

National Assembly for Wales
Standards of Conduct Committee

Report 01-12 to the Assembly under Standing
Order 22.9

May 2012



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Standards of Conduct Committee

The Standards Committee was established on 22 June 2011. The Committee's role is to carry out the functions set out in Standing Order 22. These include: the investigation of complaints referred to it by the Standards Commissioner; consideration of any matters of principle relating to the conduct of Members; establishing procedures for the investigation of complaints, and arrangements for the Register of Members' interests and other relevant public records determined by Standing Orders.

Current Committee membership



Mick Antoniw (Chair)
Welsh Labour
Pontypridd



Llyr Huws Gruffydd
Plaid Cymru
North Wales



Mark Isherwood
Welsh Conservatives
North Wales



Kirsty Williams
Welsh Liberal Democrats
Brecon and Radnorshire

Introduction

1. This report is made to the Assembly under Standing Order 22.9 and paragraph 7.12 of the Procedure for Dealing with Complaints against Assembly Members¹ (“the Procedure”), in relation to a complaint made against Keith Davies AM.
2. The terms of reference of the Standards of Conduct Committee are set out in Standing Order 22. In accordance with functions set out in Standing Order 22.2 the Committee must:
 - (i) investigate, report on and, if appropriate, recommend action in respect of any complaint referred to it by the Commissioner for Standards that a Member has not complied with:
 - (a) Standing Order 2;
 - (b) any Assembly resolution relating to the financial or other interests of Members;
 - (c) Standing Order 5;
 - (d) any Assembly resolution relating to Members’ standards of conduct;
 - (e) any code or protocol made under Standing Order 1.10 and in accordance with section 36(6) of the Act;
 - (f) Standing Order 3; or
 - (g) Standing Order 4;
 - (ii) consider any matters of principle relating to the conduct of Members generally;
3. This report sets out the details of the complaint and the way in which the Committee arrived at its recommendation.

¹ The National Assembly for Wales’ Procedure for Dealing with Complaints Against Assembly Members.

Consideration of the Complaint

4. The report from the Commissioner for Standards on his investigation of the complaint is at Annex A of this report. It sets out the details of the complaint and the findings of the Commissioner's formal investigation.

5. The complaint alleged contravention of paragraphs 4 (b) and (g) of the Code of Conduct for Assembly Members, which include the principle that Members 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 Assembly and refrain from any action which would bring the Assembly, or its Members generally, into disrepute."

6. The Standards of Conduct Committee met on Tuesday 8 May 2012 to consider the report of the Commissioner for Standards. The Committee resolved to consider the complaint in private. The Committee was satisfied that the Commissioner's report contained sufficient information upon which to base its deliberations, and that it was not necessary to seek further written or oral evidence.

Committee's Consideration of its Decision

7. The Committee then moved to consider whether the Member was in breach of one of the matters encompassed within Standing Order 22.2(i) and what action, if any, it should advise the Assembly to take if a breach was found.

8. The Committee noted that the Member concerned has fully acknowledged that his actions constituted a breach of the Code of Conduct and has cooperated fully with the Commissioner for Standards' formal investigation into the complaint.

9. The Committee further noted that the Member concerned has provided a full written apology for the conduct which led to this complaint, which is included in the Commissioner's report, and has stated that he does not wish to make an appeal against the Committee's findings or any recommended sanction in this case. For this reason, the Committee is reporting to the Assembly as soon as possible, and within the usual 10 day time period stipulated in

paragraph 7.12 of the Procedure within which the Member complained of may choose to lodge an appeal with the Presiding Officer.

10. The Committee unanimously agreed with the finding of the Commissioner (paragraph 9 of his report) that the Member's actions had constituted a clear and serious breach of paragraphs 4 (b) and (g) of the Code of Conduct for Assembly Members.

11. The Standards of Conduct Committee considers that a breach by any Assembly Member of the 'Nolan principle' of integrity of conduct in public life is a serious matter. The reputation of the National Assembly for Wales as an institution, and the public's trust and confidence in it, rely upon the integrity of Members themselves.

Committee's Recommendation - Sanctions available

12. The breach is in relation to personal conduct and not specific standards of conduct in relation to financial or other interests. The sanction of exclusion from Assembly proceedings for a specified time and withdrawal of rights and privileges can only be exercised by the Assembly under Standing Order 2.10 in relation to non-compliance with Standing Order 2: Financial and Other Interests of Members. Therefore the sanctions available to the Committee under paragraph 7.11 of the Procedure in relation to this complaint are: that a breach has been found and that no further action should be taken; or that a breach has been found and that the Member should be censured under Standing Order 22.10.

