

Y Pwyllgor Safonau Ymddygiad

SOC(3)-01-10 : Paper 2

Rheol Sefydlog arfaethedig wedi'i diwygio ynghylch cofnodi achosion o gyflogi aelodau o'r teulu (Rheol Sefydlog 31A)

Cefndir

1. Mae'r Pwyllgor eisoes wedi ystyried Rheol Sefydlog newydd ddrafft ynghylch cofnodi achosion o gyflogi aelodau o'r teulu, ac wedi cytuno arni. Cyflwynwyd y Rheol Sefydlog ddrafft honno i'w hystyried gan Gomisiwn y Cynulliad.

2. Ar ôl hynny, anfonodd y Comisiwn y Rheol Sefydlog ddrafft at holl Aelodau'r Cynulliad i fod yn destun gwaith ymgynghori, ac fe'i cyflwynwyd i'w hystyried gan y Pwyllgor Busnes. O ganlyniad i'r gwaith ymgynghori, cynigiwyd nifer o ddiwygiadau pellach gan Aelodau. Diwygiwyd y Rheol Sefydlog ddrafft a gymeradwywyd gan y Pwyllgor Safonau fel a ganlyn:-

- Egluro'r safbwynt nad yw'r Aelodau, i bob pwrpas, yn ymdrin ei hunain â chyflogau staff yr Aelodau gan fod y cyflogau hynny yn cael eu talu yn uniongyrchol i'r cyflogai gan y Comisiwn;
- O ystyried y categorïau eang o gysylltiadau teuluol a nodir, dileu'r cyfeiriadau at gynbartneriaid a chefnodyd;
- Lleihau faint o wybodaeth bersonol a ddarperir ar gofrestr gyhoeddus drwy ddileu'r gofyniad i ddatgelu'r cyflogau a gaiff eu talu i aelodau o'r teulu, er y bydd dal angen i Aelodau roi manylion ym mha rinwedd y cyflogir yr aelod o'r teulu a'r oriau y maent yn eu gweithio.

3. Mae'r fersiwn terfynol o'r Rheol Sefydlog ddrafft ynghlwm yn Atodiad A.

4. Cynigiwyd hefyd ddiwygiad canlyniadol i Reol Sefydlog 16 (y Pwyllgor Safonau Ymddygiad). Bydd y diwygiad hwn yn galluogi'r Pwyllgor Safonau Ymddygiad i ymchwilio i unrhyw gŵyn a gyfeirir ato gan y Comisiynydd Safonau sy'n honni bod Aelod heb gydymffurfio â'r Rheol Sefydlog newydd. Bydd modd i'r Pwyllgor hefyd gyflwyno adroddiad ar y gŵyn honno ac, os yw'n briodol, argymhell camau i'w cymryd mewn perthynas â'r gŵyn honno. Mae'r Pwyllgor Busnes wedi cymeradwyo'r diwygiad i Reol Sefydlog 16, fel y nodir yn Atodiad B.

Y camau nesaf

5. Mae'r Pwyllgor Busnes wedi ymrwymo i gyflwyno'r Rheol Sefydlog newydd yn y Cyfarfod Llawn er mwyn iddi gael ei thrafod. Fodd

bynnag, byddai penderfyniad i gytuno ar y Rheol Sefydlog newydd yn dod i rym ar unwaith, ac felly mae'r Pwyllgor Busnes wedi gofyn bod canllawiau y cytunwyd arnynt yn cael eu cyhoeddi ac yn barod i'w defnyddio gan yr Aelodau cyn bod penderfyniad yn cael ei gynnig i'r Cynulliad.

6. Gan y byddai peidio â chydymffurfio â'r hyn a ddarperir yn y Rheol Sefydlog newydd yn fater a fyddai'n dod o fewn cylch gwaith y Pwyllgor Safonau, fe'i hystyrir yn briodol bod y Pwyllgor Safonau yn cyhoeddi'r canllawiau i Aelodau yn hynny o beth. Mae'r canllawiau drafft ynghlwm yn Atodiad C i'w hystyried gan y Pwyllgor.

