDACTED] noted the general sense of distrust, uncertainty and distress caused by the conduct and how some Members were for a time no longer confident in discussing confidential matters on the Senedd estate.<sup>27</sup> [REDACTED] took a different view. [REDACTED] believed that the actions had demonstrated Mr McEvoy's integrity and that they had helped [REDACTED] in carrying out [REDACTED] work.<sup>28</sup> In the interrogatories sent to Mr McEvoy he was afforded an opportunity to respond to the allegations that his conduct was in contravention of the Code principles of Integrity, Openness and Leadership.<sup>29</sup> He did not avail of that opportunity.

5.16 Because of the covert recordings a security sweep of the Senedd estate was undertaken. Its purpose was to discover and remove any covert recording devices and to provide assurance to Members, visitors and staff that they could continue to have discussions and meetings with confidence that they were not being recorded. The sweep caused disruption to the work of some Members who had to vacate their offices.<sup>30</sup> At his press conference on 12 November 2019 Mr McEvoy asserted that the sweep was unnecessary as all the recording was undertaken on his mobile phone.<sup>31</sup> He appears not to have considered the likelihood that some would not, given his conduct, accept that statement as truthful.

5.17 The making of the covert recordings and Mr McEvoy's press conference were widely reported in the media. Those who accepted Mr McEvoy's account may well have considered that the integrity of the standards regime had been undermined: others may well have considered that by making of covert recordings and going public with them rather than following the other options available, Mr McEvoy had undermined public confidence in that regime. Although the Standards Commissioner is an independent public office holder, the standards regime is an integral and important part of the democratic process. Anything that undermines the integrity of the standards regime undermines the integrity of the Senedd itself.

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<sup>25</sup> [Llywydd – Interrogatories](#)

<sup>26</sup> [REDACTED]

<sup>27</sup> [REDACTED]

<sup>28</sup> [REDACTED]

<sup>29</sup> [McEvoy – Interrogatories](#)

<sup>30</sup> [REDACTED]

<sup>31</sup> [Report – Neil McEvoy Report Recordings of Standards Commissioner - page 2](#)

## **5.18 I am satisfied that Mr McEvoy contravened the Integrity Principle.**

### Leadership Principle

5.19 The Leadership Principle set out at paragraph 4g of the Code requires Members to uphold the principles of the Code including the Openness and the Integrity Principles. For the reasons I have set out I am satisfied that rather than upholding these principles Mr McEvoy undermined them.

## **5.20 I am satisfied that Mr McEvoy contravened the Leadership Principle.**

## **6. SUMMARY**

6.1 I uphold the complaint made by the Llywydd. I am satisfied that by his conduct

- in making the covert recordings of hearings in the complaint against him by Michael Deem;
- providing transcripts of them to the media;
- giving confidential information contained in them at the press conference on 12 November 2019; and
- refusing to complete and return the interrogatories containing questions about his conduct

Mr McEvoy: –

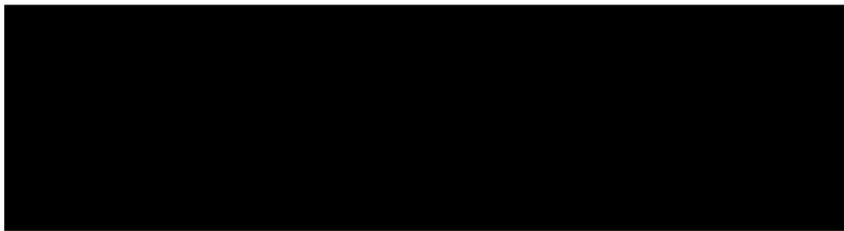
- failed to co-operate with this investigation and the investigation of the complaint against him by Michael Deem contrary to paragraph 15 of the Code of Conduct;
- failed to uphold the Openness Principle at paragraph 4e of the Code;
- failed to uphold the Integrity Principle at paragraph 4b of the Code; and
- failed to uphold the Leadership Principle at paragraph 4g of the Code.

## **7. PROCESS**

7.1 On 3 December Mr McEvoy and the Llywydd were provided with the final draft of this report and afforded an opportunity to comment on its factual accuracy. The deadline for receipt of any representations was 16 December. On 15 December a member of Mr McEvoy's staff informed me that Mr McEvoy did not intend to respond to any correspondence until his period of suspension had expired. I gave careful consideration to whether Mr McEvoy suspension had any relevance to his ability to make representations about the factual accuracy of the final draft of this report. I conclude that it did not. The suspension was specific in its terms and effected

only Mr McEvoy's right to participate in proceedings, to enter the Senedd estate and to be paid. In all other respects he continued to enjoy the rights and privileges of a Member. He remained under a duty to comply with the Code of Conduct and in particular to co-operate with any investigation into his conduct as required by paragraph 15 of that Code. I advised him on 17 December that I did not accept his suspension was relevant. The Llywydd drew attention to a number of typographical errors in the final draft but did not raise any matter of factual accuracy.

7.2 A copy of this final report has today been sent to both of them.



**Douglas Bain CBE TD**

**Acting Senedd Commissioner for Standards**

**17 December 2020**

## Annex A

### RELEVANT DOCUMENTS

1.	Letter Llywydd – Acting Commissioner 15 November 2019	 Document 1.pdf
2.	Letter Llywydd – Acting Commissioner 21 November 2019	 Document 2.pdf
3.	[REDACTED]	[REDACTED]
4.	Transcript – Press conference 12 November 2019	 Document 4.docx
5.	Neil McEvoy – Criminal Justice Act 1967 section 9 statement	 Document 5 - Redacted (2).pdf
6.	Manon Antoniazzi – Interrogatories	 Document 6.docx
7.	[REDACTED]	 Document 7.msg
8.	Llywydd – Interrogatories	 Document 8.docx
9.	[REDACTED] – Interrogatories	 Document 9.docx
10.	[REDACTED] – Interrogatories	 Document 10.docx
11.	[REDACTED] - Interrogatories	 Document 11.pdf
12.	McEvoy – Interrogatories	 Document 12.docx

13.	[REDACTED] – Interrogatories	 Document 13.docx
14.	Email McEvoy - Acting Commissioner 7 August 2020	 Document 14.docx



**Elin Jones AC, Llywydd**

Cynulliad Cenedlaethol Cymru

**Elin Jones AM, Presiding Officer**

National Assembly for Wales

Douglas Bain  
Acting Commissioner for Standards  
National Assembly for Wales  
Cardiff Bay  
CF99 1NA

Our ref: EJ/MR

15 November 2019

Dear Douglas,

I write to you in connection with the conduct of Neil McEvoy AM.

On the morning of Monday 11 November 2019, my officials were contacted by a journalist, [REDACTED]. [REDACTED] passed to them a document given to [REDACTED] by Mr McEvoy. I enclose a copy.

The document purports to be a set of allegations of wrongdoing by the former Commissioner for Standards, Sir Roderick Evans. At the top of page 3 of the document, it is asserted that Mr McEvoy made covert recordings of conversations on the Assembly estate.

On Tuesday 12 November 2019, Mr McEvoy gave a press conference. The footage can be viewed here:- <https://www.youtube.com/watch?v=O2t6eRbGTso>

My officials have prepared a transcript of the press conference which is also enclosed. In that press conference, Mr McEvoy confirmed that he made the recordings as alleged in his document. He further asserted that he used his mobile phone for the recordings.

The recordings have not been made available to me. However, according to the (apparent) extracts set out in the document, Mr McEvoy recorded highly sensitive and confidential discussions involving the former Standards Commissioner and his staff. The conversations, according to Mr McEvoy's document, refer (among others) to members of staff of the Assembly Commission as well as to three Assembly Members, one of whom is Mr McEvoy.

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**Elin Jones AC, Llywydd**

Cynulliad Cenedlaethol Cymru

**Elin Jones AM, Presiding Officer**

National Assembly for Wales

I do not know where the recordings were taken, over what period, on how many occasions or on what devices. It is possible that conversations have been recorded of Assembly Members and their staff, staff of the Assembly Commission, staff of the Standards Commissioner, contractors on the Assembly estate, and members of the public (who may include children or vulnerable adults). Members of the media and some staff of the Welsh government also have passes to the Assembly estate and may have been recorded.

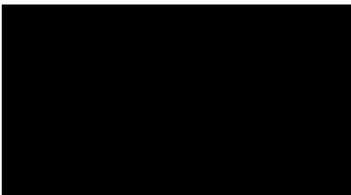
The making of covert recordings on the Assembly estate is extremely serious. It is not possible for a legislature to operate unless Members and staff are able, when appropriate, to have private conversations. Mr McEvoy's actions have caused considerable distress to the entire Assembly community.

Mr McEvoy has engaged in an outrageous breach of the trust placed in Assembly Members by the public. His behaviour diminishes the confidence of the public in the Assembly and brings the institution into disrepute.

