



**Cynulliad Cenedlaethol Cymru
The National Assembly for Wales**

**Y Pwyllgor Safonau
The Standards Committee**

**Dydd Mawrth, 27 Ebrill 2010
Tuesday, 27 April 2010**

Cynnwys
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Recommendation 15 of the Independent Review Panel on Members' Registering the
Time Involved in Additional Employment

Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynndi yn y pwyllgor. Yn ogystal,
cynhwysir cyfieithiad Saesneg o gyfraniadau yn y Gymraeg.

These proceedings are reported in the language in which they were spoken in the committee.
In addition, an English translation of Welsh speeches is included.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Jeff Cuthbert	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
Jenny Randerson	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Brynle Williams	Ceidwadwyr Cymru Welsh Conservatives

Swyddogion Cynulliad Cynulliad Cymru yn bresennol
National Assembly for Wales officials in attendance

Keith Bush	Cyfarwyddwr, Gwasanaethau Cyfreithiol Director of Legal Services
John Grimes	Clerc Clerk
Catherine Hunt	Dirprwy Glerc Deputy Clerk
Sue Morgan	Cynghorydd Cyfreithiol Uwch-gynghorydd Cyfreithiol
Gareth Rogers	Cofrestrydd Buddiannau'r Aelodau Registrar of Members' Interests

Dechreuodd y cyfarfod am 9.29 a.m.
The meeting began at 9.29 a.m.

Cyflwyniad ac Ymddiheuriadau
Introduction and Apologies

[1] **Jeff Cuthbert:** I welcome Members, officials, and any members of the public who may appear during the next half hour or so, to this meeting of the Committee on Standards of Conduct. Everyone is welcome to speak in Welsh or English. Headsets are available to hear the translation and the amplified audio. Channel 0 is for amplification and the simultaneous translation is on channel 1. I ask everyone to switch off mobile phones, pagers and BlackBerrys. We are not expecting a drill, so if the fire alarms go off, the ushers will tell everyone what to do and, if necessary, direct you to the fire exits.

[2] We have received an apology from Chris Franks.

9.30 a.m.

Adroddiad Blynyddol y Pwyllgor—Ystyriaeth o'r Adroddiad Ddrafft
The Committee's Annual Report—Consideration of Draft Report

[3] **Jeff Cuthbert:** The draft report has been circulated. Under Standing Order No. 16.1(iv), the Committee on Standards of Conduct must present an annual report to the Assembly, but this will be the committee's first report since it was established in June 2007. The report covers the period between then and March 2010. I ask Members whether they have any comments to make on the report.

[4] **Brynle Williams:** I have gone through it and am quite happy that the draft report is a true and accurate record of what has gone on over the past 12 months.

[5] **Jeff Cuthbert:** Jenny, is there anything that you want to add?

[6] **Jenny Randerson:** No, it is fine, thank you.

[7] **Jeff Cuthbert:** In that case, we are content with the draft report.

9.31 a.m.

**Argymhelliad 15 y Panel Adolygu Annibynnol ynghylch Aelodau'n Nodi'r
Amser y Maent yn ei Dreulio mewn Cyflogaeth Ychwanegol
Recommendation 15 of the Independent Review Panel on Members' Registering
the Time Involved in Additional Employment**

[8] **Jeff Cuthbert:** We received a letter from the Presiding Officer that invited the committee to consider how best to implement the review panel's recommendation. We were asked to inform the Assembly Commission of the outcome of our deliberations before submitting any recommendations for the amendment of Standing Orders or other procedural guidance to the Business Committee. Gareth Rogers has prepared a draft note and, in a moment, I will ask him to introduce it and to make further points. We will then discuss the matter. I certainly have issues that I want to raise, but I will do that once Gareth has made his introductory remarks.

[9] **Mr Rogers:** As set out in the paper, this is recommendation 15 of the independent review panel's report. The early consideration of that recommendation by the Assembly Commission highlighted how difficult this recommendation could be to implement. There are potential criminal sanctions associated with it if the committee decides to include the recommendation in Standing Order No. 31. The paper highlights some of the dangers for Members. I have made no recommendations in this paper; I have simply set out options for the various mechanisms that could be used, different Standing Orders that could be used and the different ways of recording that information. I have also asked committee members to consider the detail that they wish to go into in recording the time involved. I am happy to answer any questions on this paper as the meeting goes on.