Argymhellion

7. Gwahoddir y Pwyllgor i:

a) nodi'r Rheol Sefydlog 31A a gytunwyd a'r diwygiad i Reol Sefydlog 16 (Atodiadau A a B);

b) cymeradwyo'r canllawiau i Aelodau ynglŷn â chofnodi achosion o gyflogi aelodau o'r teulu sydd ynghlwm yn Atodiad C, a chytuno i ddsbarthu'r canllawiau i'r holl Aelodau ar ôl i'r Rheol Sefydlog newydd gael ei chymeradwyo yn y Cyfarfod Llawn.

Jeff Cuthbert
Chwefror 2010

Annex A

Employment of Family Members

STANDING ORDER 31A – Recording of the Employment of Family Members with the support of Commission funds.

[Note: a requirement for notification under this Standing Order is in addition to any requirement to register the employment of a Member’s partner or dependent child under Standing Order 31. Where Standing Order 31 requires a Member to register the employment of a spouse or dependant child under that Standing Order, the Member must do that in addition to any notification required under this Standing Order.]

31A.1 A Member who at any time, with the support of Commission funds, employs, either directly or indirectly, a person whom that Member knows to be a family member of that Member or of another Member must, no later than the date specified in Standing Order 31A.4, make a notification under this Standing Order.

31A.2 In this Standing Order:

(i) “family member” means:

- (a) a partner of a Member;
- (b) a child or grand-child of a Member;
- (c) a parent or grand-parent of a Member;
- (d) a brother or sister of a Member;
- (e) a nephew or niece of a Member; or
- (e) an uncle or aunt of a Member.

(ii) “partner” means a spouse, civil partner or one of a couple whether of the same sex or of the opposite sex who although not married to each other are living together and treat each other as spouses.

(iii) the expressions “child”, “grand-child”, “parent”, “grand-parent” “brother”, “sister”, “uncle” and “aunt” apply equally to half-, step-, foster- and adoptive relationships and also apply to persons having the relationship in question to the partner of the Member;

(iv) “Commission funds” means amounts paid by the Commission by way of allowances under Standing Order 1.7.

31A.3 The notification required by this Standing Order must include the following information:

- (i) the Member's name;
- (ii) if the employee is a family member of another Member or Members, the name of that other Member or of those other Members;
- (iii) the full name of the employee;
- (iv) the relationship of the employee to the Member (or, where appropriate, to the Member or Members referred to in (ii));
- (v) the capacity in which the employee is employed, including any job title;
- (vi) the date on which the employment commenced;
- (vii) if the employment has ceased, the date on which it ceased; and
- (viii) the hours which the employee is contracted to work each week.

31A.4 Notification must be made:

a) within eight weeks of the date on which the Member takes the oath or affirmation of allegiance, or

b) within four weeks of:

i) the first occasion on which the family member receives a payment with the support of Commission funds,

ii) the date on which the employee becomes a family member of that Member or of another Member, or

iii) the date when the Member first becomes aware of the fact that the employee is a family member of that Member or of another Member,

whichever is the later.

31A.5 If:

(a) notification has been given under this Standing Order; and

(b) there has been any change to the information which was included in that notification;

the Member must, within four weeks of the date on which that change took place, make notification of that change.

31A.6 Notification under SO 31A.1 or under SO 31A.5 must be given by completing and signing the form prescribed by the Presiding Officer for the purpose and delivering it to the Table Office.

31A.7 The Presiding Officer must maintain a record of the notifications made by Members under this Standing Order and must publish the record and make a copy available for inspection in person by Members and by the public.

31A.8 Members are under a continuing duty to ensure, by inspecting the record of notifications from time to time, that it correctly contains the particulars notified by them under Standing Orders 31A.1 or 31A.5.