The Clerk of the Assembly has referred these matters to the police who are investigating whether or not criminal offences have been committed.

I would be grateful if you would treat this letter as a complaint under the Code of Conduct for Assembly Members. I will be very happy to assist you in this matter in any way possible.

Yours sincerely,



Elin Jones AM

Llywydd



**Elin Jones AC, Llywydd**

Cynulliad Cenedlaethol Cymru

**Elin Jones AM, Presiding Officer**

National Assembly for Wales

Douglas Bain CBE TD  
Acting Standards Commissioner  
Pierhead  
Cardiff Bay  
CF99 1NA

Our ref: PO767/EJ/MR

21 November 2019

Dear Douglas,

### **Complaint against Neil McEvoy AM**

Thank you for your letter of 18 November 2019.

I consider that Mr McEvoy's conduct constitutes a breach of the Code of Conduct for Assembly Members ("the Code") in the following ways-

Paragraph 4(b) of the Code ('integrity') requires Members to "...conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of the Assembly and refrain from any action which would bring the Assembly, or its Members generally, into disrepute."

The taking, and subsequent publication, of covert recordings on the Assembly estate has interfered with the ability of the Assembly, Assembly committees, and Members to carry out their functions freely. Mr McEvoy's actions have created an atmosphere of anxiety among Assembly Members (and their staff) and Assembly Commission staff about their ability to have confidential conversations on the Assembly estate. This impacts on both Assembly and constituency business. It is vital, not only that elected members and officials can conduct their work confidentially (where necessary) but that they are seen to be able to do so.

Paragraph 4(e) of the Code ('openness') further requires Members not to "...disclose confidential information...without consent unless required to do so by law." Paragraph 1.7 of the Procedure for dealing with complaints against Assembly Members ("the Procedure") specifically requires privacy as regarding ongoing investigations. Despite this, in his press conference on 12 November 2019, Mr McEvoy made reference to various matters which were, apparently, subject to investigation by the former Standards Commissioner.

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**Elin Jones AM, Presiding Officer**

National Assembly for Wales

This has undermined the complaints process. It has put other individuals in a position where, by respecting the Procedure, they cannot speak out about these matters even though Mr McEvoy has already done so. In the case of the former Standards Commissioner and staff, their ability to respond to Mr McEvoy's allegations is impeded by their statutory duty not to disclose any information relating to a complaint, in accordance with section 16 of the National Assembly for Wales Commissioner for Standards Measure 2009.

Paragraph 4(g) of the Code ('leadership') requires Members to promote and support the principles of the Code through leadership and example. Instead of doing so, Mr McEvoy has actively sought to undermine the Code, the Standards Commissioner and the standards procedures which are necessary to ensure that alleged breaches are investigated according to a proper process.

In addition to breaching the Code of Conduct for the reasons outlined above, Mr McEvoy's actions have undermined the ability of the Standards Commissioner to exercise his functions in accordance with the principal aim set out in section 2 of the Measure, to "promote, encourage and safeguard high standards of conduct in the public office of Assembly Member."

In my view, all of these activities, have undermined the integrity of the standards regime, which has damaged the reputation of the Assembly and undermined public confidence in the ability of the institution to hold Assembly Members to account for their actions.

I have no objection to you disclosing my letter of 15 November 2019 and this letter to Mr McEvoy.

Yours sincerely,

Elin Jones AM  
Llywydd

## **Cynhadledd i'r Wasg Neil McEvoy AC 12 Tachwedd 2019**

### **Neil McEvoy AM Press Conference 12 November 2019**

Diolch yn fawr am ddod bore yma. Thank you for coming this morning to this press conference and a big welcome to everybody tuning in on Facebook and social media and Twitter as well.

This press conference this morning is about the health of Welsh democracy. People trust every single Assembly Member in this building with their votes. They put trust in us to govern, to make decisions. They put trust in me as an opposition Member to try and hold the Government to account. What we have in Wales is a growing culture of elected politicians being undermined by the unelected, be that through suspensions from local government or indeed suspensions from this National Assembly.

False and malicious allegations damage individuals, they hurt families and we know that they can kill. This institution has been under a cloud since the death of the late Carl Sargeant and I want to tell the public that nothing has changed. I want to be the last Welsh Assembly Member facing anonymous complaints. I want to be the last Welsh Assembly Member facing made-up fictitious statements, submitted anonymously, so there is no way of seeking redress. There's no way to scrutinise things that are said anonymously.

This all started just under two years ago. And this will be interesting to Plaid Cymru Members because it started with a complaint from a Plaid Cymru Member that, as a Plaid Cymru Assembly Member, I was using my office for the benefits of Plaid Cymru. Well, strange that, isn't it? A Plaid Cymru Member using his office for the benefit of Plaid Cymru. And the standards commissioner decided to undertake an investigation.

Before he did the investigation, he kindly met with a hostile witness who he'd known for decades and they discussed the complaint, they discussed me and there was no record—no record—of that meeting; no record of what was said. And the standards commissioner said, 'Well, that's okay because I'm unaffected by it. I took no account of what was said.' And I'll tell you that what was said about me would not have been positive from that individual, because a small group of them had been undermining me for a while and they've been undermining me and my staff ever since.

The commissioner really, with every AM, has made up investigations as he has gone along. There is no process, there are no rules. So, as an Assembly Member you will not know what you're accused of. There is a complaint. You're not told what it is. I wasn't. With some complaints I was, others not. You will not know what evidence there is. You will not know what statements are made. People who are hostile witnesses will not have to make statements. They don't have to make statements and they can alter their evidence as the hearings go along. There is no observation of natural justice.

I want to pay tribute to my staff here because my staff, past and present, have been harassed. They've been bullied and intimidated by the commissioner and his office, and even threatened with arrest because the commissioner wanted to confiscate the mobile telephone and computer of [REDACTED] [REDACTED]. And in context—and I'd love every Assembly Member to maybe have this kind of scrutiny—at least 12 months of every intimate text message between me and my staff, every WhatsApp message, every single message was scrutinised by the standards commissioner over 12 months ago and he couldn't find a single thing. Nothing. Zip. But the investigation continued.

I wanted a transcript done of the hearing, of the hearings with the standards commissioner, because I felt that once the evidence came out, the transcript would strongly support my position. The commissioner refused to have a transcript produced, yet with other Assembly Members, who

possibly the commissioner felt to whose detriment a transcript would be, transcripts have been produced. Again that's another gap. So, I asked for the sound files of the meetings. And they didn't want to give me the sound files, obviously, and it took me to insist in terms of data protection rights that they had to give me the sound files of the hearings, and they did. And what I heard shocked me.

And I would say to the commissioner and his staff, 'Just because you're whispering doesn't mean microphones are not picking you up.' So there were some appalling things said about me on the official recordings, in front of staff, in front of the complainants, and it seemed to me that they were all in it together to destroy my political career, to remove my ability to earn a living for my family, to remove the ability of my staff to earn a living for their families. The commissioner said to me, 'You live by publicity and you can die by publicity.' And what he meant was clear.

As a result of that, I thought, 'God, this is really problematic, and with a commissioner completely biased, what do I do?' What do I do? Well, you know, I haven't done these things. And what do I do? How do I prove my innocence? And also, if we have a system which is so rigged and so corrupt that Assembly Members can lose political office because of these unelected officials behaving unethically in the background, conspiring, conspiring—conspiracy is not too much of a popular word, but the recordings prove it.

What I decided to do was record the hearings on my own device. The reaction of the Llywydd is ridiculous, saying that she wants the whole Assembly estate swept for bugs. Jesus, I'm not, you know, I'm not part of the KGB, yes? I'm just an Assembly Member. I've been open, I've not denied anything.

This is the device. This is the device that recorded matters. I was astonished that they never saw it. They were just, you know, I think they were so busy talking about how to stitch me up they just didn't see the phone. Astonishing really.

In terms of the recordings—and this is all evidenced in the recordings—the commissioner repeated

[REDACTED]



I'm happy to answer any questions.

*Can I ask you just about how you did these recordings? You know, was the phone in your pocket, was it obscured in any way? Was it in a bag at all? And then, just along these lines as well, how many hearings are we talking about that you've recorded? Where did these hearings take place?*

They took place in the room, on the Assembly estate in different rooms. There's hours of footage. Hours of footage. And I think—. It was on the phone.

*And was the phone in your pocket? Was it visible?*

It could have been in a jacket, it could have been in a bag sometimes. It could have been on the table. Various, various things. I'm just surprised that they didn't bother to actually look at it really. I think they were so caught up in stitching me up that they just paid no attention to what I was doing. It was quite shocking really.

*Did you at any time tell them that you were recording them?*

No.

*It's an unusual thing to do, this.*

Yes.