[10] **Jeff Cuthbert:** Thank you, Gareth. Before I open that up, going back to item 2 on our annual report, it was remiss of me not to ask whether Members are content for this now to be laid before Plenary for a debate at the appropriate opportunity. I see that you are.

[11] I will abuse my position slightly by asking Gareth the first question. The matter of financial interest from other employment is in Standing Orders and we are not here to debate that. However, this is a separate matter. I understand that the Assembly as a whole has not endorsed this proposal; it is solely the Assembly Commission that has done so. I am not trying to minimise that, but I think that that is a factual statement. In that sense, there is no mandate as yet from Plenary. We have been asked to consider it.

[12] I can see a number of issues with recording the time spent, not least of which is that of the hours. For example, if someone does other work in the evenings—perhaps late evenings, or on the weekends, which most people would regard as their own time—is that to be included, or are we talking about the normal working day? There is also the issue of remuneration. Your footnote refers to vocation. Could that be interpreted to include, for example, someone who is a school governor, who would certainly spend time on those duties, but not receive pay? It could be argued that that is a vocation in life. Those are just a few issues. I do not know whether you have thoughts on those matters, but they strike me as practical issues.

[13] **Mr Rogers:** There are numerous issues. I have prepared this paper as the registrar of Members' interests, and I have been dealing with this for quite a number of years. This is a difficult area. Some Members may hold employment that is easy to record, with particular hours, but other Members may hold employment that is difficult to record. How would you accurately record the hours of your work as Assembly Members and as councillors, for example? That is vital. Given the potential criminal sanctions if it is linked directly with Standing Order No. 31, it is important to get it right. As I say, I am the registrar of Members' interests, but the Committee on Standards of Conduct will decide on the rules and ensure that Standing Orders are implemented. That is why I have brought the paper to you; I make no recommendations myself.

[14] **Jeff Cuthbert:** Are we talking here about recording paid employment, whatever the outcome of all these discussions may be? Is that clear? Could voluntary work be swept up under this as well?

[15] **Mr Rogers:** Again, that is another consideration for the Committee on Standards of Conduct. In making that recommendation, the independent review panel considered paid employment, under Standing Order No. 31. I do not think that that recommendation extended to voluntary work, for example, or to anything for which Members do not receive payment. However, recommendation 15 is made in the spirit of being more open and transparent. Again, if the committee wanted to extend that to include any unpaid employment, vocation and so on, that is something that the committee would need to consider and bring forward.

[16] **Jeff Cuthbert:** Okay, thank you. I am not suggesting that we do that; I am just asking.

[17] **Brynle Williams:** I will make a rather selfish point, Chair, if I may. I am curious as to where I stand with regard to my rural affairs shadow portfolio and being a practising farmer. My main business is as an Assembly Member, but on some Monday mornings I take cattle down to market. That is my other business, but I also hold a surgery there every Monday morning, because constituents come to see me with rural issues knowing that I am in the market. I am sorry to bring this to a personal level, Chair, but it troubles me. Would I be breaking the law by not declaring that? I am doing two jobs at once when they cross over in that way. It may be very simple. All I would like is a 'yes' or 'no' answer. As you said, with charity work, you and your partner, or wife, may be given two tickets to a charity ball somewhere; I know that you put that in the register of interests, but it still touches upon the issue of whether or not you have been paid. In all fairness, I see rural spokespeople for other parties in the livestock market as well, so this is not just unique to me. I wonder where you sit on this.

[18] **Jeff Cuthbert:** You are absolutely right; that is a new dimension, which I had not thought of, where you could be said to be doing two things at the same time, one of which is clearly Assembly business and the other is not. Does one take precedence? Those are points worth noting.

9.40 a.m.