Annex B

STANDING ORDER 16 – Committee on Standards of Conduct

Title and Terms of Reference

16.1 There is to be a Committee on Standards of Conduct, which 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 31;
 - (b) any Assembly resolution relating to the financial or other interests of Members;
 - (c) Standing Order 32;
 - (d) any Assembly resolution relating to Members' standards of conduct; or
 - (e) any code or protocol made under Standing Order 1.13 and in accordance with section 36(6) of the Act;
 - (f) Standing Order 31A

NATIONAL ASSEMBLY FOR WALES
GUIDANCE FOR ASSEMBLY MEMBERS
ON THE RECORDING OF THE
EMPLOYMENT
OF FAMILY MEMBERS WITH THE
SUPPORT OF COMMISSION FUNDS
(Standing Order 31A)

Contents

Section 1: Introduction

Section 2: The Record of the Employment of Family Members (with the support of Commission funds)

Section 3: The Deadlines for the Recording of Employment

SECTION 1: INTRODUCTION

1.1 This guidance was approved by the Committee on Standards of Conduct on 2 February 2010.

1.2 The purpose of this guidance is to assist Members in discharging the duties placed upon them under the Assembly's standing order 31A. It is not, however, a substitute for Standing Order 31A. Responsibility for complying with the duties placed upon them rests with Members alone, although they may seek advice from the Chief Executive and Clerk.

1.3 The main elements of the Assembly's standing order 31A are:

- 31A.1 – Members who employ family members (as defined in the Standing Order) must make a notification under this Standing Order.
- 31A.2 – Provides the definitions of who is to be regarded as a “family member” for under this Standing Order. (NB the requirement to notify also extends to members of the families of other AMs.)
- 31A.3 – Sets the requirements for what must be included in any notification made under this Standing Order.
- 31A.4 & 31A.5 – Provide details of the deadlines by which notifications under this Standing Order must be made.
- 31A.6 – Notification must be given by completing and signing the form prescribed by the Presiding Officer.
- 31A.7 – The record of notifications made under this Standing Order is open for public inspection.
- 31A.8 – There is a continuing duty on Members to ensure that the record of notifications is correct.

1.4 These provisions are explored in greater detail in **Sections 2 and 3** of this guidance.

1.5 Standing Order 31A covers the recording by Members of their employment of family members. Failure to record employment of family members is a matter which the Committee on Standards of Conduct may

investigate under Standing Order 16(i) and can recommend action if it finds that a member has not complied with the provisions of Standing Order 31A.

SECTION 2 – THE RECORD OF THE EMPLOYMENT OF FAMILY MEMBERS WITH THE SUPPORT OF COMMISSION FUNDS (SO31a)

2.1 Under Standing Order 31A: **any Member who at any time, with the support of Commission funds, employs, either directly or indirectly, a person whom that Member knows to be a family member of that Member or of another Member must, no later than the date specified in Standing Order 31A.4, make a notification under this Standing Order.**

2.2 The provisions of Standing Order 31A are modelled on those in Standing Order 31 and 32, as can be seen in the timescales for recording the employment of family members. Like Standing Order 31 and 32, the provisions are neither optional nor voluntary.

Recording of Employment in practice

2.3 The definitions of what needs to be recorded by notification are set out in Annex A.

2.4 Details of the specific matters that need to be included in any notification are set out in Annex B.

2.5 There are two main questions that Members need to consider in deciding whether or not they are required to make a formal notification of employment under this Standing Order. If the answer to the two questions below is **yes** then formal notification will be required:

Is the person I employ a ‘family member’ of mine, or a ‘family member’ of another Assembly Member?

Is the employment of that ‘family member’ being made with the support of Commission Funds?

2.6 Standing Order 31A.2 provides a definition of what constitutes a family member (Annex A). Standing Order 31A.1 only requires notification, of course, if a Member knows that the person they employ is a family member of theirs or another Member before notification of the employment is required.