*You've explained why you feel you've been unjustly dealt with, but what made you think this was the correct route to go down, rather than to raise your concerns in a more conventional manner?*

Because I think we see with the recordings that there's collusion between staff in this institution and the commissioner for political purposes, I would say. The reason being was because what they said was highly derogatory about me on an open mike. I mean, because they maybe covered the mike and spoke, they possibly thought, quietly, these things were still picked up, and I felt that I wanted more evidence. And then what I found was that every hearing there would be more and more and more and more. So it was pretty frustrating, really, to go along with the process, but I wanted to expose the wrongdoing in the public interest.

*Could I ask you one more? You've referred to the investigations taking place against you, one of them is potentially a serious issue, because it relates to the use of taxpayers' money for building work in your constituency office.*

Yes.

*Is this an attempt to derail an investigation?*

I'll just say thanks to the builder that did the work because that was the only person that came in under £6,000. And if you say—. I challenge anybody, I challenge the BBC: get any builder in my office, walk around with them, and try and get a bill for under £5,000. Absolutely impossible. And what the commissioner is not aware of, I had other quotes as well, which were not submitted, and none of them came under £6,000. So what the builder did was make a really tiny profit, if any, on a piece of work and—.

*But in terms of whether this is an attempt by you to derail the investigation.*

What investigation?

*The standards commissioner's investigating you on three counts, right? So, is this an attempt to derail those investigations by doing an expose on the commissioner?*

What's next? I took the cheapest quote available. I saved public money. I also made sure that because of the work carried out in the office that I didn't pay the rent for a month to the landlord. And let me just be clear:

[REDACTED] I've never—. I didn't meet the landlord of my office before I took the lease out. I barely knew the builder. He was somebody who, I was doing a telephone—. I was doing—sorry—I was doing an interview on the radio and they telephoned and they texted in to the station and he had a few questions for me and we just started talking about politics. So I knew, sort of—. There was a connection there, but there was no—I'd never socialised with the man. I think he just supported me politically and did a really cheap job in the office. So, there's nothing. It's all out in the open. Get any builder into my office and try and get a cheaper quote because you won't. I took the cheapest quote. And what we have here is a level of fantasy from the commissioner.

*Neil, for the work—[Inaudible.]—I understand that three quotes were sought in relation to them, but*

[REDACTED]

How do you know, David? How do you know this, David? How does the BBC know this? This is what I mean. This is supposedly a confidential.

*It's in the transcript that you've published.*

Okay. All right. Okay.

*Because—. There's a quote from Sir Roderick suggesting that there's a question mark over—*

Okay. Maybe I jumped the gun there because there's certainly an unhealthy relationship between the media, some aspects of the media, some parts of the media and the commissioner's office.

*Well, Neil, can I just—? How do you explain what Sir Roderick found*

[REDACTED]

I'm not even sure what he was talking about really, what the issue is.

*You're not sure what he's talking about.*

No, because if you're a sole trader—.

*What don't you understand about that?*

If you're a sole trader, right, and if you want work, you may not have a registered company, so, therefore, you put a quote in. I advertised on Facebook, nobody came in under—and it was difficult, nobody came in under £6,000, so what we did then, on my Facebook there's an ad, not an ad, there's an update where we ask people to come into the office, strip the wallpaper, because we've got to try and get under budget, we couldn't and three—.

*So, are you saying it's*

[REDACTED] I don't understand.

Well, Sir Roderick [REDACTED]  
[REDACTED]

What I'll say to you is I'm happy for—  
[REDACTED]

I'm happy for that to be investigated. Right? And there's nothing to see here. What we have is the usual smear from the Welsh establishment. I took the cheapest quote. The quotes were nothing to do with me. I took them in good faith, right? And the commissioner—. I don't accept the commissioner's word on that, frankly.

*Can I ask you to elaborate on the individual who conducted the work? How did you know them? What is their background in building?*

Okay. So, maybe for the benefit of people watching, what we have here is a commissioner who has behaved—. I'll answer the question. What we have is a commissioner who has behaved outrageously in a really prejudiced way. They clearly briefed the BBC as usual and what we have is the BBC trying to make me the story. I'll answer the question. As I said to you earlier, I got to know the person because they texted into a radio station where I was doing an interview on the radio and there was just somebody who I knew and they put a tender in for the work. It was the cheapest tender, they got the work. There were other firms that could have got the work but they were just well overpriced, and those weren't put into the Commission. So, I'll be—. When this is looked at, then they'll be getting that evidence from me. There's nothing to see, David.

*There's— You were—. The commissioner was looking into three matters.*

Yes.

*We wrote a story about one of them last year. You've provided some information on the building work matter. There's a third matter. Can you tell us about the third matter? What's the third matter about?*

Well, you know what it is.

*What is it?*

I haven't—. I didn't brief the BBC about this. You told me what the sanction was. The BBC knows what—the BBC knows what the sanction is. They know—they know what the sanction is. How do they know that? It hasn't come from me.

*For the benefit of us that are not part of the BBC, could you tell us what we're talking about?*

There was a complaint—. There was a complaint made about me, and —this is really interesting—. A complaint made. And I didn't behave in any kind of way that has not—. I didn't undertake behaviour that I've not experienced from other people. I've been in this building, I've been sworn at, I've been shouted at, I've had people in my face. It's part of the job, okay.

There were comments made about me by an Assembly Member that I wasn't happy about and I tried to address the matter with him. I found him very arrogant and I admit I lost my temper, yes, and I was aggressive to him. Was I more aggressive than people have been to me? No. Was there evidence that supported me? Yes, there was. There was video footage. And, if the committee had seen the video footage, then I don't believe there would have been such a sanction. I understand the legal advice to the committee was that they couldn't view the footage for data protection reasons,

which doesn't stack up. So, I'll be following that up with the committee, and I want to know who gave the legal advice, what legal advice was given, and was it in writing. Because all they had to do was pixel out those that weren't involved and show the interaction between me and the Assembly Member.

And, while we're at it, I did lose my temper. That won't happen again, because I feel it was quite a weak reaction, to be honest, from me, in, I would say, giving somebody what they wanted. There's been a lot of provocation here for the last three years. I see my staff being bullied around this place. I see people close to me treated very badly. I see my own—. I see myself being defamed in many different fora. So, therefore, on that day I snapped and I was aggressive and I wasn't pleasant to him. I didn't want to be pleasant. And I told him some home truths. In any other place of work that would have been, I suppose, considered an up and downer and then maybe people would have shook hands or had a chat and then moved on the next day. That doesn't happen in this place. There's a complaints culture.

But I will say on the record now, if the individual was really offended by my behaviour and if he was upset by it—Mick Antoniwi; I think people know—then I'll apologise to Mick. I apologise. I apologise for me making him feel the way that he felt. But then maybe he owes me an apology for making me and my family feel the way we do with the things they say about me. And to go back to the point, there was—and this is an important point—there was video evidence available, which contradicted anonymous testimony. The committee did not view that footage. If they'd viewed the footage I believe the matter would have been dealt with in a completely different way. So, I want to know why the committee were given that legal advice, who gave the legal advice, and what exactly their tie-up is with this whole scenario—for example, making sure that any appeal I make is going to be dismissed.

*What, if any, legal advice did you seek before the recordings and what was their advice and who did you speak to? What is your intention with the recordings now? [Inaudible.]—transcript. And what do you say to people who may have no confidence or may believe that you will record their secret, private, meetings with you in future?*

I think what I would like is, whenever I do an interview with anybody I'd like you to record it, on the record. I think that's sensible because it's getting to the point now where—not just me, other people—complaints are made about us anonymously, the complaints are completely made up, and it's important that we were able to protect ourselves and I think it was clearly in the public interest, which is my defence if people want to make a complaint. I think it's clearly in the public interest to know that what we have here is, effectively, a corrupt complaints procedure.

*Legal advice—what did you get?*

Yes, I took legal advice, yes.

*From a solicitor, or—?*

Yes.

*Can I ask—? The bit I find most mystifying, and I understand that it's difficult for you to explain because of identification issues, is the photographing of the child protection—*

I know, yes.

*I can't quite understand why the individual would have done that and how it would be relevant—*

I know, yes.

*—to any of the complaints.*

Yes, that is—that's my point exactly, because I was horrified to, and I mean horrified—sick, actually. I felt sick, having to phone the safeguarding people in that child's life and tell them that their details had been photographed, had been stored and shared. It's perverse. I can see no reason for it. And that's my criticism of the standards commissioner. They were not relevant at all. The only defence to what was done would have been a breach of data protection, that I somehow breached data protection. That would have been a defence, right. No complaint of data protection was made either to the commissioner or to the Information Commissioner himself or herself. The—. It was completely irrelevant, and—

*So, why—? You may not know, but—*

I don't know.

*—why did he do it?*

I have no idea.

