

Y Pwyllgor Safonau Ymddygiad

Lleoliad:
Ystafell Bwyllgora 1 – y Senedd

Dyddiad:
Dydd Mawrth, 9 Gorffennaf 2013

Amser:
10:00

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



I gael rhagor o wybodaeth, cysylltwch â:

Lara Date
Clerc y Pwyllgor

safonau@cymru.gov.uk

Agenda

1 Cyflwyniad ac ymddiheuriadau

2 Eitemau'r Cadeirydd (10.00)

3 Ystyried Argymhellion Adroddiad GRECO (10.00 – 10.20)

(Tudalennau 1 – 15)

SOC(4)–05–13 – Papur 1

4 Y Diweddaraf gan y Comisiynydd Safonau ar yr Adolygiad o'r Cod Ymddygiad a chanllawiau cysylltiedig (10.20 – 10.40) (Tudalennau 16 – 38)

SOC(4)–05–13 – Papur 2

Gareth Rogers – Pennaeth y Swyddfa Gyflwyno

5 Papurau i'w nodi (10.40)

SOC(4)–05–13 – Papur 3 – Adroddiad ar Lobïo a Grwpiau Trawsbleidiol – Llythyr gan y Llywydd (Tudalen 39)

SOC(4)–05–13 – Papur 4 – Adroddiad ar Lobïo a Grwpiau Trawsbleidiol –

Llythyr gan Gadeirydd y Bwrdd Taliadau (Tudalennau 40 – 41)

SOC(4)-05-13 – Papur 5 – Llythyr gan y Llywydd ar Sanctiynau (Tudalennau 42 – 43)

SOC(4)-05-13 – Papur 6 – Ymateb gan Gadeirydd y Pwyllgor i'r Llywydd ar Sanctiynau (Tudalen 44)

Y Pwyllgor Safonau Ymddygiad

SOC(4)-04-13: Papur 1 – dydd Mawrth 9 Gorffennaf 2013

Ystyried argymhellion GRECO (Grŵp o Wladwriaethau yn erbyn Llygredigaeth)

Diben

1. Gwahoddir y Pwyllgor i ystyried yr argymhellion a wnaed gan Grŵp o Wladwriaethau yn erbyn Llygredigaeth (GRECO) Cyngor Ewrop, yn ei bedwerydd cylch o werthuso'r Deyrnas Unedig, a chytuno ar unrhyw gamau pellach yr hoffai eu cymryd fel rhan o'r adolygiad presennol o'r Cod Ymddygiad ar gyfer Aelodau'r Cynulliad a chanllawiau cysylltiedig.
2. Dylid ystyried y papur hwn ochr yn ochr â'r 'Cod Ymddygiad ar gyfer Staff Cymorth Aelodau'r Cynulliad', a'r 'Canllawiau i Aelodau'r Cynulliad ar Gofrestru, Datgan a Chofnodi Buddiannau Ariannol a Buddiannau Eraill yr Aelodau'. Mae'r Pwyllgor yn gyfrifol am oruchwylio'r trefniadau ar gyfer y Gofrestr Buddiannau, a chytunodd i ddiweddarau'r canllaw hwn fel rhan o gyfnod 2 presennol yr adolygiad o weithdrefnau safonau.

Cefndir

3. Mae'r Grŵp o Wladwriaethau yn erbyn Llygredigaeth (GRECO) yn monitro a yw ei 49 o aelod-wladwriaethau yn cydymffurfio ag offerynnau gwrth-lygredigaeth Cyngor Ewrop¹. Mae'r DU wedi bod yn aelod o GRECO er 1999. Mae GRECO yn gwerthuso'r trefniadau mewn aelod-wladwriaethau'n rheolaidd ac yn gwneud argymhellion, gyda'r bwriad o wella gallu gwladwriaethau i ymladd yn erbyn llygredigaeth ac i hyrwyddo uniondeb."

¹ Mae aelodaeth o GRECO yn agored, ac yn gyfartal, i aelod-wladwriaethau o Gyngor Ewrop ac i wladwriaethau nad ydynt yn aelod o'r Cyngor. Mae'r adroddiadau gwerthuso a chydymffurfio a fabwysiadwyd gan GRECO, yn ogystal â gwybodaeth arall am GRECO, ar gael yn: www.coe.int/greco.

4. Roedd adroddiad Pedwerydd Cylch Gwerthuso diweddaraf GRECO am Senedd, barnwyr ac erlynwyr y DU yn gadarnhaol ar y cyfan.
5. Ymwelodd y tîm gwerthuso (GET) â'r DU yn 2012. Roedd y tîm yn cynnwys Mr Hugh Geoghegan, sydd wedi ymddeol o'i waith fel barnwr Goruchaf Lys Iwerddon, Ms Jane Ley, Dirprwy Gyfarwyddwr Swyddfa Moeseg Llywodraeth yr Unol Daleithiau, Mr José Manuel Igreja Martins Matos, Barnwr o Bortiwgal ac Is-lywydd Grŵp Ibero-Americanaid Cymdeithas Ryngwladol y Barnwyr, a Ms Marja Tuokila, Cwnsler Pwyllgor Materion Cyfreithiol Senedd y Ffindir. Cyfrannodd Cynulliad Cenedlaethol Cymru at y broses werthuso drwy Bennaeth Llywodraethu ac Archwilio'r Cynulliad, a chyn-glerc y Pwyllgor Safonau Ymddygiad.
6. Gan ganolbwyntio ar y Senedd, mae'r adroddiad gwerthuso yn cydnabod y camau a gymerwyd i gryfhau rheolaeth ariannol yn San Steffan yn dilyn y ddadl ynglŷn â threuliau. Mae hefyd yn annog cryfhau ymhellach ddulliau tryloywder ac atebolrwydd i Aelodau Seneddol. Nodwyd cynlluniau i reoleiddio lobïo ac i ddatblygu ymhellach ddulliau mewnol sy'n atal ac yn cosbi camymddygiad.
7. Gwnaeth yr adroddiad bum argymhelliad yn ymwneud â Senedd y DU, ac mae pedwar o'r rheini hefyd wedi'u cyfeirio'n benodol at y deddfwrfeydd datganoledig, gan gynnwys Cynulliad Cenedlaethol Cymru. Caiff y modd y caiff yr argymhellion eu rhoi ar waith ei asesu gan GRECO yn ystod ail hanner 2014 drwy ei weithdrefn gydymffurfio.
8. Aeth y Pwyllgor Seneddol ar Safonau i'r afael â'r argymhellion mewn adroddiad a gyhoeddwyd ar 13 Mawrth 2013² ac mae ei gasgliadau wedi'u crynhoi isod, ochr yn ochr ag argymhellion GRECO. Bydd y Tŷ yn ystyried yr argymhellion pan fydd yn ystyried Canllaw diwygiedig i Reolau Ymddygiad Aelodau Seneddol. Disgwylir i Dŷ'r Arglwyddi hefyd ystyried argymhellion GRECO yn fuan. Nid yw Senedd yr Alban na Chynulliad Gogledd Iwerddon wedi eu hystyried yn ffurfiol eto.

² Pwyllgor Safonau Tŷ'r Cyffredin – Canllawiau i'r Rheolau yn ymwneud ag Ymddygiad Aelodau: Adroddiad GRECO a Datblygiadau eraill, Adroddiad Cyntaf Sesiwn 2012–13, a gyhoeddwyd ar 13 Mawrth 2013.

Atebolrwydd Aelodau dros ymddygiad staff

Argymhelliad GRECO:

i. that, pending any introduction of an accountability system for staff conduct, it should be made clear that Members of the House of Commons and Members of the House of Lords can be responsible for the conduct of their staff when carrying out official duties on behalf of the Member and that, unless otherwise specified, the conduct of the staff should be judged against the standards expected of the Members. The devolved institutions of Wales and Northern Ireland should be invited similarly to take action in accordance with the recommendation (paragraff 33);

9. Wrth wneud yr argymhelliad hwn, nododd GET nad oedd Codau Ymddygiad Tŷ'r Arglwyddi a Thŷ'r Cyffredin yn nodi bod Aelodau'n gyfrifol am ymddygiad eu staff personol pan fydd yr unigolion hynny'n cyflawni dyletswyddau swyddogol ar ran yr Aelod (yn gweithredu fel asiant i'r Aelod mewn gwirionedd). Roedd GET yn croesawu'r ffaith bod atebolrwydd Aelodau dros eu staff yn cael ei gynnwys yng Nghod Ymddygiad Senedd yr Alban.

10. Cafwyd ar ddeall hefyd nad yw aelodau o staff yn San Steffan yn destun unrhyw god ymddygiad arall, ond mae gofyn i rai gofrestru buddiannau perthnasol. Gall y Comisiynwyr perthnasol ymchwilio i achosion o fethu â chofrestru buddiannau.

11. Rhoddwyd gwybod i GET am achosion yn y gorffennol lle cafodd Aelodau Seneddol eu dal yn gyfrifol am weithredoedd eu staff (e.e. torri rheolau cyfrinachedd, ymgyrchu mewn etholiadau), ond bod y dull atebolrwydd a roddwyd ar staff yr Aelodau'n dibynnu ar yr amgylchiadau yn absenoldeb rheol glir. Nodwyd yn yr adroddiad:

“Since many of the staff are paid from public funds and supervised by the Member when carrying out official duties on his/her behalf, the GET believes that a clear and effective system of accountability

for staff actions is also of key importance to the actual and perceived integrity of Parliament.”