Recommendation

The unanimous decision of the Committee is to recommend to the Assembly, in accordance with 7.11(iv) of the Procedure, that a breach has been found and that the Member should be "censured" under Standing Order 22.10.

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

14. In recommending the sanction of censure the Committee hopes to send a clear message that such breaches are not acceptable.

15. The Committee has separately been giving consideration to the matter of sanctions, as part of the on-going review of the Assembly's

Standards Procedures. Any recommendations to revise Standing Orders in this respect will be brought before the Assembly for consideration in due course.

Annex A

STRICTLY CONFIDENTIAL

From: Gerard Elias QC, Commissioner for Standards

To: The Committee on Standards of Conduct

FORMAL INVESTIGATION REPORT

Complaint against KEITH DAVIES AM

The Complaint

1. By letter dated 25 April 2012, I received a complaint in relation to the Assembly Member, Keith Davies (“the AM”), from the Clerk to the National Assembly (“the Complainant”). The Clerk purported to act under section 9 of The National Assembly for Wales Commissioner for Standards Measure 2009 which provides that:

“If the Clerk has reasonable grounds for suspecting—

(a) that the conduct of an Assembly Member has, at a relevant time, failed to comply with a requirement of a relevant provision, and

(b) that the conduct in question is relevant to the Clerk's functions under section 138 of the Act (Clerk to be the principal accounting officer for the Commission),

the Clerk must communicate those grounds in writing to the Commissioner and the Commissioner must treat the communication as a complaint to which section 6(1)(a) applies.”

2. The complaint alleged contravention of paragraphs 4 (b) and (g) of the Code of Conduct for Assembly Members (“the Code”) which provide that:

“Assembly Members 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 Assembly and refrain from any action which would bring the Assembly, or its Members generally, into disrepute.”

and

“Holders of public office should promote and support (the Nolan) principles by leadership and example.”

3. I reviewed the evidence then available to me and was satisfied that the complaint was admissible in that the requirements of paragraph 3 (i)-(vi) of the applicable Procedure for Dealing with Complaints against Assembly Members (3 June 2008) (“the Procedure”) had been fulfilled. Accordingly, I so notified the AM and moved to the Formal Investigation Stage forthwith.

Commissioner’s Formal Investigation

4. I requested and was supplied with the following:
 - Information relating to the history and current bookings for hotels made for the AM through the Members’ Business Support Team (MBST) including the email requests for the relevant booking;
 - signed statements from relevant staff at the hotel as to the events of the evening/night of 23/24th April involving the AM.
 - A signed statement from the AM – I also interviewed him both prior to and after receipt of a draft statement.

Facts Found by Commissioner

5. The relevant facts which I find to be established are as follows:
 - The AM is entitled to reclaim the cost of hotel accommodation (subject to relevant limits) where the cost

is necessarily incurred in connection with his duties as an Assembly Member.

- MBST is prepared to book, and pay direct, for such accommodation needs on behalf of an Assembly Member. The AM (or his office) frequently make use of this arrangement.
- On 16 April 2012, as one of twelve bookings requested by the AM's office to the MBST, accommodation was arranged for the nights of Monday 23 & Tuesday 24 April 2012 at the St David's Hotel, Cardiff Bay. No issue is raised as to the propriety of such booking.
- The AM duly checked in to the hotel on 23 April shortly after 7.00 p.m. and was given room 408. He subsequently left the hotel later that evening.
- The AM returned to the hotel at about 4.45am on 24 April with a female and both went to room 408. At this time the AM was adversely affected by alcohol.
- Shortly thereafter both the female and the AM contacted hotel reception requesting that 2 bottles of wine be sent to the room. After some discussion, this was done - the AM authorised his credit card to be debited.
- Thereafter, between 05.30 and 08.30am the hotel reception received a number of complaints from adjoining rooms of the noise emanating from room 408 and from its balcony, which included loud shouting and swearing.
- Telephone calls to room 408 and face to face visits by hotel staff seeking to get the AM and his companion to reduce the noise and consequent disturbance to other hotel occupants were met with abuse and threats, particularly from the female, and an indication from the AM that he did not intend to pay the bill.
- The AM booked out of the hotel at about 12 noon while the female made foul mouthed detrimental comments

about the hotel from the first floor landing. This was witnessed by the numerous hotel guests then present in the lobby.