*I mean, he must have thought—he must have had a motive or a purpose.*

Yes. It was a malicious purpose. The same individual was taking photographs of my office while working for me, to use at a later date to complain, and, hands up, yes, I did have a campaign meeting in my constituency office. So, when you see the headline on the BBC that I've used my office for political purposes and used public resource, yes I did have a few campaign meetings in my constituency office. So does every other AM. And, if you don't believe me, go on Twitter and see them talking about those meetings, yes.

And the other thing, which I admitted, was there was a Plaid Cymru printer stored at my office. It shouldn't have been there. I was doing Plaid Cymru a favour. And they decided to take the photograph and complain about me, that I'd had one of their printers in my office. And I think maybe Plaid Cymru members may want to consider why the party would do that. Well, sorry, I'll rephrase that: why an individual party member would do it and why they would be supported by such senior people within the party for making such complaints. And they've opened up a can of worms. As I say, go on Twitter, look at the video. Dai Lloyd, for example. I'm not making the complaint, right, I refuse to make the complaint—I'm not doing that. But there are AMS here who've clearly done the same as me—on social media. With me, it took a few people to provide the commissioner with an e-mail I'd sent—the minutes of a meeting and the agenda. That was done on e-mail, personal e-mail. So, you know, that's how they got me on that and I said, 'Well, yes, I've had political meetings my office, everybody does.' You have, for example, the head of a political party, the head of strategy, walking around this building, being based here. If he's not talking about politics, what's he talking about?

What we need here as well, I think, is a different complaints procedure—to try and get some positives out of this—a different complaints procedure. Maybe look at Westminster. Because what is said on Twitter in Westminster, where it's a grown-up Parliament, Twitter's ignored. Maybe look at what the Scottish Parliament does in terms of process. And I think we need to be realistic about, you know, what is done in this building and what is done by staff. Look at all the Assembly staff members now out campaigning for the general election—they're breaking rules, as rules stand. We all know that. Nobody complains. I even had to look at a complaint that I'd used Assembly Wi-Fi for political

purposes. I'm not kidding. So, are you telling me that no other AM in this building has sent an e-mail, using Assembly Wi-Fi, which wasn't political? It's nonsense. And the worst thing of all—you know, I've campaigned almost my entire adult life for this institution. I believe in this Institution. I believe in a sovereign Welsh Parliament and what I'm saying is things have got to change and they've got to be done much better. Because I want devolution to work.

*Hear, hear. Can I ask you one more? Just on the question of where we got the basis for the questions about the quotes that you provided in relation to this public money. So, it's page 5 of the transcript that you sent out.*

Okay, yes.

*And it is apparently, purports to be, Sir Roderick speaking:*

[REDACTED]

I said that. I said that, yes.

*So, what is your response to that?*

[REDACTED]

*Because this is in the transcript that you—*

Yes, I know. Again, I think what we have with the commissioner is a worrying level of

[REDACTED]

*Isn't this just a factual thing, though, forgive me?*

No, because I'm not—. You know, I've seen no evidence that the quotes are not genuine. None.

*Can I ask why some of the press have had transcripts, and some others haven't?*

Didn't we—?

*LBC, Golwg, ourselves.*

Not had them?

*No. I don't know about ITV.*

That's an oversight. I apologise. That should have—. They should have been given out.

*Because it makes it very difficult to cross-examine on the basis of not knowing what the heck you're talking about half the time.*

Yes, I'm sorry that—. I'm sorry that's happened. They should have gone out. But everything's going to be published on the website now. So, if that has happened, I apologise.

*What's happening with the audio? You didn't answer that one.*

It's in my—. I have the audio and it's backed up. If—

*Are you going to publish it anywhere?*

I'm not going to publish the audio, no.

*A new commissioner will be appointed in due course. Would you expect them, whoever they may be, to continue with the ongoing investigations?*

I think what this institution has to confront is that the whole process is corrupted and they should put a halt on matters. The chief executive needs to explain her position, the Presiding Officer needs to explain her position, and what we need to do is look at the whole system. It's not fit for purpose, it's been corrupted, and just appointing a new head of that will not solve the problem, and I would have—I wouldn't have any confidence in the process as it stands.

*You mentioned your behaviour, which you've now apologised for, to another AM, but you also said that other AMs had behaved worse.*

Yes.

*I'm not asking you to name names—*

No, I'm not going to name names.

*—but have you ever filed a complaint on that?*

Not on that basis, no. I've been upstairs, I've been sworn at, and what do you do? Do you say, 'Oh my god, I'm so offended'? So, well, whatever, really. Sometimes I'll give it a bit back. On another occasion an AM who owned several properties was extremely upset—extremely upset—that I'd called Labour politicians hypocrites for voting to stop my constituents owning one house. It's okay for them to have three; my constituents can't own one. So, he came outside the Chamber ranting and raving at me, came at me—he's a lot bigger than me—came over, stood over me, stood over me, and I'm like, 'Well, hey, come on, hey, it's just, hey, it's just a debate, you know'. I'm backing off, and then he came forwards, really aggressive. I thought, 'Do you know what? I've had enough of this', so I told him straight and he backed off. I didn't make a complaint. I did ask for the footage, because I wanted to see the footage. They refused to give me the footage. Why is that? Why is that? It was my data as well. And I just let it go. I did e-mail the chief executive to have the behaviour noted, but I didn't want to make a complaint. I've just got to—I get on with the job, I'm too busy. There's awful behaviour in the Chamber. I'd say I've been quite sickened by the amount of racism in the Chamber that I see, where when one Assembly Member speaks—. They've stopped it now, because I've complained enough, but there was—. Mohammad Asghar, whenever he used to speak, they used to laugh at him, continuously. I don't mean a one-off, if somebody said something silly or something wrong or—continuously, because he speaks with an Asian accent. Why is that funny? It's like being in school, in a playground, where people snigger, and I found that racist and I brought it to the attention of the Presiding Officer and she said, 'Oh, it's okay'—she recognised the behaviour—'It's okay because Mohammad's not got a problem with it.' Well I had a problem with it. I'm mixed race.

*Just briefly, and on a lighter note, you're currently an independent AM. Are you considering joining a party, setting up a party yourself?*

Am I allowed to talk about politics here? I'm looking for community champions. I'm looking for community champions. And what's great about Cardiff is the teams are still in place and we're still campaigning. So, I'm sure they'll be used in the future. But thanks for attendance. Can I—? I just want to say, though, before we—. Very, very finally, this is about the health of democracy and it's about individuals being picked off by the system. It's about staff not in a position to defend themselves being bullied to the point of illness, and that's what's happening in this Assembly. I

believe in this Assembly, I believe in Welsh democracy and we've got to change and do it better.  
Diolch yn fawr.

## STATEMENT OF WITNESS

*(Criminal Procedure Rules, r. 16.2;  
Criminal Justice Act 1967, s. 9)*

### STATEMENT OF Neil John McEvoy

**Age of witness (if over 18, enter "over 18"): over 18**

**This statement consisting of 15 pages is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.**

1. I am a Member of the Senedd, the Parliament of Wales, elected to represent the South Wales Central constituency which covers parts of Cardiff and surrounding areas. As Member of the Senedd, I am aware of the standards expected of people in public life. I am subject to the Senedd Code of Conduct, and to the enforcement of the Code under the National Assembly for Wales Commissioner for Standards Measure 2009.
2. In the Senedd I am not classed as a member of any political party, but am classed as an Independent. In fact I am the Leader of a Political Party called the Welsh National Party. This party has a number adherents throughout Wales including elected Councillors. We are in the process of seeking registration as a political party by the Electoral Commission, who are considering the application as I write this.
3. I used to be a member of the Labour Party in Wales. However I resigned and joined Plaid Cymru. I went on to stand in the name of Plaid Cymru against Labour, with some success. This caused the Labour Party to resent me somewhat. Having been elected to the Senedd in the name of Plaid Cymru, I was then expelled from Plaid Cymru, and was obliged to sit as an Independent and to form my own party.
4. I was expelled from Plaid Cymru for what I regard as trivial reasons, connected to the internal workings of Plaid Cymru. These included a disgruntled former partner and mother of my daughter and well known lobbyists, whose conduct I criticised as being below the standards of conduct of lobbyists.
5. I mention this background as my former parties and their members are very ready to promote complaints against me. I regard them as mostly malicious and trivial. Complaints have been made against me alleging breach of the Code of Conduct for Senedd Members. Some of these

complaints have resulted in an investigation by the Standards Commissioner under the 2009 Measure.