[19] **Jenny Randerson:** I am probably in danger of being on my own here, because I take a hard line on this. I do not think that it is difficult or unduly onerous. You have to ask yourself a clear question. I do not think that anyone would suggest that this should cover unpaid work or volunteering. The point of the decision is that there should be clarity about the financial interests of Assembly Members, and there should be clarity about how much time they spend on Assembly work. We all fill in forms on our travel expenses, and the form for committee travel asks when you left the house and when you reached your destination. We all

fill in that form, and have done since the Assembly started. I have never heard anyone complain about having to recall that.

[20] Brynle's point is one that I had been thinking of—I did not realise that you held a surgery in the market—because I was thinking about farmers. There is a clear test there: if you go to the market only to hold a surgery, you are an Assembly Member while you are there; if you take your cattle to the market, you will make a profit out of those cattle—one hopes—so it is your other business, which should be declared. We are all conscious of the fact that we do two things at once, are we not? I do not think that I have been to Sainsbury's for many years without coming out with some case work. That happens all the time. We should all be absolutely clear about this: anyone who has another job has a responsibility to record the hours that they work on it.

[21] There is the question of whether it is done within four weeks, once a month or every three months; with expenses, you can claim them for up to three months at a time and you can claim them four weeks later. For clarity, we should have the same rule and we should record the hours that we work. We have to think about the purpose of this, which is the right of the public to know what amount of time we spend on other work. I do not think that filling in those forms would necessarily be intrusive, because I imagine that the forms would not ask you exactly what hours you had worked—whether you worked from 9 p.m. until 12 a.m. or from 9 a.m. until 12 p.m. That is probably not the issue; the issue is the total number of hours.

[22] In your opening remarks, Chair, you painted a picture that is not true of Assembly Members. We do not have Sundays off. I worked on Sunday afternoon, and I do not mean that I was out campaigning—I was at a community event. That is what I normally do. That is what the public expects us to do. I am sure that you are the same and that you often work on a Sunday. So, there is no public expectation that we work from 9 a.m. to 5 p.m.

[23] **Jeff Cuthbert:** I take your point. As a matter of record, on the Assembly Member mileage forms, we do not have to record the time—

[24] **Jenny Randerson:** We do on committee forms.

[25] **Jeff Cuthbert:** Yes, we do. I was going to go on to say that—

[26] **Jenny Randerson:** If you are going on a committee-initiated journey, you have to record the start and finish times. I am not suggesting that one would have to do that for this, but I am saying that we have had to do it. It is not that onerous. We have recalled the amount of time that we have spent or we have recorded it in our diaries, and we have filled in those forms since the Assembly started and no-one has ever complained to me about it.

[27] **Jeff Cuthbert:** I will come to you in a moment, Brynle, but to respond to one of the points that Jenny made, I am certainly not trying to paint a misleading picture of anything. I based that on my experience. I tell my constituents, and no-one objects, that I regard Sundays as family days and that, unless it is an exceptional matter, I am not open for business on a Sunday, unless it is something that I know of well in advance, such as Remembrance Day or something like that. I will occasionally attend functions and meetings on a Sunday, but not as a rule. I think that most people would regard Sunday as not being a working day, in terms of the standard week. There we are—there are different approaches. Brynle, you wanted to come back on something.

[28] **Brynle Williams:** Going on from the point that I made, my friend Mick Bates says the same, and he goes to different markets. Although he is not holding an official surgery, people come up to him with problems. With such a large constituency as north Wales, I will go up to Anglesey to hold a surgery and try to see constituents up there. However, I also call

into the livestock market there, and you get people coming up to you. Is that all constituency work? I am not selling anything, but there is no prescribed time for constituency work. We could be splitting hairs over this. If I go to Mold on a Monday morning with cattle, my son loads them and I take them down to Mold, which takes 20 minutes, and it takes 10 minutes to unload them and book them in, and 10 minutes for the auctioneer to sell them, so it takes 40 minutes overall. However, I might be there for three and a half hours—not just hanging about drinking tea, but dealing with constituency problems. Do I have to say ‘Attended Mold market for 45 minutes for personal business and two and a half hours for Assembly business’? I know that it is splitting hairs, but these are things that could crop up. Someone might see you in the market and say ‘Hey, you’re not working today’, or ‘Are you working?’ All that I want is clarification. If you tell me that I have to fill in the forms, I will do so.

