

DRAFT

STD(2) 04-03 (04)

ANNUAL REPORT OF THE
NATIONAL ASSEMBLY FOR WALES'
COMMITTEE ON
STANDARDS OF CONDUCT
2002 - 2003

DRAFT

Contents

1. Introduction
2. Committee Remit
3. Work Programme and Activities
 - ❑ Review of Procedures for Standards
 - ❑ Forward Work Programme
 - ❑ Freemasonry
 - ❑ Independent Adviser
 - ❑ Register of Members Interests
 - ❑ Oral Declarations of Interest
 - ❑ Other Issues
4. The Committee's Conclusions in respect of Ethical Standards (SO 1 6.1(v))

Annexes

- Annex A: The Committee's terms of reference
Annex B: Review of Standards Procedures: Woodhouse Report

DRAFT

COMMITTEE ON STANDARDS OF CONDUCT

REPORT TO THE ASSEMBLY

1. Introduction

- 1.1 This is the fourth annual report to the National Assembly for Wales by its Committee on Standards of Conduct, as required by Standing Order 16. It covers the 12-month period from 1 August 2002 to 31 July 2003.
- 1.2 The Committee on Standards of Conduct is one of the Assembly's six Standing Committees. Membership of the Committee during the period of the report was:

First Assembly

The Committee was chaired by David Melding AM, until November 2002 and its membership was Cynog Dafis, Christine Gwyther (until 22.01.03), Brian Hancock (until 29.10.02), Pauline Jarman (from 29.10.02), Gareth Jones, Lynne Neagle, Karen Sinclair, Gwenda Thomas and Kirsty Williams. Karen Sinclair was appointed as temporary Chair of the Committee for one meeting.

Second Assembly

The Committee is Chaired by Kirsty Williams, and its membership is Jeff Cuthbert, David Davies, Jocelyn Davies, Tamsin Dunwoody Kneafsey, Sandy Mewies, Lynne Neagle, Gwenda Thomas, Owen John Thomas and Brynle Williams.

- 1.3 The Committee would like to thank all those Members who sat on the Committee during the First Assembly for their contribution to its work during that period and in particular to David Melding, who Chaired the Committee from November 1999 to November 2002.
- 1.4 During its fourth year, the Committee met on three occasions. No complaints against Assembly Members were considered during this period. In accordance with standing orders, its meetings were held in public and available for broadcast.
- 1.5 Details of the Committee's work programme and activities during the year are outlined below.

DRAFT

2. The Committee's Remit

- 2.1 Standing Order 16 sets out the remit of the Standards Committee, and the requirements as to its membership, the role of the Independent Adviser on standards, meetings and reports. A copy of Standing Order 16 is at Annex A.
- 2.2 The key function of the Committee is to consider complaints referred to it by the Presiding Officer and any matters of principle relating to the conduct of Assembly Members generally. The Committee also oversees the Register of Members' Interests.

3. Work Programme and Activities

- 3.1 Although no complaints were referred to the Committee during the year, the Committee's workload continued to be high. The Committee considered a number of long term and detailed issues, and much work was undertaken during the year on the following items:

Review of Standards Procedures

- 3.2 In November 2001, Professor Diana Woodhouse was appointed as an expert advisor to the Standards Committee, charged with undertaking a review of Standards Procedures within the Assembly. The Report on the review, produced by Professor Woodhouse, was published in March 2003 and a copy was circulated to all Assembly Members.
- 3.3 The review focused on five main areas: the Committee's jurisdiction; the effectiveness of the complaint procedure; the role of the Presiding Officer; the role of the Independent Advisor on Standards of Conduct; and comparable arrangements in other democratic institutions in the UK; and made 31 main recommendations in the following broad areas:
 - i. the content and presentation of the Code of Standards;
 - ii. the matters and amounts that should be registered in the Register of Members' Interests;
 - iii. roles in respect of providing advice to Members and in the investigation of complaints against Members;
 - iv. the conduct of complaints hearings and the sanctions available against Members found in breach;
 - v. the role of the political groups in maintaining a "Standards Culture"; and
 - vi. matters where changes in primary legislation are required.

DRAFT

- 3.4 Despite the intervention of the Assembly General Election, the Committee has already made progress in considering and implementing the report's recommendations. Two have already been implemented and the Committee has accepted most of the others in principle subject to further detailed work on their implications.
- 3.5 The Woodhouse recommendations represent a substantial agenda, which will occupy much of the Committee's time over the next 12 to 18 months. This is reflected in the Committee's Forward Work Programme.