6. I do not for one moment challenge the function of the Standards Commissioner. Indeed I myself am keen to promote better standards in Welsh public life, and have been known to challenge suspected abuses. Indeed, I believe that my challenges (of various kinds) are what drives some of the complaints made against me.
7. Being subject to more than one investigation by the Standards Commissioner, I am highly dependent on the Standards Commissioner performing his functions fairly and in accordance with the law. I would hope that I would bend the knee to any complaint found proved against me, if the investigation were conducted fairly and in accordance with the law.
8. However, I am very vulnerable if in fact the Standards Commissioner were to conduct any investigation unfairly and in breach of the law for any reason. If there is misconduct by the Standards Commissioner this might well encourage more complaints against me and create a risk that I will be hounded from public service, causing injustice to me and debasing the whole of public life in Wales. The same could apply to other politicians also.
9. I was elected to the Senedd in May 2016 as a representative of Plaid Cymru. Like all newly elected Members, I immediately started the process of opening an office with the financial support of the Senedd in the usual way. I employed Michael Deem as my Office Manager. As commonly happens in politics, I selected Deem partly on the grounds that he held political views similar to mine. In fact he was like me a member of Plaid Cymru and indeed stood for election as a Plaid Cymru candidate.
10. After some time passed, however [REDACTED] [REDACTED] In October 2017 Deem made a complaint against me of breach of the Code of Conduct. The then Standards Commissioner Sir D.Roderick Evans accepted the complaint and began an investigation in accordance with the 2009 Measure.
11. Initially I tried to engage with the investigation in a responsible manner appropriate to my position. As time went on, however, I formed the impression that the Standards Commissioner was conducting his investigation in a way that was bizarre and in breach of the correct procedure.
12. As part of his investigation, Sir Roderick Evans met with [REDACTED] (A), one of the hostile witnesses and organisers of the campaign to make my stay in the Senedd a short one. Sir Roderick rightly disclosed that he had known [REDACTED] (A) for decades, but refused to reveal any

details of their meeting discussing the complaint, with no notes being taken.

13. During the first hearing on 18.11.2018, the Commissioner clearly stated on the transcript in front of his staff and complainant that I had, "*sociopathic tendencies*," when I left the room. This is Exhibit NM6 Official Transcript 18.11.2018.

14. On the same official transcript at, 3 hours 56 minutes and 50 seconds of the 18.11.2018 I heard things which further concerned me. For example, [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] I noted that [REDACTED] (B) Commission employee said that [REDACTED] (C), [REDACTED] could not say there were no concerns. I was staggered that they could simply discount such testimony. Part of [REDACTED] (C)'s job was to flag concerns and he had none. How could this not be worth the paper it was written on, as they stated?

15. On the same official transcript at 3 hours 56 minutes and 50, there is

[REDACTED]  
[REDACTED]  
[REDACTED] I am sometimes mocked for doing things like getting roads fixed, because in the eyes of some, I should be pontificating and 'legislating' and not paying attention to bread and butter issues. I did not expect to be mocked by officials. There was also clear bias in refusing to accept the nature of my office with casework. As of 13.08.2020 we had 236 open cases on our case work system. Since the Summer of 2017, we have closed 1243 cases, the vast majority after successfully getting a result. This is over 1 case per day. This usually involves taking an enquiry, writing a letter, making calls, feeding things back to the constituent and ultimately getting a result. Some children's services cases have taken thousands of hours, some are on-going, we have just closed one such case, which has taken four years to resolve. I cannot overstate the amount of time taken by casework, which countered the complaint. The casework situation was an inconvenient truth, which did not fit in with the required narrative for the Commissioner's office. The whole matter was treated with hilarity by Standards Commissioner Evans and his staff. There was no consideration that they were holding people's lives in their hands.

16. I took legal advice and disengaged from the process on 05.07.2019

17. I now wish to make a complaint against Sir D.Roderick Evans the then Standards Commissioner, his staff [REDACTED] (B) and [REDACTED] (D) and [REDACTED] (E), that they committed the offence of misconduct in a public office in the manner in which they conducted the Deem

complaint against me. I feel their behaviour was in part racially motivated and that I am the victim of institutionalised racism. I shall refer to Sir Roderick D Evans as Standards Commissioner Evans, in order to distinguish him from Standards Commissioner Bain, being Douglas Bain CBE TD the currently serving Standards Commissioner.

18. I have assembled a number of Exhibits in a Dropbox Folder for safe keeping. In each case I have tried to describe how each exhibit came into being, and the form in which it has been stored since. I have provided a link to this Dropbox Folder.
19. Exhibit NM1 – consists of a copy of a letter written to me by Standards Commissioner Evans and dated 9<sup>th</sup> August 2018. I have kept a copy on the hard drive of my computer since I received it and have also supplied copies to others at various times.
20. Exhibit NM2 – consists of a Transcript of a recording. On 5<sup>th</sup> July 2019 I used my own mobile phone to make a recording of a conversation. Later on a transcript was made of the recording. I have kept a copy on the hard drive of my computer since I received it and have also supplied copies to others at various times.
21. Exhibit NM3 - consists of a Transcript of a recording. On 22<sup>nd</sup> October 2019 I used my own mobile phone to make a recording of a conversation. Later on a transcript was made of the recording. I have kept a copy on the hard drive of my computer since I received it and have also supplied copies to others at various times.
22. Exhibit NM4 - 19.06.20 Douglas Bain final report on Deem complaint.pdf – consists of a copy of a Report by the Standards Commissioner. It is the report of Standards Commissioner Bain on the Deem complaint. Standards Commissioner Bain compiled his report after Standards Commissioner Evans resigned from office before completing his own report into the Deem complaint. It throws light on the methods employed by Standards Commissioner Evans, including inexplicable factual inaccuracies that the Standards Commissioner Bain could not have invented himself. After Standards Commissioner Evans resigned, his staff remained in place and continued to work on the complaint.
23. Exhibit NM5 – consists of a collection of recordings which includes the recordings which I made and later had transcribed as Exhibits NM2 and NM3, Transcripts 6 and Transcripts 1-5.
24. Exhibit NM6 - Official Transcripts are the official transcripts of the Hearings / Trial from 18.11.2018 to July 5<sup>th</sup> 2019.
25. On the 20<sup>th</sup> of December 2019 I provided a USB stick to the investigation which was given exhibit reference NM/201219/01. The material provided included covert recordings I made with my mobile

phone of Sir Roderick and staff, a number of transcripts I produced of the covert recordings and a report I produced to detail my findings of the behaviour and actions I say amounts to Misconduct in a Public Office. Since providing the memory stick on the 20<sup>th</sup> of December 2019 I located an additional covert recording and as such I have now provided all covert recordings as exhibit NM5 as detailed above.

### **Definition of the Offence**

26. In preparing this Witness Statement I have taken some legal advice, with view to providing information in a logical way to the police and Crown Prosecution Service. For example, I now understand that the offence of misconduct in a public office may be made out where a public officer acting as such; wilfully neglects to perform his duty and/or wilfully misconducts himself; to such a degree as to amount to an abuse of the public's trust in the office holder; without reasonable excuse or justification.

### **A Public Officer**

27. The public officers in question is Sir.D.Roderick Evans, Standards Commissioner for Wales, whose period in office was from 2016 to 2019, his staff [REDACTED] (B) and [REDACTED] (D), as well as [REDACTED] (E) [REDACTED].

### **Wilful neglect or misconduct**

28. Exhibit NM1, Standards Commissioner Evans' letter of 09.08.2018 the Standards Commissioner was written when he was in the process of investigating a complaint made by Mike Deem, the former employee, against the Appellant. At numbered paragraphs 1 and 2 the Standards Commissioner gave directions for a hearing. The proposed hearing had most of the characteristics of a trial.

29. Standards Commissioner Evans directed that the time which would be occupied by the proposed hearing was

- (1) Two days, albeit
- (2) "...it is difficult to estimate how long the hearing will take.."
- (3) In the event the Standards Commissioner conducted a hearing which occupied 12 days, the dates being:
- (4) After the 12 days had passed the Standards Commissioner did not complete his investigation.
- (5) The Standards Commissioner resigned on 11<sup>th</sup> November 2019.
- (6) Douglas Bain CBE is now the Standards Commissioner and is continuing an investigation of the Deem complaint against the Appellant, without having concluded it.
- (7) Douglas Bain CBE is not continuing the hearing process and noted that such a process used for me had not been used before.

30. On 5<sup>th</sup> July 2019 I made a recording using his mobile phone of a conversation, and arranged for a transcript, see Exhibit NM2, paginated pp84-97. The conversation

[REDACTED]

31. Although the Section 3.4.1 of the Code of Conduct describe the role of the Standards Commissioner as “establishing facts” and/or “reaching a conclusion, and notwithstanding the phrase “facts found by the Commissioner” in 3.4.2iii, nothing in the 2009 Measure, Standing Order 22 or the Code authorises the Standards Commissioner to

- (1) hold a hearing.
- (2) Hold a hearing which is open-ended and/or excessively long in length which in fact occurred, lasted 12 days.

32. Properly construed, the 2009 Measure, Standing Order 22 and the Code of Conduct provide for

- (1) The Conduct Committee to consider a report made by the Standards Commissioner
- (2) The Conduct Committee to receive evidence (see Ground 4 above)
- (3) Where appropriate, for the Conduct Committee to reach conclusions different to the Standards Commissioner.
- (4) To do so after a process which
  - (a) Can include a hearing
  - (b) Can constitute a process which has most of the characteristics of a trial.