12. Mae Pwyllgor Safonau Tŷ'r Cyffredin wedi ymateb drwy nodi bod systemau atebolrwydd eisoes ar waith ar gyfer staff yr Aelodau, a bod paragraff cyntaf y Canllaw diwygiedig arfaethedig ar Reolau Aelodau Seneddol yn cynnwys troednodyn i'w wneud yn glir: “Members are personally responsible for their adherence to the Code even when breaches may have been caused by the actions of a member of staff.” Mae'r Pwyllgor hefyd yn dweud y bydd yn parhau i ddal Aelodau Seneddol yn gyfrifol am weithredoedd eu staff, pan fydd yn briodol i wneud hynny.

13. Mae Cynulliad Cenedlaethol Cymru yn ei gwneud yn ofynnol i Staff Cymorth Aelodau'r Cynulliad lofnodi Cod Ymddygiad sy'n rhan o'u hamodau gwaith gan yr Aelod, ac mae'n seiliedig ar egwyddorion Nolan ar safonau mewn bywyd cyhoeddus. Mae'r Cod yn cynnwys meysydd allweddol fel priodoldeb, cyfrinachedd, swyddi y tu allan i'r gwaith a gweithio gydag eraill. Gall torri'r cod arwain at gamau disgyblu a hyd yn oed diswyddo. Y Cynulliad yw'r ddeddfwrfa gyntaf yn y DU i ddatblygu Cod Ymddygiad ar gyfer Staff Cymorth Aelodau'r Cynulliad.

Camau i'r Pwyllgor eu cymryd:

Gwahoddir y Pwyllgor i ystyried a) a yw'r Cod Ymddygiad ar gyfer Staff Cymorth Aelodau'r Cynulliad yn bodloni argymhellion GRECO ynghylch atebolrwydd Aelodau dros ymddygiad eu staff personol pan fydd yr unigolion hynny'n cyflawni dyletswyddau swyddogol ar ran yr Aelod, a b) a ddylai Cod Ymddygiad diwygiedig y Cynulliad gyfeirio at y systemau atebolrwydd sydd ar waith yng Nghymru.*

*Dylid cynnwys unrhyw newidiadau yn y Cod Ymddygiad ar gyfer Aelodau'r Cynulliad (gan gynnwys geiriad diwygiedig 'Egwyddorion Nolan' yn unol ag argymhellion y Pwyllgor Safonau mewn Bywyd Cyhoeddus)

hefyd yn y Cod Ymddygiad ar gyfer Staff Cymorth Aelodau'r Cynulliad a roddir i staff cymorth fel rhan o'u contract gwaith drwy Gymorth Busnes yr Aelodau.

Trothwyon ar gyfer cofnodi daliadau ariannol

Argymhelliad GRECO:

ii. that consideration be given to lowering the thresholds for reporting financial holdings (such as stocks and shares). The devolved institutions of Scotland, Wales and Northern Ireland should be invited similarly to take action in accordance with the recommendation (paragraff 41);

14. Wrth wneud yr argymhelliad hwn ynghylch cofrestru buddiannau, mae GRECO yn nodi bod rhai categorïau o fuddiannau ariannol yn parhau i fod yn destun gwerthoedd trothwy cyn gorfod eu cofrestru – “For example, there are no limitations on the number or value of company shares, bonds and notes which can be held by Members of Parliament as long as they are reported when their value reaches a certain threshold.”

15. Mae'r trothwyon ar gyfer cyfranddaliadau wedi'u nodi yn Nhabl 3 yr adroddiad, fel a ganlyn:

	Tŷ'r Cyffredin	Tŷ'r Arglwyd di	Cynulliad Cenedlaethol Cymru	Cynulliad Gogledd Iwerddon	Senedd yr Alban
Cyfranddaliadau	Mwy na 15 % o gyfalaf cyfranddaliadau'r cwmni a gyhoeddwyd neu 15% neu lai o'r cyfalaf a gyhoeddwyd, ond yn fwy na'r	Yn dod i gyfran reolaethol neu heb fod yn dod i gyfran reolaethol ond yn fwy na £50,000 mewn	Gyda gwerth ar y farchnad sy'n llai nag 1 % o'r cyfalaf cyfranddaliadau a gyhoeddwyd lle mae gwerth y cyfranddaliadau hynny'n fwy	Mae gwerth nominal y cyfranddaliadau 'n fwy nag 1 % o gyfanswm gwerth y cyfalaf cyfranddaliadau a gyhoeddwyd neu'r gwerth ar y farchnad neu mae'r	Mae gwerth nominal y cyfranddaliadau 'n fwy nag 1 % o gyfanswm gwerth y cyfalaf cyfranddaliadau a gyhoeddwyd neu mae gwerth y cyfranddaliadau

	cyflog seneddol presennol (£66,000)	gwerth	na 50% o'r cyflog blynyddol gros sylfaenol (£26,926)	cyfranddaliadau 'n fwy na 50 % o gyflog presennol Aelod Cynulliad (£21,550)	ar y farchnad yn fwy na 50 % (£28,760)o gyflog presennol Aelod Cynulliad
--	---	--------	--	--	---

16. Wrth ddod i'r casgliad bod y trothwyon yn rhy uchel, mae'r adroddiad yn rhoi enghraifft o Aelod Seneddol a allai fod â buddsoddiad o £60,000 ym mhob un o'r 10 darparwr gwasanaeth ffôn symudol ac ni fyddai'r un ohonynt yn ymddangos ar y gofrestr. Mae'n derbyn y dadleuon y byddai disgwyl i'r Aelod, er gwaethaf y trothwyon, gadw at y rhwymedigaeth gyffredinol sydd ar Aelodau i ystyried y diffiniad cyffredinol o ddiben y Gofrestr (bod yn agored) wrth gofrestru eu buddiannau; ac os nad yw rhai buddiannau'n dod yn union o fewn un o'r categorïau penodol, disgwylir i Aelodau gofrestru buddiannau o'r fath o dan "amrywiol" (yn Senedd yr Alban mae categori 'gwirfoddol' ar y gofrestr i'r Aelodau ddatgan buddiannau o'r fath). Yn ychwanegol at hyn, byddai gofyn i'r Aelod Seneddol ddatgan buddiant yn y diwydiant cyn cymryd rhan mewn gweithgareddau seneddol a fyddai'n effeithio ar ddarparwyr gwasanaeth ffôn symudol yn ôl y rheolau ar ddatgan buddiannau. Ond mae GRECO yn mynd ymlaen i ddweud:

“That however, would give the public little or no notice of the interest before the Member acted and the purpose of the Registers is to give public notice of those interests which might be thought to influence a Member’s conduct. The GET takes account of these arguments, but is not fully convinced that these are sufficient, and efficient, safeguards for openness and transparency of a Member’s financial interests, not only in theory, but also in practice. The GET notes that the high threshold for reporting these types of interests (as opposed to remunerated services) reflects a policy priority on registering interests where actual payments are involved (earned income, lobbying for a fee, and expenses), rather than investments. However, the GET is of the view that a Member may be more

influenced by the effect of a matter on his/her stocks than by the receipt of a payment for a speech.” [print trwm wedi'i ychwanegu]

17. Defnyddir yr un fformiwla i gyfrifo trothwyon ar gyfer cofrestru cyfranddaliadau yn y tri sefydliad datganoledig, ac mae'r ffigurau trothwy yn sylweddol is nag yn San Steffan. Fodd bynnag, mae'r egwyddor yn ymwneud ag amlgyfranddaliadau'n parhau i fodoli yng Nghymru. Ar gyfer yr enghraifft a roddwyd gan GRECO o gyfranddaliadau mewn darparwyr ffonau symudol, gallai Aelod Cynulliad ddal cyfranddaliadau gwerth bron i £27,000 mewn unrhyw nifer o gwmnïau mewn maes perthnasol o ddiddordeb, heb iddo orfod cyhoeddi'r wybodaeth honno.

Cymharu'r rheolau a'r canllawiau ar gofrestru a datgan

18. Mae'r canllawiau presennol i Aelodau'r Cynulliad ar gofrestru buddiannau'n nodi, mewn perthynas â *datgan* buddiannau (ond nid *cofnodi* buddiannau yn y lle cyntaf) “The main policy behind the requirement for a declaration of interest is to ensure that Assembly Members and the public are aware of any financial or other interest which might reasonably be thought to be relevant to the proceedings in which the Member wishes to speak.” Mae'r canllawiau hefyd yn nodi'n glir y pwysigrwydd bod Aelodau'n datgan buddiannau a all fod ganddynt yn y dyfodol, yn ogystal â'r rheini sydd ganddynt eisoes.
19. O ran cofrestru cyfranddaliadau, nid yw canllawiau presennol y Cynulliad yn cyfeirio at: a) rwymedigaeth gyffredinol i ystyried y diffiniad cyffredinol o ddiben y Gofrestr (bod yn agored) wrth gofrestru buddiannau; b) os nad yw rhai buddiannau'n dod yn union o fewn un o'r categorïau penodol, mae disgwyl i Aelodau gofrestru buddiannau o'r fath o dan gategori "amrywiol"; neu c) gofyniad penodol i ddatgan buddiant sy'n codi o amlgyfranddaliadau mewn diwydiant neu faes gwasanaeth arbennig cyn cymryd rhan mewn gweithgareddau seneddol sy'n effeithio ar y diwydiant neu'r maes gwasanaeth hwnnw.