[29] **Jeff Cuthbert:** Thank you. I will come back to Gareth and Keith for their views. You suggest a few options, Gareth, that we might want to consider. You make the point that one of the direct interpretations of recommendation 15 is as an extension of Standing Order No. 31, where there are, potentially, criminal sanctions if it is not complied with. There can be interpretations and practical differences, with respect to Jenny, for some Assembly Members in terms of recording hours accurately if challenged. Quite how one would verify it, one way or the other, should there be a challenge, is a practical difficulty that I cannot solve at the moment. So, there could be a complexity in that, on which we would need to do more work. The other option is that of establishing a new Standing Order which would not include the issue of potential criminal sanctions. So, there are ways forward. Do you wish to respond to anything that has been said so far? Keith, I would value your opinion as well.

[30] **Mr Rogers:** The important point to note is that it is for the Committee on Standards of Conduct to determine the answers on the level of detail to put in under whatever Standing Order. I would not want to respond to individual personal cases, such as Brynle’s, at this point, but, in general terms, if an Assembly Member held employment other than as an Assembly Member for which they were remunerated, it should be registered. In taking this recommendation forward, any hours spent in that employment would need to be recorded. As I said, it is up to the committee to determine how that is recorded.

[31] Another important thing to bear in mind is the reason for the recommendation. In the spirit of openness and transparency, it is there to inform the public of the number of hours that you are unable to act as an Assembly Member. So, if you are undertaking other employment, does that mean that, during those hours, you were unable to act as an Assembly Member? Those considerations need to be borne in mind, so that the reason for this recommendation is considered and taken forward.

[32] It is clear that the independent panel made this recommendation on the back of Standing Order No. 31, which is the most direct interpretation of the recommendation. However, we could take this forward as a separate Standing Order, and we have done similar things in the past with the recording of membership of societies, which was on the back of the Freemasons issue that the committee considered some years ago. We took that away from Standing Order No. 31 and gave it its own Standing Order, which means that a Member would no longer be potentially subject to criminal sanctions. That is the basis of this. I do not know whether Keith has any thoughts on that.

9.50 a.m.

[33] **Mr Bush:** I agree entirely with what Gareth has said. The intention of the panel was clearly to link this recommendation in some way to the existing obligation to register employments. Gareth has identified the fact that you could make that link in two ways. I should say first that the obligation to register an employment, including professional, vocational and so on, relates only to remunerated employment, and you already have to

register the particular activities that we would be concerned with. However, there are clearly two options, as Gareth has pointed out. One is to expand the information that you have to provide when you register that kind of activity and, as Gareth has rightly said, the danger of that, if you see it as a danger, or the consequence of that is that, if you make a mistake, the criminal sanction that is attached to mistakes in registering interests would attach also to mistakes in registering the amount of time that you spend on the employment. The alternative option is to have a separate Standing Order, but it would, I am sure, be intended to be linked to what you have to register. So, it would be extra information relating to interests that you already have to register. It would not involve asking yourself whether you have to provide information about things that you do in your spare time that are unremunerated, for example, because you would not have to. However, there are clearly issues about how you register the information in detail about time spent.

[34] Brynle Williams has identified one of the situations in which there can be difficulties: how can someone who is working as a farmer identify when they are working and when they are not working? I suppose that if we had a minister of religion here as an Assembly Member, it might be very difficult for them to say exactly how many hours they were putting into the job, because they are always on duty, in the sense that Assembly Members are always on duty, in one way or another. Those are issues of detail that the committee will have to consider, but that is a separate issue from that of the principle of there being some means of registering the time spent on those activities that already have to be registered.