33. On 22<sup>nd</sup> October 2019 I made a recording using his mobile phone of a conversation, and arranged for a transcript – See Exhibit NM3 paginated pp98-120. The conversation

[REDACTED]

[REDACTED]

34. In the first highlighted section of NM3 at p98 the Standards

Commissioner described me as [REDACTED]

35. In the second highlighted section of NM3 at pp109-110 The Transcript contains the following exchange

[REDACTED]

[REDACTED]

36. The conversation so bears an interpretation that

[REDACTED]

[REDACTED]

37. In the third highlighted section of NM3 at pp110-111 the conversation included 2 matters

[REDACTED]

38. Against the background of (1) the hostility of the Standards Commissioner to me and (2) the close association between the Standards Commissioner and [REDACTED] (E) and (3) the fact that figures in the video under discussion were anonymous, unidentifiable and unidentified by the Standards Commissioner, the Standards Commissioner was content to see the Appellant struggle with the issue of whether and if so how to

- (a) Persuade the Conduct Committee to receive witness evidence and the video and/or
- (b) Call witnesses myself.

39. It is clear to me that the approach of the Standards Commissioner would taint the deliberations by the Conduct Committee, especially if the Conduct Committee should defer excessively to the Standards Commissioner. This they did in that they appeared

- (a) To cede to the Standards Commissioner the primary function of establishing the facts supporting any alleged breach of the Code
- (b) To abandon their role of receiving evidence, further to that which they did receive, on the basis that the Standards Commissioner had received all relevant evidence
- (c) To accept without making their own assessment the Standards Commissioner's approach to the video namely the inadmissibility and/or irrelevance and/or immateriality of the video and/or the anonymity of the figures shown in the video who witnessed the incident.
- (d) To avoid making any finding of fact which departed from the Standards Commissioner's Report.

## **My summary**

40. My first allegation against Standards Commissioner Evans is that he engaged in a wilful excess of his official authority in that he:
- (1) instituted a trial procedure which he was not authorised to do, and
  - (2) conducted the trial/investigation procedure incompetently in accepting from Deem a complaint – the main complaint - of excessive printing and thereafter
    - (a) failing to adduce evidence from the Member Services Division or elsewhere of printing said to be excessive, or the cost thereof
    - (b) leaving Standards Commissioner to draw a conclusion based on minimal evidence, and to attribute a guesstimate of value at £89.
  - (3) interfered with the process (misleadingly referred to as an “appeal”) by which his report on the Antoniow complaint would be considered by the Senedd Panel, and thereafter by Sir John Griffith-Williams on the true appeal, which is what followed.
41. My second allegation against Standards Commissioner Evans is that he engaged in a malicious exercise of official authority in that he had a malicious bias:
- (1) In favour of the Complainant Michael Deem, and
  - (2) In favour of Plaid Cymru, in that Standards Commissioner Evans
    - (a) Was a Plaid Cymru Candidate in 1970
    - (b) Was a lifelong sympathiser of Plaid Cymru
    - (c) Was aware that the Complainant Michael Deem was a Plaid Cymru member and candidate
    - (d) Was aware that Plaid Cymru as a party was hostile to me in entertaining numerous complaints against me, isolated me within the party and in the Senedd, and was engaged in a process of expelling me from membership.
    - (e) Had a relationship with ██████████ (A), a long-standing member of Plaid Cymru, characterised by his failure to treat her correctly as a witness in (i) not taking a witness statement from her and (ii) not disclosing to me in any other form the gist of her evidence against me, on which he relied and (iii) treated her with excessive informality.
  - (3) Against me, as is abundantly clear.

## **Abuse of the public’s trust**

42. The public rightly expect those holding public office to conform to the regime and structure imposed on them by law. Standards Commissioner Evans was appointed as an investigator and prosecutor of Complaints under the Code of Conduct. He was not appointed to conduct trials, and was no longer a member of the

judiciary. The public trusted him to perform his allotted role and not to exceed it as he did.

43. The public rightly expect those holding public office to perform the duties of their office without bias. Standards Commissioner Evans exhibited bias amounting to malice.

### **Seriousness of the neglect or misconduct**

44. Standards Commissioner Evans took advantage of the fact that the Senedd Panel, appointed to scrutinise findings of fact made during Standards Commissioner's investigation, treated him and his findings (reached after an *ultra vires* process) with excessive deference by reason of his status as a retired Judge of the High Court.

### **Consequences**

45. The fact that Standards Commissioner Evans' exceeded his authority, and showed bias caused by malice had serious consequences for public life in Wales, in that
- (1) He undermined confidence in the Code of Conduct of the Senedd, its value and proper enforcement. Following his actions the Senedd was obliged to replace him, and to conduct a full review of the Code and the manner of its enforcement, still in progress.
  - (2) He undermined confidence in the governance of Wales more generally, in maintaining and promoting a perception that public life in Wales is characterised by parochialism, petty complaints and malice, conducted in breach of lawful procedures.
46. The fact that Standards Commissioner Evans' exceeded his authority, and showed bias caused by malice had serious consequences for me as an elected Member of the Senedd in that:
- (1) Until I withdrew from the process, I was obliged to spend countless hours in preparation for Standards Commissioner Evans' "Trial" and then to attend 12 days of improper "hearings".
  - (2) Every hour spent on the above was an hour that I could not spend on my constituency work. I take particular pride in the fact that I spend a lot of time on the individual cases which my constituents bring to me. I think I am known for this. Many of my constituents are poor, or suffer from mental health problems, or feel oppressed by officialdom such as Cardiff Children's Services. Not all Members of the Senedd take my approach. It is controversial in that officialdom does not take kindly to what it takes are attacks. I think it is good for public life that Members of the Senedd should be able to do as I do if they choose. Standards Commissioner Evans limited my ability to serve the public in this way.
  - (3) The excessive burden placed on me was transmitted to members of my staff. Although they were not covered by the Code of Conduct, and not answerable to a Standards Commissioner as I was,

Standards Commissioner Evans created considerable pressure on them. The perception that public life in Wales is characterised by parochialism, petty complaints and malice, conducted in breach of lawful procedures, to which Standards Commissioner Evans contributed so much, reduced the morale of my staff especially that of [REDACTED] (H), who suffered a mental breakdown largely due to the pressure exerted upon her by Standard Commissioner Evans, Michael Deem and Plaid Cymru. [REDACTED] (H) attempted to return to my employment in 2020 but in the end was unable to do so after taking medical advice, for fear of becoming seriously ill again.

47. The fact that Standards Commissioner Evans' exceeded his authority, and showed bias caused by malice had serious consequences for me personally in that:
- (1) I felt under attack and isolated within the Senedd as a result of the widespread hostility which Standards Commissioner Evans shared and to which he contributed.
  - (2) I felt I was suffering damage to my mental health. During the hearing on 17.06.2019, I was suffering. My pregnant wife was very unwell that day and I felt under tremendous pressure. I did not feel myself. I realised Standards Commissioner Evans noted my distress, when I listened to the recording of his breaktime conversation with [REDACTED] (B) his staff member AUD-20200731-WA0005.m4a, he spoke of my distress and said he thought I was mentally ill. Standards Commissioner Evans made no attempt to adjourn or ask me if I wanted to discontinue the hearing that day. In contrast, on another occasion when Mr Deem was unwell, Standards Commissioner Evans offered to adjourn and showed great sympathy on recording on Transcript 2 of Exhibit Transcripts 1 – 5.
  - (3) Inevitably, I took the effects of such stress home to my family causing a burden which was particularly unwelcome. During the time in question my wife became pregnant and gave birth to my son Elis. As a result of the stress I was suffering I underwent professional counselling.
  - (4) My political career, sole livelihood and ability to sustain my family have been placed at risk. It will be much harder for me to win re-election as the Senedd Member for South Wales Central at the elections of May 2021, as a result of the actions of Standards Commissioner Evans and his staff.

#### **Other matters**

48. The volume of complaints directed at me since my election in 2016, and the volume of documents and material generated, has required me to consider and refine my complaint about the conduct of Standards Commissioner Evans concerning me. I have limited my Exhibits to NM1-5, and my allegations to 2 in number
- (1) excess of authority and
  - (2) bias.