20. Mae'n rhaid i Aelodau'r Cynulliad fod yn hollol glir ynghylch pa fuddiannau y mae'n rhaid iddynt eu cofrestru, yn enwedig o ystyried y goblygiadau troseddol posibl o fethu â chofrestru o dan Adran 36(7) o Ddeddf Llywodraeth Cymru 2006. Ni allai cofrestr y Cynulliad felly gynnwys categori 'amrywiol' neu 'wirfoddol' oni bai bod hyn yn cael ei gyflwyno o dan Reol Sefydlog newydd ar wahân. Byddai hyn yn gwahaniaethu'n glir rhwng buddiannau sy'n cael eu cofrestru a / neu eu datgan yn wirfoddol, a'r categorïau o ddiddordeb sy'n bodoli eisoes ac sy'n destun darpariaethau Adran 36(7).
21. Wrth ymateb i GRECO, mae Pwyllgor Safonau Tŷ'r Cyffredin yn tynnu sylw at y ffaith bod ei drothwy ar gyfer cofrestru daliadau unigol yn dilyn argymhelliad y Comisiynydd Seneddol ac mae bron heb ei newid, ond bod y Canllawiau i'r Rheolau ar gyfer Aelodau Seneddol yn nodi y dylid cofrestru cyfrandaliadau sy'n disgyn o dan y trothwy o dan y categori amrywiol "if the Member nevertheless considers that it meets the *test of relevance*; in other words, that it might reasonably be thought by others to influence his or her actions or words as a Member." Mae hefyd yn mynd ymlaen i ddweud bod y gofyniad i ddatgan buddiannau'n mynd y tu hwnt i'r gofynion cofrestru, i "non-registrable interests of a financial nature when these are affected by the proceedings in question". Mae'r canllawiau diwygiedig yn ei gwneud hyd yn oed yn fwy clir bod y gofyniad hwn yn ymestyn i:

"Financial interest of a sort which do not require registration, including for example blind trusts, and interests which fall below the financial threshold."

Cofrestru ymddiriedolaethau dall a buddiannau 'amrywiol' eraill

22. Efallai y bydd y Pwyllgor hwn yn cofio i gofrestru ymddiriedolaethau dall gael ei godi mewn papur a ystyriwyd ar 18 Hydref 2011 (SOC(4)-01-11 : Papur 3), ac nad yw'r canllawiau presennol ar gyfer Aelodau'r

Cynulliad yn cynnwys gofyniad i ddatgan neu gofrestru manylion am ymddiriedolaethau o'r fath.

Yn y Cynulliad, cyfrifoldeb yr Aelod yw barnu a oes angen datganiad ffurfiol yn nhrefodion y Cynulliad. Nodir y gofynion yn Rheol Sefydlog 2.6 a 2.7. Mae cymryd rhan mewn trafodion heb wneud datganiad 'gofynnol' yn drosedd o dan adran 36(7)(a) o Ddeddf Llywodraeth Cymru.

Yn gyffredinol, mae'n rhaid i Aelodau wneud datganiad llafar o unrhyw fuddiannau sydd wedi'u cynnwys yn yr Atodiad i Reol Sefydlog 2 ond dim ond os yw penderfyniad penodol yn golygu mwy o fantais ariannol i'r Aelod, priod yr Aelod neu unrhyw blentyn dibynnol yr Aelod, nag i'r rhai y mae'r penderfyniad yn effeithio'n gyffredinol arnynt".

Os oes angen datganiad ffurfiol, gall Aelodau gymryd rhan yn y ddadl (yn dilyn y datganiad) ond ni chânt bleidleisio.

Prawf perthnasedd

23. Yn Nhŷ'r Cyffredin, mae'r Canllawiau i'r Rheolau'n cynnwys 'prawf perthnasedd' i Aelodau Seneddol ei ddefnyddio wrth benderfynu pa un ai i wneud datganiad ai peidio:

"It is the responsibility of the Member, having regard to the rules of the House, to judge whether a financial interest is sufficiently relevant to a particular debate, proceeding, meeting or other activity to require a declaration. The basic test of relevance should be the same for declaration as it is for registration of an interest; namely, that a financial interest should be declared if it might reasonably be thought by others to influence the speech, representation or communication in question. A declaration should be brief but should make specific reference to the nature of the Member's interest."

24. Mewn perthynas â phleidleisio, mae'r canllawiau ar y Rheolau'n nodi:

“For the purpose of taking part in any division in the House or in Committee, it is sufficient for the relevant interest to be disclosed in the Register of Members’ Financial Interests. A Member should seek to ensure prior to a vote taking place that any relevant interest is registered, or, where it is not, should register the interest immediately after the vote.”

25. Mae’r un darpariaethau ar gyfer prawf perthnasedd ac mewn perthynas â phleidleisio’n bodoli yng Nghynulliad Gogledd Iwerddon.
26. Byddai’n anodd sefydlu ‘prawf perthnasedd’ tebyg yng Nghynulliad Cenedlaethol Cymru o ystyried y goblygiadau troseddol posibl, oni bai bod y prawf perthnasedd yn ymwneud â ‘datganiadau anffurfiol’ yn unig. Nid oes unrhyw ganllawiau i Aelodau’r Cynulliad yn ymwneud â’r arfer o wneud datganiadau anffurfiol, ac mae hwn hefyd yn fater y gallai’r Pwyllgor Safonau Ymddygiad ei ystyried wrth adolygu’r canllawiau presennol.

Datgan ‘rhesymol’

27. Wrth ymateb i adroddiad GRECO, mae Pwyllgor Safonau Tŷ’r Cyffredin hefyd yn nodi’r mater o ddiffinio’r hyn y gellid ei ystyried yn ‘rhesymol’ i’w ddatgelu, a’r cydbwysedd rhwng preifatrwydd a bod yn agored. Yn Ffrainc mae’n rhaid i aelodau o’r Cynulliad Cenedlaethol ddatgan buddiannau i’r Comisiynydd Seneddol ond cedwir y rhain yn breifat, ac mae Tŷ’r Cyffredin wedi penderfynu y dylai ei Gofrestr fod yn ddogfen gyhoeddus ond nid yn ddatganiad cyfoeth llawn. Cred y Pwyllgor fod y cydbwysedd presennol yn eithaf cywir, a bod "leaving aside questions of privacy, too low a threshold could obscure significant matters in a blizzard of trivial details." Dywed hefyd y dylai’r rheoliad fod yn gymesur, a bod penderfyniadau sylweddol yn cael eu gwneud gan y Tŷ cyfan, y Pwyllgorau neu’r Gweinidogion, ac nid gan Aelodau unigol.

Camau i'r Pwyllgor eu cymryd:

Gwahoddir y Pwyllgor i ystyried a) a oes angen gwneud unrhyw newidiadau i'r trothwy presennol ar gyfer cofrestru cyfranddaliadau; a b) a ddylai'r adolygiad o'r Canllawiau ar Gofrestru a Datgan Buddiannau gynnwys ystyried gwelliannau i ystyried y pwyntiau a wnaed uchod.

Rhoddion

Argymhelliad GRECO:

iii. (i) providing clearer guidance for Members of the House of Commons and the House of Lords concerning the acceptance of gifts, and (ii) that consideration be paid to lowering the current thresholds for registering accepted gifts. The devolved institutions of Scotland, Wales and Northern Ireland should be invited similarly to take action in accordance with the recommendation (paragraff 46);

28. Ymddengys bod y rhan hon o'r adroddiad yn canolbwyntio ar yr arfer yn San Steffan, ond mae'r adroddiad yn nodi:

“The GET found very little by way of advice or counselling to Members as to their expected conduct when receiving gifts. In this connection, the GET notes that there is no general ban on Members accepting gifts similar to that applicable to UK Ministers, civil servants or judges where it is acknowledged that the receipt of a gift might be seen to compromise personal judgement or integrity. In the GET's view, it would be helpful if a clearer line would be drawn and explained to Members and the general public on such issues as, for example what can be considered an acceptable gift (e.g. what constitutes ordinary hospitality), the relationship between a benefit and paid advocacy etc.”

29. Mae'r adroddiad yn nodi bod y trothwy ar gyfer cofrestru rhoddion a dderbyniwyd yn sylweddol is yng Nghymru a Gogledd Iwerddon, gan

ei fod yn 0.5% o'r cyflog blynyddol gros sylfaenol, yn hytrach nag yn 1% o'r cyflog sy'n berthnasol yn Nhŷ'r Cyffredin ac yn yr Alban (h.y. £270 i Aelodau'r Cynulliad o'i gymharu â £575 i Aelodau o Senedd yr Alban a £660 i Aelodau Seneddol). Fodd bynnag, mae'n nodi bod y trothwy i Weinidogion y DU yn llawer is, ar £140, ac mae'n argymhell bod y sefydliadau datganoledig yn ystyried gweithredu'n unol â'r argymhelliad.