2.7 The provisions of this Standing Order also clearly state that Members are not only required to record details of where they employ family members **directly**, but also where they employ family members on an **indirect basis**. Direct employment is more easily identified, however Members are advised to consider in greater detail whether employment of family Members might fall under the indirect category. As a guide, the following are examples of what would constitute direct or indirect employment. Members should note however that this is not a definitive list, and it is their responsibility to ensure that they comply with the Standing Order:

Direct Employment: Employment of a family Member as: a member of their Support Staff; constituency office receptionist; case-worker; etc.

Indirect Employment: Employment of a small company or firm from which a family member derives a significant benefit, for example, a Member who employs a small cleaning firm in which the 'family member' is a partner or which employs the 'family member' as a cleaner. But a Member need not give notification in relation to a family member who is employed by a large concern, such as a utility, just because the Member receives a supply of services from that company.

SECTION 3: THE DEADLINES FOR THE RECORDING OF EMPLOYMENT – SO 31A.4 and 31A.5

3.1 Standing Order 31A.4 require Members to make a formal notification of the employment of family members:

a) within **eight** weeks of taking the oath or making the affirmation; or

b) within **four** weeks of:

i) the first occasion on which the family member receives a payment with the support of Commission funds,

ii) the date on which the employee becomes a family member of that Member or of another Member, or

iii) the date when the Member first becomes aware of the fact that the employee is a family member of that Member or of another Member,

whichever is the later.

3.2 It is also the responsibility of Members under Standing Order 31A.5 to provide formal notification of any changes to the details already recorded (e.g. a change to the capacity in which a family member is employed) within **four** weeks of each change occurring.

3.3 Because of the requirement in standing order 31A to provide notification of any change in the details recorded within four weeks of that change occurring, Members are advised to review their notifications regularly.

3.4 The content of the Record of the Employment of Family Members is available for public inspection. An updated copy is placed on the Assembly's website every week that a revised entry is made and a copy can be inspected in the Assembly building (via the Table Office) or via the Assembly's website (NB: page to be created).

Annex A

Definitions of the Categories of matters that must be Recorded in accordance with Standing Order 31A

Standing Order 31A requires:

31A.1 A Member who at any time, with the support of Commission funds, employs, either directly or indirectly, a person whom that Member knows to be a family member of that Member or of another Member must, no later than the date specified in Standing Order 31A.4, make a notification under this Standing Order.

31A.2 In this Standing Order:

(i) “family member” means:

- (a) a partner of a Member;
- (b) a child or grand-child of a Member;
- (c) a parent or grand-parent of a Member;
- (d) a brother or sister of a Member;
- (e) a nephew or niece of a Member; or
- (e) an uncle or aunt of a Member.

(ii) “partner” means a spouse, civil partner or one of a couple whether of the same sex or of the opposite sex who although not married to each other are living together and treat each other as spouses.

(iii) the expressions “child”, “grand-child”, “parent”, “grand-parent” “brother”, “sister”, “uncle” and “aunt” apply equally to half-, step-, foster- and adoptive relationships and also apply to persons having the relationship in question to the partner of the Member;

(iv) “Commission funds” means amounts paid by the Commission by way of allowances under Standing Order 1.7.

Annex B

Details of the specific matters that need to be included in any notification made in accordance with Standing Order 31A

1. Standing Order 31A requires Members to include the following information in any notification made:

- (i) the Member's name;
- (ii) if the employee is a family member of another Member or Members, the name of that other Member or of those other Members;
- (iii) the full name of the employee;
- (iv) the relationship of the employee to the Member (or, where appropriate, to the Member or Members referred to in (ii));
- (v) the capacity in which the employee is employed, including any job title;
- (vi) the date on which the employment commenced;
- (vii) if the employment has ceased, the date on which it ceased; and
- (viii) the hours which the employee is contracted to work each week.

2. Members are also required to make a notification of any changes to the information that has been recorded. Therefore, if the details of employment, set out above change in any way, Members must make a notification of those changes.

3. Notification under SO 31A.1 (initial notification) or SO 31A.5 (changes in details) must be made by completing and signing the form which has been prescribed by the Presiding Officer. This form must be delivered to the Table Office in hard copy.