49. If required I would be willing to make a further witness statement, in which I could exhibit further material and depose to much more factual detail. At this point, I will simply list a number of other points which bear on the misconduct of Standards Commissioner Evans
50. Standards Commissioner Evans refused to provide transcripts for the hearings
51. Standards Commissioner Evans and staff discussed raising matters with Senedd CEO and Presiding Officer to [REDACTED] on a complaint they judged political. There was strong consideration given to the reaction of female Labour AMs, if a complaint against [REDACTED] was not progressed, despite the complaint not meriting progress. This is clear politicisation of the process.
52. A complaint about an AM using a Senedd telephone for political purposes was allowed to "die a death". This is in contrast to how my complaint was dealt with.
53. Before saying inappropriate things, Standards Commissioner Evans would check that the microphones were off. This is deliberate misconduct.
54. Evidence finding the complainant's testimony unreliable was not a not issue for Standards Commissioner Evans or his staff.
55. On 22.10.2019 [REDACTED] was threatened with prison, which was an abuse of authority and a huge act of intimidation, which would shock the public and seriously reduce confidence in the office of Standards Commissioner. My same staff member had been threatened with imprisonment previously also.
56. [REDACTED]  
[REDACTED] is wilful neglect of duty. Standards Commissioner Evans did not object. This was on page 097 of the recording on the 05.07.2019. I did a subject access request and was not sent the [REDACTED] complaint. [REDACTED]
57. [REDACTED] (G) a Plaid Cymru Senedd Group employee was found to have booked room in the Senedd for political purposes, yet this was ignored and there was no follow up with the Plaid Group
58. Standards Commissioner Evans said he knew nothing about GDPR, which was wilful neglect of his duty. The matter related to him holding confidential data unlawfully obtained by the complainant in photographing a child protection file. The Information Commissioner's Office advised me that holding the data was in breach of GDPR. The data including category of abuse of the children was irrelevant to the

complaint and the children's father wanted the data destroyed by Standards Commissioner Evans and not retained. Father played a safeguarding role in the children's life. Standards Commissioner Evans refused to destroy the data and confessed ignorance of data protection law. Standards Commissioner Bain rightly destroyed the data, the first time I requested it be done. Standards Commissioner Evans retention of the data prevented the ICO from beginning a criminal investigation into Deem, as Standards Commissioner Evans had kept it as part of the investigation. Standards Commissioner Evans should have referred Deem to the ICO himself, if he had acquainted himself with the law. His staff are equally and wilfully negligent in that.

59. Basic evidence from me was dismissed by [REDACTED] (B), Commission employee and totally forgotten about by Standards Commissioner Evans. For example, evidence existed that a person living near to my constituency office was advised by me to pick up election material from a Party office some miles away. This was relevant, because the allegation was that my office was the hub. Why then was I directing candidates to other locations? Furthermore, the campaign office I actually paid rent for and everyone went to was said to be a "smoke screen", despite the campaign printer being accepted as being based there. The attitude of Commissioner Evans and his staff borders on delusional. Biased barely covers it.
60. Andrew RT Davies AM was alleged to have employed his wife, who it was alleged did not carry out Senedd duties. Standards Commissioner Evans stated that the allegation would not go public and that he would have a word with the AM. This is in stark contrast to how he handled the same allegation about me, where even a signed contract was dismissed as irrelevant, because [REDACTED] (A) said she had not read the contract. The R T Davies issue went public on 09.08.2020 <https://www.walesonline.co.uk/news/politics/andrew-julia-wife-rt-davies-18732006> I assume disgruntled complainants briefed the press.
61. The digital footage on 21\_05\_2019\_CCTV footage of alleged incident proves that damning statements about me raising my arms, pointing in the face and blocking the way of Mick Antoniw are untrue. Standards Commissioner Evans did not view the footage. [REDACTED] (E) also wrongfully advised the Standards Committee that they could not legally view the footage. I allege that this is because the footage was crystal clear evidence of my version of events, in contrast to fabricated statements. Commission employee [REDACTED] (B) was tasked with organising the statements and Commission employee [REDACTED] (D) obtained the statements. I was also not allowed to call witnesses in my defence.

I allege that I am the victim not only of misconduct in public office, but of institutionalised racism. The tropes, the assumptions without evidence are blatantly apparent all the way through the hearings, both on the official recordings and on my unofficial recordings. There is a culture of

institutionalised racism in the Welsh Parliament. Until recently, I rarely saw any professional staff of colour. People of colour do not occupy senior positions of management within the Welsh Parliament. I raised the issue of feeling racially discriminated against with the Senedd CEO. Nowadays, I am forced to video calls in order to protect myself against false allegations of being aggressive or bullying.

In the Senedd Chamber, I have been mocked over my immigrant background, with no recourse. I was said by the former First Minister to not like incomers, whilst knowing full well my whole family descend from immigrants to Wales. My grandfather arrived in Cardiff on a boat.

I complained about racism in the Chamber against the late Mohammad Asghar MS, with his consent, when we agreed that he was being treated in an overtly racist manner in the Chamber. For an extraordinary period of time Mohammad was mocked for his Asian accent. I complained to the Presiding Officer in writing, but nothing was done, even though the behaviour I complained about was acknowledged in writing as having taken place.

In the Chamber, I have been called a misogynist and a racist. I have had MSs shout at me that I was a liar or was lying. When I have complained the Presiding Officer has never heard the abuse, despite it being audible on recordings. On the other hand, I was publicly reprimanded for stating that the former First Minister had a strange relationship with the truth. I have had my microphone switched off for using the adverb "arrogantly" and not withdrawing the descriptive word when asked. On another occasion, all microphones were switched off when I was speaking. After a housing debate in July 2017, Huw Iranca Davies was very aggressive, shouting at me and pushing his face in mine outside the Chamber. I emailed the CEO so that I a record of the incident existed. I did not wish to formally complain, as I accepted the attempted intimidation as part of the rough and tumble of politics. As a result, I was not allowed a copy of the cctv. Nobody intervened or complained as with the Antoniwi incident with me.

During the Covid lockdown, when the Presiding Officer decided who spoke, rather than the usual ballot, I was allowed to question the First Minister once in 9 sessions, despite asking to speak every time. Some members were allowed up to 6 interventions. That is on the record. The Presiding Officer also openly stated to me that she would not treat me fairly in the Chamber during a conversation in the lift. In another interaction, she complained of my demeanour and I how look at people. She asked me if I realised how off putting it was when I looked at people. I took this as a man with a dark complexion being racially profiled and judged. My senior advisor witnessed this.

I was rightly punished in 2017 for being party political on the Senedd estate and reported by the former CEO. In 2019, a Plaid MS' staff published a party political video on parts of the Senedd estate not allowed to be party politicised. The CEO made no complaint and nothing was done when a complaint was made.

The punishment for calling a Labour MS spineless and a Red Tory in an admitted aggressive way will be a 3 weeks suspension. A member convicted of refusing to breathe into a breathalyser received just 2 weeks, for that criminal offence. The member is white. I am not.

Black and brown faces in the Senedd are catering, cleansing or security staff. A politician with a brown face and an opinion has a very tough time through the existing culture and procedures of the Senedd.

There is no realistic recourse to the discrimination I and by implication my constituents face in the Senedd.

**Signed:** .....Neil McEvoy..... (witness)

**Date:** .....17.08.2020.....

*(To be completed if applicable: ..... being unable to read the above statement I, .....of ....., read it to him/her before he/she signed it.*

**Signed:** ..... **Date:** ..... )

INTERROGATORIES – [REDACTED]

**I certify that the information given above is truthful and complete to the best of my knowledge and belief.**

**Signature\***

**Date**

\*A signature is not required if the document is returned from a personal Senedd email address

**INVESTIGATION – IN CONFIDENCE**

**INTERROGATORIES – LLYWYDD**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

INVESTIGATION – IN CONFIDENCE

Answers

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

---

<sup>1</sup> [REDACTED]

**INVESTIGATION – IN CONFIDENCE**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**INVESTIGATION – IN CONFIDENCE**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**INVESTIGATION – IN CONFIDENCE**

[REDACTED]

[REDACTED]

[REDACTED]

**I certify that the answers given by me above are true and complete to the best of my knowledge and belief.**

Signed:

[REDACTED]

Date:

[REDACTED]

INVESTIGATION – IN CONFIDENCE

INTERROGATORIES – [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

I certify that the answers given by me above are true and complete to the best of my knowledge and belief.