30. Mae cynigion gan Bwyllgor Safonau Tŷ'r Cyffredin i ostwng y trothwy ar gyfer Aelodau Seneddol, i roddion dros £300 o un ffynhonnell mewn blwyddyn unigol. Teimla'r Pwyllgor y dylai Aelodau Seneddol ddefnyddio'u barn i benderfynu pa un ai i dderbyn rhoddion a lletygarwch ai peidio, ac o ystyried yr amrywiaeth o amgylchiadau unigol, bod canllawiau cyffredinol yn anymarferol. Dylai Aelodau hefyd ystyried yn ofalus faint a phriodoldeb unrhyw roddion neu letygarwch a gânt, gan ystyried gofynion y Cod Ymddygiad a'r Canllawiau i'r Rheolau.
31. Mae'r canllawiau i Aelodau'r Cynulliad ar gofrestru buddiannau'n cynnwys adran ar gofrestru rhoddion – categori (iv). Nid yw'r Cynulliad yn cymryd yr un agwedd â Thŷ'r Cyffredin, gan fod pob rhodd yn cael ei hystyried ar wahân yn erbyn y trothwy, hyd yn oed os yw'n dod o'r un ffynhonnell. Penderfynodd y Pwyllgor Safonau Ymddygiad beidio â mabwysiadu'r agwedd 'gronol' hon tuag at gofrestru rhoddion yn y gorffennol. Mae'r canllawiau hefyd yn gofyn i Aelodau'r Cynulliad nodi y gallai cofrestru o dan y trothwy rhagnodedig arwain at wneud cymariaethau anffafriol rhwng y rheini sy'n bodloni gofynion y Ddeddf a'r Rheolau Sefydlog yn llawn a'r rheini sy'n dewis mynd y tu hwnt iddynt.
32. Mae categori (v) o'r gofrestr hefyd yn ei gwneud yn ofynnol i gofrestru unrhyw daliadau neu elw penodol gan gwmni cyhoeddus neu breifat – ac nid oes unrhyw drothwy ar gyfer hyn. Byddai angen nodi unrhyw roddion neu letygarwch nad ydynt i'w cofrestru o dan gategori

(iv) uchod, ond a roddwyd gan gwmni sydd â chysylltiadau cytundebol â'r Cynulliad, yn y categori hwn

33. Nid yw Cod Gweinidogol Cymru yn annog Gweinidogion i dderbyn rhoddion. Mae'n ei gwneud yn ofynnol i roi gwybod i'r Is-adran Gwasanaethau Gweinidogol am bob rhodd a bod manylion am roddion sy'n werth mwy na £260 yn cael eu cyhoeddi (sy'n gyson â'r trothwy ar gyfer holl Aelodau'r Cynulliad). Mae unrhyw newid i amodau Cod Gweinidogol Cymru yn fater i'r Prif Weinidog.

Camau i'r Pwyllgor eu cymryd:

Gwahoddir y Pwyllgor i ystyried a) a oes angen gwneud unrhyw newidiadau i'r trothwy presennol i Aelodau Cynulliad unigol gofrestru rhoddion a dderbyniwyd, a b) a oes angen gwneud unrhyw newidiadau i'r canllawiau i Aelodau'r Cynulliad ar dderbyn rhoddion.

Safonau lobïo a chanllawiau

Argymhelliad GRECO:

v. that the Codes of Conduct and the guidance for both the Commons and the Lords be reviewed in order to ensure that the Members of both Houses (and their staff) have appropriate standards/guidance for dealing with lobbyists and others whose intent is to sway public policy on behalf of specific interests. The devolved institutions of Wales and Northern Ireland should be invited similarly to take action in accordance with the recommendation (paragraff 53);

34. Mae paragraffau 49–53 o adroddiad GRECO yn ystyried y gwaharddiad ar eiriolaeth y telir amdano, lobïo a chysylltu â thrydydd parti. Gwneir argymhelliad GRECO beth bynnag fydd canlyniad y cynnig deddfwriaethol ar gofrestr statudol o lobïwyr. Gan nodi hynny, mae angen i'r ddwy ochr (y lobïwr a'r person sy'n cael ei lobïo)

weithredu'n briodol mewn perthynas â'i gilydd er mwyn i'r broses lobio fod yn hollol fuddiol.

Camau i'r Pwyllgor eu cymryd:

Mae'r Pwyllgor wedi cyflwyno adroddiad ar Lobio a Grwpiau Trawsbleidiol yn ddiweddar a gwnaeth argymhellion yn unol â'r argymhelliad hwn gan GRECO.

Sanctsiynau

Argymhelliad GRECO:

v. (i) reviewing the available disciplinary sanctions for misconduct of Members of the House of Commons and Members of the House of Lords in order to ensure that they are effective, proportionate and dissuasive; and (ii) better describing in the relevant guidance to the Codes of Conduct the applicable sanctions for breaches of the rules (paragraff 73);

35. Gwneir yr argymhelliad yng nghyd-destun cydnabyddiaeth GET bod "camau cadarnhaol" yn cael eu cymryd yn nau Dŷ'r Senedd yn y gobaith o geisio ennill rhywfaint o'r ymddiriedaeth a gollwyd yn yr achos yn ymwneud â threuliau". Nid yw'r argymhelliad wedi ei ymestyn i'r sefydliadau datganoledig, a beth bynnag, mae Pwyllgor Safonau'r Cynulliad a Chomisiynydd Cymru wedi adolygu trefniadau cosbi yng Nghymru ac wedi gwneud argymhellion yn ddiweddar i'r Pwyllgor Busnes o ganlyniad i hynny.³

Y camau nesaf

36. Mae'r adroddiad yn nodi: "Pursuant to Rule 30.2 of the Rules of Procedure, GRECO invites the authorities of the United Kingdom to submit a report on the measures taken to implement the above-

³ Adroddiad 04-13 y Pwyllgor Safonau Ymddygiad i'r Cynulliad ar Sanctsiynau, Mai 2013.

mentioned recommendations by 30 April 2014. These measures will be assessed by GRECO through its specific compliance procedure.”

37. Wrth fonitro cydymffurfiaeth, mae GRECO yn nodi: “A dynamic process of mutual evaluation and peer pressure is applied, combining the expertise of practitioners acting as evaluators and state representatives sitting in plenary.” Gweinyddiaeth Gyfiawnder y DU yw’r brif adran ar gyfer cysylltu â GRECO. Mae wedi dweud y bydd tîm GRECO yn cynnal adolygiad o’r cynnydd ond GRECO fydd yn penderfynu sut i wneud hyn. Gall fod drwy ddeialog â rhywun yn yr Adran Gyfiawnder, neu drwy siarad â phobl yn ehangach neu drwy gynnal ymweliad dilynol mwy ffurfiol.

Camau i’r Pwyllgor eu cymryd

38. Gwahoddir y Pwyllgor i ystyried y papur ac a yw’n dymuno cymryd unrhyw gam(au) pellach mewn perthynas ag argymhellion GRECO ar y pryd hwn.

Eitem 4

Standards of Conduct Committee

SOC(4)-04-13: Paper 2 - Tuesday 9 July 2013

Note from Commissioner for Standards

To: Members of the Standards Committee

1. The review of the Code of Conduct for Assembly Members continues. As I write this Note, the review of Lobbying and Cross Party Groups arrangements is well nigh complete, as are new provisions governing the powers of this Committee and the National Assembly in relation to available sanctions.
2. I respectfully suggest that the Committee now moves on to a specific review of the area of the Code dealing with **Registrable Interests**.
3. The appended paper, (authored by Gareth Rogers, Registrar, to whom I am indebted) raises issues of principle in this area which will require decision by the Committee, following which I would envisage a period of consultation with AMs and others, before a return report by me to the Committee, which can then finalise the proposals in this area.
4. Accordingly, I invite the Committee at this stage to:
 - **Note the content of the paper;**
 - **Resolve to consider the matters of principle raised therein at a meeting early in the new session;**
 - **To invite Gareth Rogers and myself to be present at such meeting, to answer queries and questions raised by the Committee in the course of its deliberations.**
5. In line with the provisional decisions of the Committee in March, I also append an initial draft of the **Preamble & Section 1, "The Offences"**, of the proposed new Code which again I would expect to be putting out to consultation in the Autumn of this year. Please note that it is the general format & content of these sections of the draft about which, at this stage, I am inviting comment from the Committee – the precise wording will require significant further revision.
6. Accordingly, I invite the Committee to
 - **Provisionally approve (or amend and approve) the format of the Preamble & Section 1 of the proposed new Code.**

Gerard Elias QC

Commissioner for Standards

02.07.2013

Standards of Conduct Committee

SOC(4)-04-13: Paper 2 - Annex A - Tuesday 9 July 2013

Draft/ Code of Conduct for Assembly Members

Preamble

1 The essential purpose of this Code of Conduct is to uphold the reputation of the National Assembly for Wales and to provide the openness and accountability necessary to reinforce public confidence in the integrity of Members of the National Assembly in the way in which they discharge their important public duties and responsibilities.

This Code applies to all Members of the National Assembly for the time being. Members must comply with it.

The Code (Section 1) sets out the **specific standards of conduct** expected of all Members in the discharge of their duties.

The Code (Section 2) sets out the **legislation and/or Standing Orders** which give rise to those specific standards.