Forward Work Programme

- 3.6 In July 2003, the Committee agreed its forward work programme which outlined the areas that will be the main focus of its' work for the coming 12-18 months.
- 3.7 Two significant areas of work were prioritised:
- i. The Review of Standards Procedures in the Assembly by Professor Woodhouse on the Assembly's Standards of Conduct arrangements; and
 - ii. Freemasonry
- 3.8 In addition, and related to the Woodhouse review, is the future role and responsibilities of the Independent Adviser on Standards of Conduct.

Freemasonry

- 3.9 The Committee considered the Assembly's requirement for Members to register their membership of the Freemasons in considerable detail and at length. As a result, the Committee recommended to Plenary that the current Standing Orders on registration of membership of the Freemasons should be replaced by a more legally robust requirement, which still required Members to register their membership of the Freemasons, but alongside a range of other private bodies and organisations.
- 3.10 The Assembly considered the Committee's report on Freemasonry in Plenary on 13 November 2002. The Committee's Report proposed that a new standing order, for the 'Recording of Membership of Societies' should be created, and that relevant standing orders and guidance should be amended accordingly.

DRAFT

- 3.11 However, the motion to approve the Committee's recommendations failed to achieve the required two thirds majority and was defeated by 29 votes to 15 with 3 Members abstaining.
- 3.12 The Committee revisited this issue and agreed that the conclusions presented to Plenary were fundamentally correct. Namely that:
- i. There is no conclusive evidence of misconduct against the Freemasons as an organisation.
 - ii. It was difficult to establish that the Freemasons are a unique organisation, which might then justify treating them differently to all others.
 - iii. It was established that no other legislature in the UK had a similar requirement to Register membership of the Freemasons.
- 3.13 However, the Committee has also agreed that further consideration would need to be given to the issue before it could be taken back to Plenary. The Committee also agreed that Assembly Members would need to be reminded of the legal implications of the current Standing Order requirements and how the new requirements would impact upon them.
- 3.14 The Committee remains of the view, however, that the Assembly's current requirements, which single out the Freemasons is difficult to defend in principle, and runs the risk of a successful legal challenge.
- 3.15 This issue forms a major part of the Committee's forward work programme. It is the aim of the Committee to consider the matter further, and Report back to the Assembly in Plenary in early 2004.

The Independent Adviser on Standards of Conduct

- 3.16 Standing Order 16.3 requires the Assembly to appoint a person to provide advice and assistance to the Presiding Officer on any matter relating to the conduct of Assembly Members and to assist the Committee, by invitation, in its investigations. Mr Richard Penn was appointed as the Assembly's Independent Adviser on Standards of Conduct on 15 March 2000 - his initial 3-year contract expired on 14 March 2003.
- 3.17 The role of the Independent Advisor is one of the 5 main themes of the Report produced by Professor Diana Woodhouse. The Committee will be considering this matter in detail in the forthcoming year, and will report back to the Assembly as appropriate.

DRAFT

- 3.18 The Committee therefore agreed at an early stage that until its consideration of the Adviser's role had concluded, the Adviser's appointment should be extended on an annual basis, and on the same terms and conditions.
- 3.19 The Committee acknowledges the vital role that the Independent Adviser plays in assisting both the Presiding Officer and the Committee on Standards of Conduct. Mr Penn has been active in both roles and the Committee would like to thank him for his contribution to their work.

The Register of Members' Interests

- 3.20 During the course of the year the Register was maintained and published by the Table Office in accordance with the published guidance and Standing Orders.
- 3.21 A 'live' report on the Register is available on-line and is updated regularly, as entries are received. A report on the Register, which provides a comprehensive picture of all entries made in the Register during the First Assembly, is also available.
- 3.22 The Clerk to the Committee continues to provide oral updates on developments with the Register at Committee meetings. Table Office continues to receive queries in relation to the interests of individual Members and AMs as a whole. Queries received are in the main from members of the public or the press. However, interest in the Register during the period of this Report was low.