[35] **Jeff Cuthbert:** Thank you for that, Keith. I do not think that we want to be in conflict with the Assembly Commission on this in any way. If we go down the road of pursuing rules and guidelines in some way—and I say that because I am mindful that this does not have the mandate of the full Assembly, and is only the view of the Commission at this point—that option 2 has more merit than option 1. I would not want someone to be potentially subject to criminal charges if there were a dispute about the number of hours. Devising methods to capture reasonable information that would satisfy most people is probably not rocket science. It is very easy for someone like me, because I have no paid employment outside the Assembly, so it would be easy for me to fill out any forms: they would go back with a nil return and that would be accurate. Others will be in the same position, but some will not. We are looking at this in the cool light of day, so I think that we need to take sufficient time to do the best job that we can, in one way or another. I will say more in a moment, but Jenny is indicating that she wants to come in on that.

[36] **Jenny Randerson:** Yes, I just think that we do not need to make it too complicated. After all, if you reverse the concept, if you are the employer, part time, of an Assembly Member—let us say a doctor working for the health service on a part-time basis, which would be a reasonable example—you would expect that person to work the hours that they had said and to register that they had worked those hours in some way or another, to get their pay. Even if you were employed as a consultant—and I am aware that, over the years, a few Assembly Members have done short-term consultancy work—you have to register in some way that you have done a certain number of hours. All we are talking about is reversing that.

[37] It is not even as precise as a timesheet; it is just a record of the total number of hours you have worked, to give the public a view of whether you do this for three hours a week or 30 hours a week. That is really all the public wants to know. I acknowledge that farmers are a hard case, but they always are, Brynle. [*Laughter.*] There is one simple question when we receive the legal guidance on it: did you have any business to undertake when you went to that place? If you were undertaking business, you would need to count that time. However, everyone understands that, if you took your cattle to market and that process took three hours, for example, but if, for an hour of that time, you set up a stall in the corner with a little sign saying ‘Brynle Williams AM—surgery’, you would not need to count that hour.

[38] We are talking about something separate without the legal sanction, so we are talking about common sense here, are we not, and a system that enables the public, at a glance, to see whether their Assembly Member has any other interests and how much time they spend on it? That is all that we are talking about, is it not? To be honest, it is not in the mood and spirit of the times to make too big a deal about it.

[39] **Jeff Cuthbert:** Thank you very much for that. I do not think that much more needs to be talked about at this point. Allow me to suggest something. I ask you to authorise me to sit down with the Assembly Commission, to say that we have two options for our approach and that we seem to favour option 2, namely having a separate Standing Order if we go down this path so that at least criminal sanctions are dealt with clearly. There is absolutely no dispute that, if an AM fails to declare income, cash, from other activities, that could be liable to criminal penalties. That is in the Standing Orders anyway, so we are not debating that, but we do not think that this issue should be merely an extension of that. It is clearly linked to it, but penalties should be dealt with in a different way, and we could consider the issues. If I am authorised by you to meet the Commission, I can talk about some of the practical considerations that were raised during this discussion, just to test the water and to see how well things have been thought through, so that we can move forward together as one, if possible. Does that meet with your approval?

[40] **Brynle Williams:** Following what Jenny has said, it is common sense. All we want is that definitive line. I would be more than happy for you to meet the Commissioners, with Jenny's agreement. You have heard what has been said this morning.

[41] **Jeff Cuthbert:** Indeed; we are recording it.

[42] **Brynle Williams:** That is what I mean, so you know about all our concerns, and you will probably have a considerable number of your own concerns to bring up during the conversation. I am more than happy to support the idea.

10.00 a.m.

[43] **Jeff Cuthbert:** Is that agreed? I see that you are in agreement, so that is what we will do.

[44] Before I close the meeting, I have to bring some points to your attention. I promised you an update on the issue of the employment of family members. You will remember that we discussed that earlier. The plan is to lay the revised Standing Orders Nos. 16 and 31 on Tuesday for Plenary to vote on next week. Alongside that, we will be laying the committee's guidance, but that will not be voted on. The intention is for the changes to come into effect on 26 May.

[45] I also need to remind you that there is a complaint pending. I will not talk in any detail about it, but we understand that not much progress has yet been made because the National Assembly for Wales Commissioner for Standards has failed to get a meeting with the Member concerned. We trust that that will be resolved before much longer, but that was just to make you aware of it. With that, I declare the meeting closed.

*Daeth y cyfarfod i ben am 10.01 a.m.
The meeting ended at 10.01 a.m.*