The Code (Section 3) provides **guidance to Members**, where such is considered appropriate. **Assembly Members should note, however, that the responsibility to be aware of the relevant provisions of the Code and for compliance with them, rests upon each individual member.**

The Code (Section 4) provides for a range of **Sanctions** to be available to the National Assembly where any Member is found to be in breach of the provisions of the Code.

2 For the avoidance of doubt, **the Principles underpinning the Code of Conduct, and the benchmark by which specific standards of conduct will be judged, are the Seven Principles of Conduct (usually referred to as the "Nolan Principles") identified by the Committee on Standards in Public Life.**

In their latest Report (2013) these are summarised as follows:

A **Selflessness**

Holders of public office should act solely in terms of the public interest.

B **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

C **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias

D **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

E **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

F **Honesty**

Holders of public office should be truthful

G **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

3 **Enforcement**

Allegations of non compliance with any aspect of the Code of Conduct will be dealt with in accordance with the processes set out in the ***National Assembly for Wales' Procedure for Dealing with Complaints against Assembly Members***, as approved by the Assembly's Committee on Standards of Conduct.

Section One

Standards of Conduct

Personal Conduct

A Member of the National Assembly

- 1 Must observe the seven “Nolan Principles”.
- 2 Must not engage in any conduct which brings or tends to bring the National Assembly into disrepute.
- 3 Must act honourably and with personal integrity.

Specific Conduct

A Member of the National Assembly

- 4 Must not accept reward of any kind , or the promise of reward of any kind, for exercising parliamentary (Assembly) influence.
- 5 Must not, either in Plenary or in Committee, promote any matter, ask any question or vote on any order or motion, in return for payment or material benefit or the promise of such payment or benefit.
- 6 Must register in the Register of Members’ Interests all relevant interests so that interest which might be thought to influence their actions are transparent.
- 7 Must, prior to taking part in any Assembly proceedings, declare any relevant interest in the context of the business before Plenary or Committee, such that a balanced view may be taken of the Member’s arguments.
- 8 Must not vote in any proceedings of the National Assembly if, in relation to any interest which is required to be registered, the vote on such proceedings may result in the Member receiving a direct financial advantage greater than that accruing to the public generally by the decision in question.
- 9 Must comply with, and claim only, the entitlements to salaries and allowances as approved by the Assembly from time to time .
- 10 Must not misuse Assembly Resources.
- 11 Must not seek access to Information from the National Assembly save by the use of the *Code of Practice on Public Access to Information*.
- 12 Must not disclose confidential material, including but not limited to confidential material from Assembly Committees, without consent, unless required to so by law.
- 13 Must behave appropriately and with mutual respect and professionalism in all dealings with Assembly and Commission staff and have regard to the principles of the relevant Staff and Civil Service Codes.

Standards Investigations

A Member of the National Assembly

- 14 Must cooperate at every stage with any investigation into their conduct carried out by the Commissioner for Standards or the Committee on Standards of Conduct.
- 15 Must not lobby the Commissioner for Standards or any member of the Standards Committee in a manner calculated and/or intended to influence their consideration of a complaint.
- 16 Must not deliberately misrepresent any recommendation of the Committee on Standards of Conduct and/or the outcome of any complaint it has considered.

Section Two

Standing Orders and Legislation

Section Three

Guidance to Assembly Members

Section Four

Sanctions

Gerard Elias QC

Commissioner for Standards 02.07.2013

Standards of Conduct Committee

SOC(4)-04-13: Paper 2 – Annex B – Tuesday 9 July 2013

Register of Members' Financial Interests

1. The purpose of this paper is to inform the Standards of Conduct Committee of specific issues and difficulties that have arisen in relation to the Rules on the Registration and Declaration of Members' Interests and to invite the Committee to consider a review of the Rules on Registration and Declaration of Members' Interests, to be prioritised as part of the current review of standards procedures.

Background

2. Section 36 of the Government of Wales Act 2006 (the Act) requires the Assembly's Standing Orders to include provision for a register of Members interests and for that register to be published and made available to the public. The specific requirements for the Registration of Members' Interests are set out in the Assembly's Standing Order 2. The Standing Order requirements are supplemented by the 'Guidance on the Registration and Declaration of members' Financial and Other Interests', which is approved by resolution of the Assembly in Plenary. Standing Order 2 and the detailed Guidance are attached at Annex 1 and 2. Throughout this paper the Standing Order requirements and the Guidance are referred to collectively as the Rules on Registration and Declaration. Failure to correctly register Members' interest is potentially a criminal offence under Section 36(7) of the Act.

3. In accordance with Standing Order 22.2, the Standards Committee must "supervise the arrangements for the compilation, maintenance and accessibility of the Register of Members' Interests...and the form and content of the Register and the Records". Under this remit the Committee has responsibility for preparing and maintaining the Rules on Registration and Declaration of Members' Interests.

4. In 2001, the Standards Committee commissioned an overarching review of the Standards regime of the National Assembly for Wales, which was undertaken by Professor Diana Woodhouse of Oxford Brookes University¹. This review, and its recommendations, laid the foundation for the current Rules on Registration and Declaration, as well as the Code of Conduct and the Committee's Complaints Procedure.

¹ The Report of the Woodhouse review is available on the Assembly's website: <http://www.assemblywales.org/bus-home/bus-third-assembly/bus-committees/bus-committees-previous-committees/bus-committees-first-std-home/bus-committees-first-std-reports.htm>

5. Responsibility for providing advice to Members on the interpretation of the Rules lies with the designated Registrar of Members' Interests. This role is currently undertaken by the Head of Legislation and Chamber Services, with the day to day advice provided on the Registrar's behalf by the Table Office.

General Review of the Rules

6. The Rules on Registration and Declaration have not been reviewed or revised for a number of years. There is a need to update the Rules to reflect correct and current terminology. For example, in a number of categories the Rules refer to 'the Assembly' where it would be more appropriate to now refer to the Welsh Government and/or the Assembly Commission (in practice, the rules are interpreted to refer to the Welsh Government / Commission but changes should be made formally to Standing Orders and Guidance).

7. This paper also outlines a number of areas that have caused Members difficulty, or where concern has been raised on the content of the Rules. Following consideration of these issues by the Committee, there may also be a need to revise the Rules to reflect any changes proposed.

Q1. Is the Committee content for the Registrar to make minor amendments to the Guidance to use correct terminology where needed?

Q2. The Committee is invited to consider reviewing the Rules and guidance on Registration and Declaration to address the issues set out in this paper and any others considered appropriate, as part of the Committee's review of standards procedures.

Specific Issues Identified by the Registrar

8. In the final period of the Third Assembly, and during the early stages of the Fourth Assembly, a number of issues were experienced by the Registrar's Office in relation to the rules on the Registration of Members' Interests. These issues were predominantly raised by Assembly Members and relate specifically to how the Rules affected them. However, queries have also been received from outside the Assembly, and issues have been raised in the media.

9. The specific issues identified are highlighted below. In fulfilling our role as Registrars, we are able to provide Members with advice on how the current Rules should be interpreted, taking advice from Legal Services where appropriate. The Committee may, however, wish to consider the principles that lie behind these issues and decide whether they wish to make minimal changes to strengthen the Rules; or more substantial changes as part of a wider review of the Rules.

Category (ii) Remunerated Employment, Office, Trade, Profession, etc.

Standing Order Requirement:

Employment, office, trade, profession or vocation (apart from membership of the Assembly) for which the Member or, to the Member's knowledge, the Member's partner or any dependent child of the Member over the age of sixteen, is remunerated, or in which the Member or, to the Member's knowledge, the Member's partner or any dependent child of the Member over the age of sixteen, has any pecuniary interest.

10. The status of Pensions within Category (ii) has been an issue for some time. Some Members choose to register the receipt of pensions others have chosen not to.

11. The Standing Orders and the Rules are silent on pensions, and Members are therefore required to interpret the Rules in this respect. The current Rules do not provide a definition of what constitutes 'remuneration', and it is therefore open to interpretation.

12. The Standing Orders state that Members must register details of "Employment, office, trade, profession or vocation (apart from membership of the Assembly), for which the Member is remunerated or in which the Member has any pecuniary interest". The Rules go further and suggest that Members should also register any sources of remuneration which do not fall clearly within any other category.

13. In relation to a pension from a particular organisation, it is clear that the pension is being paid because of past employment. It can therefore be argued that although a Member is in receipt of a pension, it is not remuneration for 'employment, office, trade, etc.' as that employment is no longer current. However the Rules state that Members should also register any source of remuneration that does not clearly fall within any other category. The receipt of the pension could therefore be regarded as remuneration that does not fall within any other category, so there could be a case to register the pension under this category.²

Q3. The Committee is invited to consider whether the definition of "remuneration" should be clarified to make the position on pensions more clear.

Category (v) Contracts with the Assembly

Standing Order Requirement

Any remuneration or other material benefit which a Member or, to the

² The UK Parliament Rules on Registration specifically state that "Pensions are not in themselves registrable, but identifiable holdings in a self-invested personal pension fund, if of registrable value, are registrable...".

Member's knowledge, the Member's partner or any dependent child of the Member, receives from any public or private company or other body which has tendered for, is tendering for, or has, a contract with the Assembly.

14. Concern has been raised by Members that it is not always easy to establish whether any 'public or private company or other body' from which they receive some form of remuneration or material benefit 'has tendered for, is tendering for, or has, a contract with the Assembly'. Members have questioned whether it is a reasonable requirement in particular when it may not be possible to establish this due to the commercial confidentiality associated with specific contracts.