Signed [REDACTED] Date: [REDACTED]

[REDACTED]

[REDACTED]

INVESTIGATION – IN CONFIDENCE

INTERROGATORIES – [REDACTED]

**INVESTIGATION – IN CONFIDENCE**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

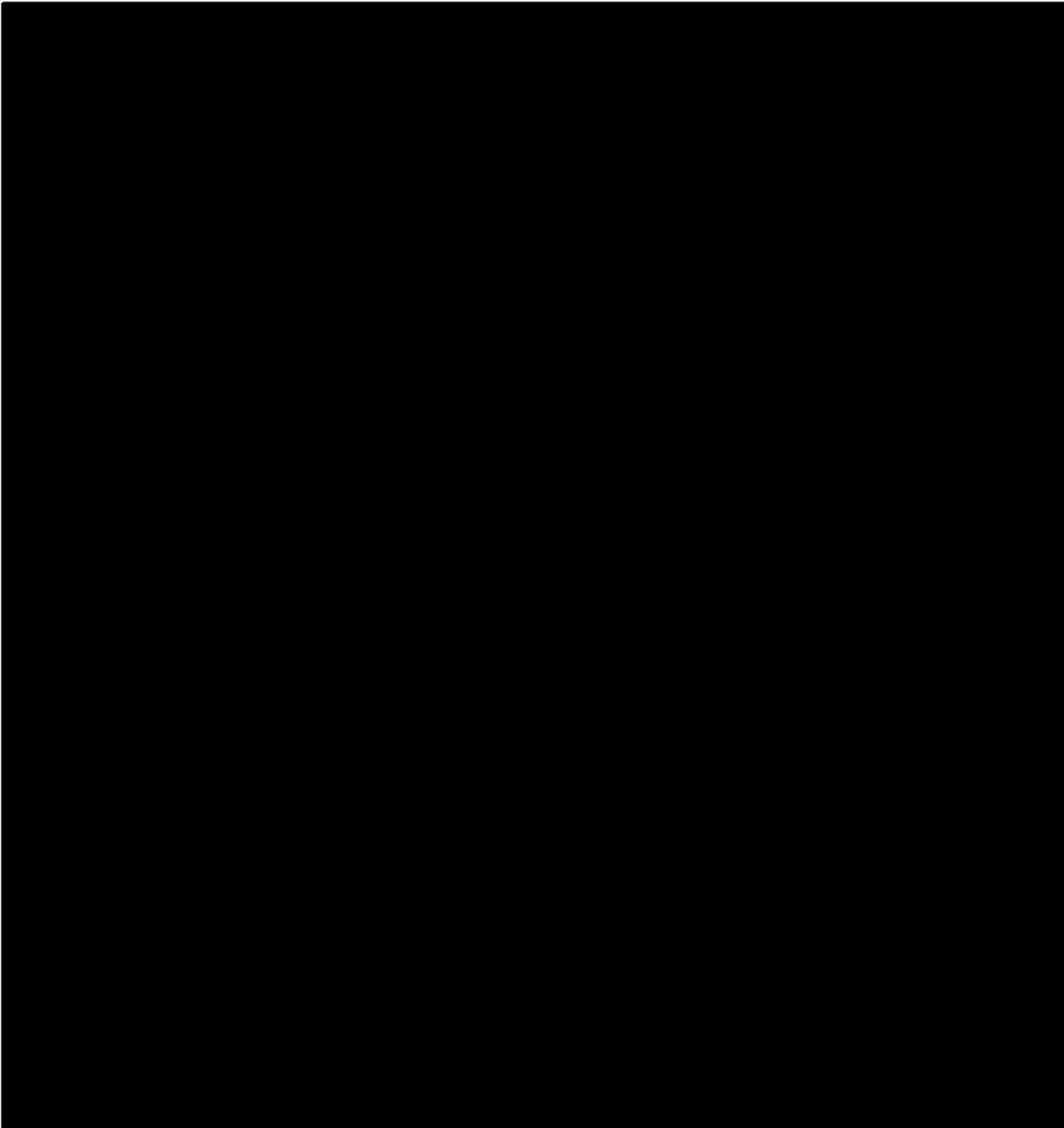
**I certify that the answers given by me above are true and complete to the best of my knowledge and belief.**

Signed [REDACTED]

Date [REDACTED]

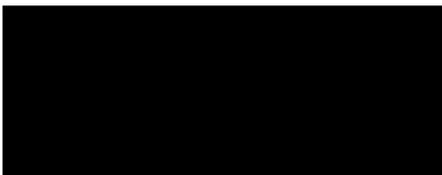
**INVESTIGATION – IN CONFIDENCE**

**INTERROGATORIES –** [REDACTED]



**I certify that the answers given by me above are true and complete to the best of my knowledge and belief.**

Signed



Date



## **INTERROGATORIES – NEIL McEVOY MS**

Q1. When did you decide to make covert recordings of conversations between the then Commissioner and his support staff?

A1.

Q2. What was your reason for your decision?

A2.

Q3. On what dates did you make or attempt to make such recordings?

A3.

Q4. Did you at any time tell the former Commissioner or his support staff that you were recordings their conversations?

A4.

Q5. Please describe the process you used to make the recordings.

A5.

Q6. Was recording that you believe evidenced unacceptable conduct by the former Commissioner and his support staff made by them and apparently provided to you by mistake?

A6.

Q7. Why after receiving that recording did you not report the matter to the Llywydd, the Clerk or the Chair of the Standards of Conduct Committee?

A7.

Q8. What action, if any, did you take after listening to the recording referred to in Q6 above?

A8.

Q9. Why did you take that action?

A9.

Q10. Why after listening to the recording referred to in Q6 above did you make further recordings of conversations between the former Commissioner and his support staff?

A10.

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Q11. Was it your idea alone to make these further recordings?

A11.

Q11A . If not, who else favoured the making of further recordings?

A11A.

Q12. Have you provided any member of the media with copies of all the recordings?

A12.

Q13. Were any copies of the recordings provided to any member of the media full or edited copies?

A13.

Q14. Have you had prepared transcripts of the whole or any part of any of the recordings?

A14.

Q15. Do you accept or deny that the conversations between the former Commissioner and his support staff that you recorded were confidential?

A15.

Q16. Do you contend that the making of these recordings was in the public interest?

A16.

Q17. If so, what is the basis of that contention?

A17.

Q18. Do you contend that the disclosure to the media of information from these recordings was in the public interest?

A18.

Q19. If so, what is the basis of that contention?

A19.

Q20. Do you contend that the public interest overrode any duty of confidentiality you owed in respect of these recordings?

A20.

Q21. If so, what is the basis of that contention?

A21.

## INVESTIGATION – IN CONFIDENCE

## INVESTIGATION – IN CONFIDENCE

Q22. Do you contend that the making and disclosure to the media of information from these recordings was conduct that would tend to strengthen and maintain the public's trust and confidence in the integrity of the Senedd?

A22.

Q23. If so, what is the basis of that contention?

A23.

Q24. Do you contend that by making and disclosing information from these recordings you were leading by example and promoting and supporting the principles set out in paragraph 4 of the Code of Conduct for Assembly Members?

A25. If so, what is the basis for that contention?

Q26. Do you contend that making and disclosing information from these recordings was consistent with your obligation under paragraph 17 of that Code to have relationships that are professional and based on mutual respect with Senedd staff and in particular with Jonathan Thomas and Abigail Phillips?

A26.

Q27. If so, what is the basis of that contention?

A27.

Q28. Have you, or do you intend to, apologise for the making and disclosure of information from these recordings?

A28.

Q29. If not, why? If in the affirmative please give details.

A29.

Q30. Do you contend that the disclosure at the press conference on 12 November 2019 of information about a number of ongoing complaints was consistent with the requirement of paragraph 1.7 of the Procedures for investigating complaints against Assembly Members and the principle of Openness set out in paragraph 4e of the Code of Conduct?

A30.

Q31. If so, what is the basis of that contention?

A31.

Q32. What consideration, if any, did you give to the impact of your conduct on those identified in the disclosures you made at that press conference?

## INVESTIGATION – IN CONFIDENCE

**INVESTIGATION – IN CONFIDENCE**

A32.

Q33. Did you give any of these persons advance notice of the disclosures you would make about them or take any other action to mitigate the adverse impact on them of your conduct?

A33.

Q34. Is there anything else you wish to say about the complaint against you?

A30.

**I certify that the answers given by me above are true and complete to the best of my knowledge and belief.**

Signed

Date

INVESTIGATION – IN CONFIDENCE

INTERROGATORIES – [REDACTED]

**INVESTIGATION – IN CONFIDENCE**

[REDACTED]

[REDACTED]

[REDACTED]

**I certify that the answers given above are true and complete to the best of my knowledge and belief.**

Signature [REDACTED]

Date [REDACTED]

From: McEvoy, Neil (Aelod o'r Senedd | Member of the Senedd)

Sent: 07 August 2020 10:52

To: Bain, Douglas (Standards Commissioner)

Cc: (Staff Cymorth yr Aelod | Member Support Staff)

; (Staff Cymorth yr Aelod | Member Support Staff)

Subject: Elin Jones complaint

Dear Mr Bain,

The police are investigating this matter with the evidence collected, not all of which was disclosed in my November report sent through to the Commission, which you should have read.

The report you produced for the Deem complaint is also being used as evidence of misconduct, given the erroneous contents. You could not have dreamt up the errors of fact yourself. My assumption is that you were badly briefed, given wrong information, or had information withheld. For example, your staff knew Mr Deem was always politically active. His activism is recorded.

I really think this matter should be first dealt with by the police and CPS.

I acted in the public interest.

I formally ask why the Commission withdrew the police complaint?

Yours sincerely,

Neil McEvoy MS