Oral Declarations of Interest

- 3.23 Concern had been expressed that the arrangements for declaring interests in Plenary and/or Committees had not been fully understood by Members and that the practice of oral declarations had detracted from the dignity of the Assembly in Plenary.
- 3.24 The Committee considered these arrangements and whether they could be simplified to avoid disruption, while maintaining the integrity and rigour of the current arrangements.
- 3.25 The Committee concluded that the Assembly's current requirements may be overly focused on Section 72(1) (registration of interests) and have paid insufficient attention to Section 72(2) (declaration of interests - particularly financial interests).

DRAFT

- 3.26 In order to redress the balance, the Committee proposed amendments to Standing Orders, which offered greater clarity and simplicity, while maintaining rigorous standards with no loss of transparency.
- 3.27 The Committee's proposals were brought before the Assembly in Plenary on 5 November 2002, and were carried unanimously by those voting.
- 3.28 In streamlining the procedure, we have ensured that all the previous registrable interests remain and that their status is not affected. Members are still required to register the interests specified in the Annex to Standing Order 4 and these remain subject to the criminal law if they take part in proceedings having failed to register an interest properly. The Clerk to the Committee issued further advice to all Assembly Members in June 2003 on matters to take into account when considering making oral declarations.
- 3.29 The Committee believe that the new procedures highlight, to Members and the public, the importance of the Register of Interests while being less disruptive in Plenary sessions.

Other Issues

- 3.30 Over the course of the year the Committee considered and provided advice to the Presiding Officer and others on a range of issues. These include, the leaking of confidential Committee reports and the Registration of Cross Party Groups.

4. The Committee's Conclusions in respect of Ethical Standards (SO 16.1(v))

- 4.1 As part of the Review of Procedures for Standards, the Committee has also been considering how to build upon current ethical standards to create a "Standards Culture" in the Assembly.
- 4.2 As noted above, no complaints were referred to the Committee during the period of this report. From the evidence presented to the Committee during the period of this Report, there seem to be few grounds for concern about the ethical standards of Members. The Committee believe, however, that there must be no grounds for complacency, if the highest level of ethical standards are to be maintained.

STANDING ORDER 16 - Committee on Standards of Conduct

Title and Terms of Reference

16.1 There shall be a Committee on Standards of Conduct, which shall:

- (i) investigate, report on and, if appropriate, recommend action in respect of any complaint referred to it by the Presiding Officer that a Member has not complied with standing order 4 or any Assembly resolution relating to the financial or other interests of Members, or that a Minister has not complied with the requirements of paragraph 2.8;
- (ii) investigate, report on and, if appropriate, recommend action in respect of any complaint referred to it by the Presiding Officer that a Member has not complied with any Assembly resolution relating to Members' standards of conduct or with the guidance for Ministers which the Assembly has approved in accordance with paragraph 2.7 or the Code of Conduct under Standing Order 36.14;
- (iii) consider any matters of principle relating to the conduct of Members generally;
- (iv) supervise the arrangements for the compilation, maintenance and accessibility of the Register of Members' Interests, and the form and content of the Register; and
- (v) present an annual report to the Assembly on the complaints made to the Presiding Officer under (i) and (ii) and the action taken, and on its conclusions in respect of ethical standards in the conduct of the Assembly's business.

Membership

16.2 The Assembly shall elect a Member to chair the Committee, together with other Members elected so far as practicable to reflect the balance of political groups in the Assembly. The Presiding Officer shall not be a member of the Committee, but shall be entitled to attend any meeting of the Committee, or submit papers to it, for the purpose of drawing to its attention such considerations as he or she considers appropriate.

Independent Adviser

DRAFT

16.3 The Assembly shall appoint a person who is not an Assembly Member or a member of its staff to provide advice and assistance to the Presiding Officer on any matter relating to the conduct of Members; and the Committee may, in addition to the appointment as appropriate of its own advisor under paragraph 8.14, invite the Assembly's appointee to investigate factual matters arising out of any matter before it.

Meetings

16.4 The Committee shall meet as soon as may be after a complaint has been laid before it by the Presiding Officer; and at other times as convened by the chair.

16.5 The Committee may meet in public or in private, but when considering a complaint, the Committee shall meet in private unless it resolves otherwise. Any Member who is or may be the subject of an investigation by the Committee shall at his or her request be permitted to make oral or written representations to it and may be accompanied at oral hearings by another person (who may participate in the proceedings with the permission of the chair).

Reports

16.6 If the Committee has investigated a complaint laid before it by the Presiding Officer, it shall report to the Assembly as soon as may be after completion of the investigation. The Committee may report to the Assembly on other matters within its remit from time to time.