16. One way of addressing this issue would be to add a caveat to the Rules (as in other Categories) to specify that registration is required is **'to the Member's knowledge'** the body has tendered for, is tendering for, or has, a contract with the Assembly. This form of words is used in relation to the interests of partners and dependent children of Members.

16. There is also **no** threshold associated with this category, and therefore remuneration or other material benefit **of any amount** would need to be registered, if it was received from a 'body' that has tendered for, is tendering for, or has, a contract with the Assembly. This would therefore include any gifts or hospitality which are not registrable under Category (iv) as they fall below the threshold³ for that particular Category.

Q6. The Committee is invited to consider whether (a) the rules for category (v) should be revised to make it clear that any contract must be 'to the Members' knowledge' and (b) a threshold be applied to this category.

Category (vi) financial sponsorship

Standing Order Requirement

Financial sponsorship (a) as a candidate for election to the Assembly, where to the knowledge of the Member the sponsorship in any case exceeds 25 per cent of the candidate's election expenses, or (b) as a Member of the Assembly by any person or organisation. In registering such an interest, a Member must state whether any such sponsorship includes any payment to the Member or any material benefit or advantage.

17. This category, and the associated Rules, are both difficult to understand and difficult to meet in practice. A number of members experienced difficulty in determining whether financial sponsorship received met the criteria stated in the Rules. The Rules state that a Member is required to register/declare the

³ The threshold for registering Gifts, Hospitality, material benefit or advantage under category (vi) is 0.5 per cent of the basic gross annual salary for an Assembly Member, which currently equates to approx. £269.

source of **any contribution** to his or her election expenses in excess of 25 per cent of the total of such expenses.

18. Members must also register and declare **any substantial donations** which are made by an organisation or company on a regular basis to their constituency party **when such donations⁴ are linked directly to their own candidacy or membership of the Assembly**. However, donations made directly to a constituency party as an expression of general political support, not linked to the Member's candidacy or membership of the Assembly, do not come within the Assembly's resolution.

19. In many of the discussions the Registrar had with Members, there was some uncertainty whether contributions made to a constituency party were directly linked to individual candidacy or as a general expression of support. In most cases therefore Members have taken a 'blanket approach' and registered that their election expenses were met by the relevant political party.

20. Responsibility for ensuring that registrations are made correctly lies wholly with Assembly Members, and in relation to this category Members must try to establish whether contributions made to the party relate directly to their candidacy. The Registrar cannot give advice on whether registration is formally required without knowing the nature of the contributions made.

Q8. The Committee is invited to consider whether the Rules should be reviewed to clarify the requirements for Members to register financial sponsorship.

Category (ix) shareholdings

Standing Order Requirement

The names of companies or other bodies in which the Member has, either alone or with or on behalf of the Member's partner or any dependent child of the Member, a beneficial interest, or in which, to the Member's knowledge, the Member's partner or a dependent child of the Member has a beneficial interest, in shareholdings of a market value greater than one per cent of the issued share capital, or less than one per cent but more than an amount specified in any resolution of the Assembly⁵.

21. This category generally works well and the Rules are clear. However, for the first time in the Fourth Assembly, two issues were raised which related to 'blind trusts' and 'share options'.

⁴ The Assembly resolved on 19th May 1999 that "donations are to be regarded as financial sponsorship if such donations in any year are directly linked to a person's candidacy for election to, or membership of, the Assembly and amount to at least £500 in value (and references above to donations include a single donation)".

⁵ The Assembly resolved on 10 May 2006 that "registration is required in respect of shareholdings with a market value less than 1% of the issued share capital where the value of those shareholdings exceeds 50 per cent of the basic gross annual Assembly salary for an Assembly Member" at the preceding 5th April.

In relation to 'blind trusts' a question was asked as to whether information regarding shares held in 'blind trusts' should be registered.

22. A 'blind trust' is generally accepted as a trust in which the executors have full discretion over the assets, and the trust beneficiaries have no knowledge of the holdings of the trust. Blind trusts are created to avoid any potential conflict of interest between the duties of a public officeholder and his or her choice of investment portfolio. In practice therefore it is not possible for a Member to register the names of any companies or other bodies in which they hold shares (as required by the Rules) as this information would not be known to the Member through a Blind Trust. However, the issue and use of blind trusts has generated some criticism in the UK Parliament particularly in relation to UK Ministers.

23. The Assembly's current Rules are silent on this matter. As such Members who hold shares in a blind trust are not required to register the blind trust itself. Members are unable to register information on specific names of companies (as required by the current Rules) as this information will not be known.

The second matter relates to 'share options'. The Guidance on shareholdings does not go in to any detail on share options other than to state that interests in shareholdings include share options. As there are no different or specific rules relating to share options, then the approach we have taken is that the specific provisions of the guidance must relate to options in the same way as to shareholdings. However, valuing share options is not straight forward.

Where a person holds a share options they have the 'option' to buy or sell shares at a pre-agreed price. I.e. they could be bought at a pre-agreed price which is below the current market value, but once acquired would be worth the current market value. However, shares already purchased through certain 'option' schemes could also be sold at a pre-agreed price should the value drop. This makes it very unclear when share options should be valued in different circumstances.

In considering this, there may be scope to add further detail to the guidance in relation to share options to clarify the situation. However, this may require seeking specific financial advice to ensure that the interpretation of share options is correct and consistent with current practice, etc.

Q11. The Committee is invited to consider whether the Rules be amended to (a) require members to Register that they hold shares in a blind trust; and (b) add clarity over the registration of share options.

Category (x) Public Bodies

Standing Order Requirement

Paid or unpaid membership or chairmanship by the Member or, to the Member's knowledge, the Member's partner or any dependant child of the Member, of any body funded in whole or in part by the Assembly⁶.

24. There are a number of issues associated with this category that would benefit from clarification.

25. The guidance on this category states that: 'the Assembly has extensive funding powers in relation to public bodies and any formal association that a Member has with such bodies as a member or chair should be registered. Where the Assembly Member or, to the Member's knowledge, the Member's partner or any dependant child of the Member, has an association with a voluntary body or other body as a member or a chair which receives funding from the Assembly, that should be registered/declared.'

26. There has always been difficulty in assessing whether particular 'bodies' are in receipt of Assembly funds. For some bodies it can be clear, but for others it is not. There is added difficulty as bodies could also be indirectly funded, and therefore the link back to Assembly funds can be difficult to trace. This has led to Assembly Members registering membership of bodies that may not require registration.

27. It is also not clear what 'membership' means as there is no definition. The Rules relate to Members having an association as a 'member' or 'chair' – but should membership of a body include all positions that would constitute an association (for example patron or president). Again many Members have chosen to register their positions as patron / president although they argue that this is not strictly membership of a body.

28. The guidance informs Members that they can seek advice from the Presiding Officer / Clerk, etc. on whether a body is funded by the Assembly. This is the only instance where the Guidance suggests that Members may rely on advice from the Presiding Officer. As noted above, it may not always be possible to establish whether a 'body' is in receipt of Assembly funds, and therefore not possible for the Presiding Officer / Clerk to give definitive advice. It is ultimately a members own responsibility to ensure compliance with the rules, and this may need to be flagged up more clearly in the guidance.

Q13 – The Committee is invited to consider whether the Rules should be amended to include a clear definition of 'membership'?

Q12 – The Committee may wish to consider whether the guidance in this area should be revised to make it clear that although the Presiding

⁶ A body funded wholly or in part by the Assembly, means any body that receives funding from the Welsh Assembly Government or the Assembly Commission.

Officer / Clerk can give advice, responsibility ultimately rests with the Member.

Registration of Dependent Children

30. Several Members have expressed concern that the current Rules require Members to register the interests of their 'dependent children'. A dependent child is defined as "any person who, at the time of registration is under the age of sixteen or is under the age of nineteen and receiving full-time education by attendance at a recognised educational establishment...and is a child of the Member...".

31. Particular concern has been expressed in relation to the **employment** of dependent children, although there has been some concern regarding the registration of the interests of dependent children generally. Children can in practice hold part time employment from the age of thirteen, and questions have been raised as to whether it is appropriate to register the employment of children of that age. The National Assembly for Wales is the only legislature in the UK that requires the registration of the employment of dependent children.

32. There are currently three members who have registered the employment of their dependent children. Further registrations were made in the Second and Third Assemblies. Although the details entered in the Register can be made relatively general, it will always be clear that it is the employment of the dependent child that is being registered.

Q14. Is the Committee content that the interests of dependent children should be registered, and if so is the definition of dependent children still appropriate – should the age limit be changed?

Receipt of public funds by Members

33. The Registrar received a number of queries in the Third Assembly, and again in the Fourth Assembly, relating to the receipt of 'public funds' by Assembly Members or their partners, and whether these should be specifically and/or separately registered. One specific area that highlights this issue is the receipt of subsidies by farmers, which is one issue that was highlighted in the press in the Third Assembly, and which generated some criticism from outside organisations.

34. This was carefully considered by the Registrar's office in the Third Assembly, as the Rules are silent on this particular matter. In relation to the Rules that are in place, we are clear that Assembly Members are not required to register specifically or separately the fact that they receive farming subsidies. Members in the Third Assembly and in the Fourth Assembly have correctly Registered details of their farming businesses, they are not required to identify or register the subsidies they receive.