- The AM left the hotel alone.

Conclusions

6. I am satisfied that the hotel room was booked for the use of the AM in order to enable him to perform his role as Assembly Member the following day. The conduct of the Member was inconsistent with such a purpose and itself brought the National Assembly into disrepute.
7. Further, the behaviour and conduct of the AM, whose booking had been made for him as an Assembly Member, and of his companion when in his company, was such as to bring the Members and the National Assembly into disrepute.
8. Finally, the hotel staff members, who were aware of the position and identity of the AM, and hotel guests who were disturbed by the AM and by his companion, and/or observed their behaviour, some of whom will doubtless have been aware of the AM's position as a holder of public office, further contributed to bringing of Members and the National Assembly into disrepute. The resultant publicity will have contributed still further to this outcome.
9. **Accordingly, I find that the Assembly Member, Keith Davies, failed to comply with the Code of Conduct for Assembly Members in that**
 - **He failed to conduct himself in such a manner as would tend to maintain and strengthen the public's trust and confidence in the integrity of the Assembly and thereby**

brought it, and its Members, into disrepute, contrary to paragraph 4 (b) of the Code;

- **As the holder of a public office, he failed to promote and support the Nolan principles by leadership and example, contrary to paragraph 4(g) of the Code**

and thereby falls to be dealt with by the Committee on Standards of Conduct under Standing Order 22.2(i).

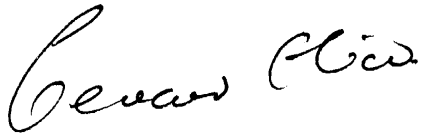
Requirements under the Procedure for Dealing with Complaints

10. I confirm that:

- The AM and the Complainant were given a copy of the final report and wished to raise no factual inaccuracy contained therein;
- The AM, having been informed of his right to make oral representations to the Committee at an oral hearing, indicated that he did not, and would not, seek to exercise such right;
- The AM, having been informed of his right to make written representations to the Committee within a specified time, indicated that the only written representations he wished the Committee to take account of was his own signed statement furnished to the Commissioner, dated 4 May 2012 and appended to this Report.
- The AM, having been made aware of the Committee's powers under Standing Order 22.9, 22.10 and 22.11, and of his right of appeal under section 8.1 of the Procedure, wishes to waive his right of appeal against the Committee's decision.

Additional Information

11. Shortly after receipt of the letter from the Commissioner indicating receipt of a complaint which was admissible, the AM met with the Commissioner and indicated his intention to admit to conduct giving rise to bringing the Assembly into disrepute.
12. Payment for the room in question and all ancillary charges in relation thereto have been met by the AM.
13. The AM has written a letter of apology to the Management and staff of the St David's Hotel.

A handwritten signature in black ink, appearing to read "Gerard Elias". The signature is written in a cursive, flowing style.

Gerard Elias QC

04.05.2012

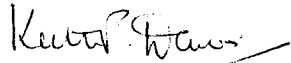
Annex B

Keith Davies AM

Personal Statement

1. I have read the finding of facts as set out in paragraph 5 of the Formal Investigation Report of the Commissioner and do not take issue with any of them.
2. I acknowledge that the hotel was booked for me as an AM in order for me to carry out my duties but that my conduct was inconsistent with such a purpose.
3. I acknowledge full responsibility for my actions at the St David's Hotel. When I returned to the hotel I was adversely affected by alcohol and the woman accompanied me for the purpose of further indulging in drink. I accept unreservedly that this was not conduct expected from a Member of the National Assembly for Wales.
4. I fully accept that my actions have brought the National Assembly and its Members into disrepute and that my actions have caused considerable embarrassment to the Assembly and to my colleagues.
5. I wish to apologise to all those who were offended or upset by my behaviour and in particular to the management and staff of the hotel – to whom I have sent a personal letter of apology. I give my assurance that this was a singular incident and will not be repeated.
6. I would wish the Committee to know that, whilst it in no way exonerates me from responsibility for my actions, I have ensured that the costs of the reservation, and all ancillary costs relative to the night in question, have been paid by me and thus no costs will be borne by the National Assembly.
7. Further, I wholly regret the pain and discomfort which I have brought upon my family.

8. I have noted what is said in the Commissioner's Report at paragraph 10 in relation to my procedural rights and I confirm his summary of my position in relation to them.

A handwritten signature in black ink that reads "Keith Davies". The signature is written in a cursive style and is positioned above a horizontal line that extends to the right.

Keith Davies

4 May 2012