35. The case above highlights one area that affects a number of Assembly Members, however this issue is not limited to subsidies received by farmers as the principle is the same for any 'public funds' received by Assembly Members or their partners. The Committee may wish to consider whether this is a matter than requires more detailed consideration.

Q16. The Committee is invited to consider whether the current Rules should be reviewed, in particular whether:

(a) they should include a specific statement that receipt of public funds are not required to be registered if part of overall remuneration received for employment already registered; and (b) whether the receipt of specific 'public funds' should be registered specifically and/or separately by Assembly Members?

Agreements for the Provision of Services – SO2.12

36. The Rules contain provisions that require Members to deposit with the Presiding Officer a copy of any agreement they enter into for the provision of services in the Member's capacity as an Assembly Member. Such an agreement would include, for example, a continuing paid commitment to produce a newspaper column or to take part in a radio or television programme about matters concerning the Assembly – but not to occasional engagements where there is no on-going commitment to provide a service, such as ad hoc current affairs or news interviews or intermittent panel appearances.

37. The Registrar's office has not received any queries in respect of this provision and no issues have been raised. No formal agreements have been deposited with the Presiding Officer in accordance with the Rules.

38. The fact that no Member has deposited an agreement may simply be that no such agreements have been entered into, but the concern is that it could be due to a lack of clarity on the Rules.

Q19. The Committee is invited to consider whether the Rules on Agreements for the Provision of Services should be clarified.

Declarations of Interests

Standing Order Requirement

2.6 In the circumstances specified in Standing Order 2, before taking part in any Assembly proceedings, a Member must make an oral declaration of any financial interest which he or she has, or may be expecting to have, or which, to the Member's knowledge, the Member's partner or any dependent child of

the Member has, or may be expecting to have in any matter arising in those proceedings.

2.7 An oral declaration under Standing Order 2.6 must be made in relation to any interest which is specified in paragraph 5 of the Annex to Standing Order 2 if a particular decision in those proceedings might result in a direct financial advantage to the Member, or, to the Member's knowledge, the Member's partner or any dependent child of the Member, greater than that which might accrue to persons affected by the decision generally.

39. The current Rules, as set out in Standing Order 2, provide very limited parameters for the formal declaration of interests before taking part in Assembly proceedings. In practice, the wording of current Standing Orders means that it is highly unlikely that there will ever be an occasion where a formal declaration is required. The Rules are limited as Members are only required to make a formal declaration 'if a **particular decision in those proceedings** might result in a **direct financial advantage** to the Member ... **greater than that which might accrue to persons affected by the decision generally.**'

40. The nature of Assembly proceedings has changed since the Rules were established, particularly due to formal separation of Government and legislature through the Government of Wales Act 2006. Decisions made in Assembly proceedings now differ in nature with the Welsh Ministers having delegated responsibility through the 2006 Act. Very few decisions are likely to result in a direct financial advantage to a Member over and above the general population.

41. The Committee may wish to consider whether the Rules on the Declaration of Interests are fit for purpose, or whether a wider, perhaps more general, approach should be taken.

Q21. The Committee is invited to consider whether the Rules for the Declaration of Interests prior to taking part in Assembly Proceedings should be reviewed.

Recommendation

42. The Committee is invited to:

a) consider the specific issues and difficulties that have arisen in relation to the Rules on the Registration and Declaration of Members' Interests, as highlighted in the paper; and

b) agree to prioritise a wider review of the Rules on Registration and Declaration of Members' Interests, and the associated guidance, as part of the current review of standards procedures.

**STANDING ORDER 2 – Financial and Other Interests of Members
Registration of Financial and Other Interests**

2.1 The Presiding Officer must maintain and publish a Register of Interests of Members and copies must be available for inspection by Members and by the public.

2.2 The interests set out in the Annex to Standing Order 2 must be registered in the Register of Interests by completion of a form prescribed by the Presiding Officer.

2.3 Within eight weeks of a Member taking the oath of allegiance or making the corresponding affirmation, he or she must complete the form prescribed by the Presiding Officer, setting out all the particulars of the interests required to be registered by Standing Order 2; and must sign the form and deliver it to the Clerk.

2.4 Within four weeks of any change occurring, a Member must notify the Presiding Officer of the change in his or her registered interests by completing the form prescribed by the Presiding Officer and must sign the form and deliver it to the Clerk.

2.5 A Member may deliver the form referred to in Standing Order 2.3 or 2.4 by taking it to the Clerk or arranging for another person to do so or by post, but the form is not to be regarded as having been delivered until it is received by the Clerk.

Declaration of Interests before Taking Part in Any Assembly Proceedings

2.6 In the circumstances specified in Standing Order 2, before taking part in any Assembly proceedings, a Member must make an oral declaration of any financial interest which he or she has, or may be expecting to have, or which, to the Member's knowledge, the Member's partner or any dependent child of the Member has, or may be expecting to have in any matter arising in those proceedings.

2.7 An oral declaration under Standing Order 2.6 must be made in relation to any interest which is specified in paragraph 5 of the Annex to Standing Order 2 if a particular decision in those proceedings might result in a direct financial advantage to the Member, or, to the Member's knowledge, the Member's partner or any dependent child of the Member, greater than that which might accrue to persons affected by the decision generally.

Lobbying for Reward or Consideration

2.8 A Member must not advocate or initiate any cause or matter on behalf of any body or individual in any Assembly proceedings, or urge any other

Member to advocate or initiate any cause or matter in any such proceedings, in return for any payment or benefit in kind, direct or indirect, which the Member, or to the Member's knowledge his or her partner or any dependent child of the Member, has received or expects to receive.

Prohibition of Voting

2.9 Where a Member is required under Standing Order 2.6 to declare an interest in a matter before taking part in any Assembly proceedings, that Member must not vote on any proposal relating to that matter in those proceedings. Standing Order 2.9 does not apply in relation to the exercise of a casting vote under Standing Order 6.20.

Exclusion of Members and Withdrawal of Rights and Privileges

2.10 After consideration of any report put before it by the committee responsible for the functions specified in Standing Order 22 relating to a Member's compliance with Standing Order 2, the Assembly may, on a motion proposed by the chair of the committee responsible for the functions specified in Standing Order 22, resolve to exclude that Member from any Assembly proceedings for a period specified in the motion.

2.11 During the period of a Member's exclusion, he or she is not entitled to receive any salary from the Assembly and is not permitted to attend any Assembly proceedings.

Agreements for the Provision of Services

2.12 Any Member who has, or who proposes to enter into, an agreement involving the provision of services in the Member's capacity as a Member must ensure that the agreement:

- (i) is not in breach of Standing Order 2.8;
- (ii) is in writing;
- (iii) indicates the nature of the services to be provided; and
- (iv) specifies the payment or benefit to be received.

2.13 As soon as may be after entering into such an agreement, and in any event within four weeks of that date, the Member must provide the Presiding Officer with a copy of the agreement, and the copy must be open to inspection by other Members and by the public.

STANDING ORDER 2 – Financial and Other Interests of Members: Annex
The interests which are to be registered in the Register of Interests of
Members and which for the purposes of Standing Order 2.6 are to be
declared before taking part in any Assembly proceedings.

General

1. Members should, in listing their registrable interests, have regard to any relevant resolutions, codes of practice or guidance notes which the Assembly may have adopted on this matter.

2. Any remunerated activity in the areas of public relations and political advice and consultancy relating to the functions of the Assembly must be included in that part of the register relating to remunerated employment, office or profession. Such activity includes any action connected with any Assembly proceedings, sponsoring of functions in the Assembly buildings, and making representations to the government, or any member of that government or of its staff.

3. The majority of the interests specified in the categories below include a reference to interests independently possessed by or given to the partner or any dependent child of the Member, and these must also be registered if such interests are known to the Member.

4. For the purposes of the registration and declaration of interests under Standing Order 2 specified in this Annex:

(i) a Member's 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; and

(ii) a dependent child is any person who, at the time of registration is under the age of sixteen or is under the age of nineteen and receiving full-time education by attendance at a recognised educational establishment and is:

- (a) a child of the Member;
- (b) a step-child of the Member by marriage or by civil partnership;
- (c) a child legally adopted by the Member;
- (d) a child whom the Member intends legally to adopt; or
- (e) a child who, for at least the previous six calendar months, has been financially supported by the Member.

The Registrable Interests

5. The registrable interests are:

- (i) remunerated directorships held by the Member or, to the Member's knowledge, the Member's partner or any dependent child of the Member, in public and private companies including directorships which are individually unremunerated but where remuneration is paid through another company in the same group;
- (ii) employment, office, trade, profession or vocation (apart from membership of the Assembly) for which the Member or, to the Member's knowledge, the Member's partner or any dependent child of the Member over the age of sixteen, is remunerated, or in which the Member or, to the Member's knowledge, the Member's partner or any dependent child of the Member over the age of sixteen, has any pecuniary interest;
- (iii) the names of clients when the interests referred to in paragraphs (i) and (ii) above include services by the Member or, to the Member's knowledge, the Member's partner or any dependent child of the Member over the age of sixteen, which arise out of, or are related in any manner to, his or her membership of the Assembly;
- (iv) gifts, hospitality, material benefits or advantage above a value specified in any resolution of the Assembly received by the Member or, to the Member's knowledge, the Member's partner or any dependent child of the Member, from any company, organisation or person which arise out of, or are related in any manner to, membership of the Assembly;
- (v) any remuneration or other material benefit which a Member or, to the Member's knowledge, the Member's partner or any dependent child of the Member, receives from any public or private company or other body which has tendered for, is tendering for, or has, a contract with the Assembly;
- (vi) financial sponsorship (a) as a candidate for election to the Assembly, where to the knowledge of the Member the sponsorship in any case exceeds 25 per cent of the candidate's election expenses, or (b) as a Member of the Assembly by any person or organisation. In registering such an interest, a Member must state whether any such sponsorship includes any payment to the Member or any material benefit or advantage;
- (vii) subject to any resolution of the Assembly, overseas visits made by the Member or, to the Member's knowledge, the Member's partner or any dependent child of the Member, which arise out of, or are related in any manner to, membership of the Assembly where the cost of any such visit has not been wholly borne by the Member or from funds provided by the Assembly or by Parliament or by any organisation of which the Assembly is a member;

(viii) any land and property of the Member or, to the Member's knowledge, the Member's partner or any dependent child of the Member, which has a substantial value as specified in any resolution of the Assembly or from which a substantial income is derived other than any home used for the personal residential purposes of the Member, the Member's partner or any dependent child of the Member;

(ix) the names of companies or other bodies in which the Member has, either alone or with or on behalf of the Member's partner or any dependent child of the Member, a beneficial interest, or in which, to the Member's knowledge, the Member's partner or a dependent child of the Member has a beneficial interest, in shareholdings of a market value greater than one per cent of the issued share capital, or less than one per cent but more than an amount specified in any resolution of the Assembly;

(x) paid or unpaid membership or chairmanship by the Member or, to the Member's knowledge, the Member's partner or any dependent child of the Member, of any body funded in whole or in part out of funds provided by the Assembly.

Guidance for Assembly Members on the Registration, Declaration and Recording of Members' Financial and Other Interests.

[Available in the reference document]

LLYWYDD
PRESIDING OFFICER
Rosemary Butler AC/AM

Eitem 5a

Llywydd
Presiding Officer

Mick Antoniw AM
Chair, Standards Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

Your ref:
Our ref: PO470/RB

5 June 2013

Dear Mick

Report on Lobbying and Cross-Party Groups

Thank you for your letter of 1 May enclosing a copy of your report. I was very pleased to note its recommendations which further strengthen our arrangements in relation to lobbying and cross-party groups and would like to take this opportunity to thank the Standards of Conduct Committee for its work.

I note that the report will be discussed by the Assembly in Plenary on 26 June alongside the new 'Guidance on lobbying and access to Assembly Members' and 'Rules for the Operation of Cross-Party groups'. This is to let you know that I am content with what the Standards Committee has proposed and accept those recommendations that relate to the Assembly.

Rosemary

Rosemary Butler AM, Presiding Officer

Croesewir gohebiaeth yn y Gymraeg a'r Saesneg/We welcome correspondence in both English and Welsh

Cynulliad Cenedlaethol Cymru
Bae Caerdydd, Caerdydd CF99 1NA
Swyddfa.Breifat@cymru.gov.uk
www.cynulliadcymru.org
T +44 (0)29 2089 8230

National Assembly for Wales
Cardiff Bay, Cardiff CF99 1NA
Private.Office@wales.gov.uk
www.assemblywales.org
T +44 (0)29 2089 8230

Bwrdd Taliadau Remuneration Board



Mick Antoniw AM
Chair - Standards of Conduct Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

24 June 2013

Dear Mick

Thank you for your letter of 1 May inviting the National Assembly for Wales Remuneration Board to consider the findings of your Committee's recent inquiry into Lobbying and Cross-Party Groups. We discussed the matter at our meeting last week (21 June). I am aware that your report is scheduled for debate in the Assembly this week and would like to share our views with you prior to the debate. The Board agrees with the thrust of your Committee's position on the use of allowances for participation in Cross-Party Groups and your call for greater clarity regarding this matter.

The system of allowances in place must enable Assembly Members to fulfil their duties in each area of their work. As with all use of the resources made available to Assembly Members through our *Determination on Members' Pay and Allowances*, allowances are paid or claims reimbursed for expenses necessarily incurred by Members in connection with the performance of their duties. The role of an Assembly Member will include participating in formal business at the Assembly, representing constituents and engaging with civil society.

Bae Caerdydd
Caerdydd
CF99 1NA
Cardiff Bay
Cardiff
CF99 1NA

Ffôn/Tel: 029 2089 8598
E-bost/Email: Remuneration@wales.gov.uk

Although Cross-Party Groups at the Assembly are not considered a part of formal business, they are a mechanism for engaging with interest groups from a range of sectors and can play a valuable role in raising awareness of issues. As such, participation in such groups is, in principle, an appropriate Assembly activity. It is our view that allowances payable through our Determination may be used to facilitate participation in a formal activity of the group, for example a claim for overnight accommodation or travel to allow attendance at a Cross-Party Group meeting or event.

Cross-party groups are mostly organised and funded by external organisations and if they are adopted the rules developed by your Committee will increase transparency. Assembly Members must take personal responsibility for all expenses incurred and must exercise judgment in assessing the relevance of any activity being carried out to their duties as Assembly Members. Our Determination also expects Members to be committed to the principles of openness and transparency. All claims are published on the Allowance Publication System which informs the public about expenditure incurred by Members.

We will ensure that there is clarity regarding this matter and issue guidance if necessary.

Thank you for bringing the matter to our attention. I hope our comments will assist and inform the debate.

Yours sincerely

A handwritten signature in black ink, appearing to read 'George Reid', with a stylized flourish at the end.

The Rt Hon Sir George Reid
Cadeirydd/Chair

PRESIDING OFFICER
Rosemary Butler AC/AM



Llywydd
Presiding Officer



Mick Antoniw AM
Chair
Standards of Conduct Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

22 May 2013

Dear Mick

Thank you for your letter enclosing a copy of the Standards Committee's report on Sanctions published on 15 May 2013. The Business Committee considered the recommendation made by the Standards of Conduct Committee in its report at its meeting this week.

Business Managers gave their agreement in principle to review the Standing Orders in line with the Committee's recommendation.

Before we consider firm proposals to amend Standing Orders however, I would be grateful if you would clarify whether the Standards Committee wants the sanction of exclusion to be extended only to breaches of the Code of Conduct, or to all matters under Standing Order 22.2(i).

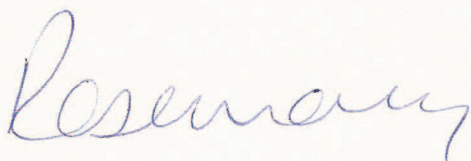
Business Managers indicated that their preferred approach would be to give the Standards Committee the power to recommend the sanction of in relation to all the matters listed in SO 22.2(i), rather than in relation to breaches of the Code of Conduct only. This would give the Committee maximum discretion when recommending sanctions. It would also set out clearly in Standing Orders to what breaches sanctions may apply, rather than by reference to the Code of Conduct.

Croesewir gohebiaeth yn y Gymraeg a'r Saesneg/We welcome correspondence in both English and Welsh

Cynulliad Cenedlaethol Cymru
Bae Caerdydd, Caerdydd CF99 1NA
Swyddfa.Breifaf@cymru.gov.uk
www.cynulliadcymru.org
T +44 (0)29 2089 8230

National Assembly for Wales
Cardiff Bay, Cardiff CF99 1NA
Private.Office@wales.gov.uk
www.assemblywales.org
T +44 (0)29 2089 8230

I look forward to hearing from you.



**Rosemary Butler AM, Presiding Officer
Chair, Business Committee**

Y Pwyllgor Safonau Ymddygiad

Standards of Conduct Committee



Cynulliad National
Cenedlaethol Assembly for
Cymru Wales

Rosemary Butler AM
Presiding Officer
National Assembly for Wales
Cardiff Bay
CF99 1NA

Bae Caerdydd / Cardiff Bay
Caerdydd / Cardiff
CF99 1NA

6 June 2013

Dear Presiding Officer

Standards of Conduct Committee - Report on Sanctions

Thank you for your letter of 22 May, confirming that Business Managers have agreed in principle to review the Standing Orders in line with the Committee's recommendations.

I can confirm that the Committee would like the power to recommend the sanction of exclusion in relation to all the matters listed in S.O. 22.2(i), rather than in relation to the Code of Conduct only. As your letter states, this would give the Committee the maximum discretion it seeks when recommending sanctions, and would also serve to set out clearly in Standing Order 22 the breaches to which sanctions would apply.

This letter is also copied to the Clerk of the Business Committee.

Yours sincerely,

Mick Antoni AC / AM
Cadeirydd / Chair

CC: Gerard Elias QC, National Assembly for Wales' Commissioner for Standards
Anna Daniel, Clerk of the Business Committee

Croesewir gohebiaeth yn y Gymraeg a'r Saesneg / We welcome correspondence in both English and Welsh
Y Pwyllgor Safonau Ymddygiad / Standards of Conduct Committee
Gwasanaeth y Pwyllgorau / Committee Service
Ffôn / Tel : 029 2089 8429
Eboest / Email : Standards.Committee@wales.gov.uk