

National Assembly for Wales
Standards of Conduct Committee

**Report 01-13 to the Assembly under
Standing Order 22.9**

March 2013



Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales

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

Current Committee membership



Mick Antoniw (Chair)
Welsh Labour
Pontypridd



Llyr Huws Gruffydd
Plaid Cymru
North Wales



Mark Isherwood
Welsh Conservatives
North Wales



Kirsty Williams
Welsh Liberal Democrats
Brecon and Radnorshire

Introduction

1. This report is made to the Assembly under Standing Order 22.9 and paragraph 8.1 of the Procedure for Dealing with Complaints against Assembly Members¹ (“the Procedure”), in relation to a complaint made against Bethan Jenkins AM.
2. The terms of reference of the Standards of Conduct Committee are set out in Standing Order 22. In accordance with functions set out in Standing Order 22.2 the Committee must:
 - (i) investigate, report on and, if appropriate, recommend action in respect of any complaint referred to it by the Commissioner for Standards that a Member has not complied with:
 - (a) Standing Order 2;
 - (b) any Assembly resolution relating to the financial or other interests of Members;
 - (c) Standing Order 5;
 - (d) any Assembly resolution relating to Members’ standards of conduct;
 - (e) any code or protocol made under Standing Order 1.10 and in accordance with section 36(6) of the Act;
 - (f) Standing Order 3; or
 - (g) Standing Order 4;
 - (ii) consider any matters of principle relating to the conduct of Members generally;
3. This report sets out the details of the complaint and the way in which the Committee arrived at its recommendation.

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

Consideration of the Complaint

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

5. The complaint alleged contravention of paragraph 4 (b) of the Code of Conduct for Assembly Members, which includes the principle that Members should "at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of the Assembly and refrain from any action which would bring the Assembly, or its Members generally, into disrepute."

6. The Standards of Conduct Committee met on Tuesday 26 February 2013 to consider the report of the Commissioner for Standards. The Committee resolved to consider the complaint in private. The Committee was satisfied that the Commissioner's report contained sufficient information upon which to base its deliberations, and that it was not necessary to seek further written or oral evidence.

Committee's Consideration of its Decision

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

8. The Committee noted that the Member concerned has fully acknowledged that her actions constituted a breach of the Code of Conduct and has cooperated fully with the Commissioner for Standards' formal investigation into the complaint. The Committee also noted that the matter has been the subject of criminal proceedings and a court judgement.

9. The Committee further noted that the Member concerned has already made public apologies in relation to the conduct which led to this complaint. The Committee has also taken full account of the personal statement provided by the Member concerned, which is included in the Commissioner's report.

10. The Member concerned has stated that she does not wish to make an appeal against the Committee's findings or any recommended sanction in this case. For this reason, the Committee is reporting to the Assembly as soon as possible, and within the usual 10 day time period stipulated in paragraph 8.1 of the Procedure within which the Member complained of may choose to lodge an appeal with the Presiding Officer.

11. The Committee unanimously agreed with the finding of the Commissioner (paragraph 8 of his report) that the Member's actions had constituted a breach of paragraphs 4 (b) and 4(g) of the Code of Conduct for Assembly Members.

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

Committee's Recommendation - Sanctions available

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

Recommendation

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

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

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

16. Assembly Members are aware that the Committee and Standards Commissioner have been giving consideration to the matter of sanctions, as part of the on-going review of the Assembly's Standards Procedures. The Committee plans to consider concrete proposals from the Commissioner to update the sanctions regime in the near future, and any recommendations to revise Standing Orders in this respect will be brought before the Assembly for consideration.

STRICTLY CONFIDENTIAL

From: Gerard Elias QC, Commissioner for Standards

To: The Committee on Standards of Conduct

FORMAL INVESTIGATION REPORT

Complaint against BETHAN JENKINS AM

The Complaint

1. On 17 October 2012, I received a letter in relation to the Assembly Member, Bethan Jenkins (“the AM”), from the Clerk to the National Assembly (“the Complainant”). The Clerk was not purporting to act under section 9 of The National Assembly for Wales Commissioner for Standards Measure 2009 but raised a complaint arising from the conduct of the AM as reported in the media, consequent upon her arrest by the police.
2. The complaint alleged contravention of paragraphs 4 (b) of the Code of Conduct for Assembly Members (“the Code”) which provide that:

“Assembly Members should at all times conduct themselves in a manner which will tend to maintain and strengthen the public’s trust and confidence in the integrity of the Assembly and refrain from any action which would bring the Assembly, or its Members generally, into disrepute.”
3. I reviewed the evidence then available to me and was satisfied that the complaint was admissible in that the requirements of paragraph 3 (i)-(vi) of the applicable Procedure for Dealing with Complaints against Assembly Members (24 April 2012) (“the Procedure”) had been fulfilled.

Accordingly, I so notified the AM (through an intermediary) and prepared to move to the Formal Investigation Stage.

4. At this time, I was made aware of the fact that the AM was in a “fragile” state of health and receiving medical advice and treatment and, (with notice to the Complainant), I suspended my further investigation pending her recovery. By letter to the AM, dated 7 January 2013, I resumed my formal investigation.

Commissioner’s Formal Investigation

5. I requested and was supplied with:
 - Details of the conviction of the AM on 19 December 2012
 - A signed personal statement from the AM - I also interviewed her both before and after she had made a draft statement

Facts Found by Commissioner

6. From the information before me, I find the following uncontested facts:
 - In the early hours of the morning of October 31st 2012, the AM was stopped by the police whilst driving a car in Llandaff, Cardiff;
 - A subsequent test disclosed that the AM had more than double the permitted level of alcohol in her blood whilst driving;
 - On 19 December 2012 the AM pleaded guilty to the offence of driving with excess alcohol and was banned from driving for 20 months and fined £750 plus costs;
 - Before and at the time of the driving incident the AM was beset by personal issues and a stress related condition.

Conclusions

7. The act of driving whilst under the influence of alcohol and her subsequent appearance and conviction before the Cardiff Magistrates' Court, together with the inevitable media publicity which it caused, was undoubtedly conduct which brought the Members and the National Assembly into disrepute.

8. **Accordingly, I find that the Assembly Member, Bethan Jenkins, failed to comply with the Code of Conduct for Assembly Members in that**

- **She failed to conduct herself in such a manner as would tend to maintain and strengthen the public's trust and confidence in the integrity of the Assembly and thereby brought it, and its Members, into disrepute, contrary to paragraph 4 (b) of the Code;**

And also that

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

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

Requirements under the Procedure for Dealing with Complaints

9. I confirm that:

- The AM and the Complainant were given a copy of the final report and wished to raise no factual inaccuracy contained therein;

- The AM, having been informed of her right to make oral representations to the Committee at an oral hearing, indicated that she did not, and would not, seek to exercise such right;
- The AM, having been informed of her right to make written representations to the Committee within a specified time, indicated that the only written representations she wished the Committee to take account of was her own signed statement furnished to the Commissioner, dated 7 February and appended to this Report.
- The AM, having been made aware of the Committee's powers under Standing Orders 22.9, 22.10 and 22.11, and of her right of appeal under section 8.1 of the Procedure, wishes to waive her right of appeal against the Committee's decision.

Additional Information

10. Shortly after receipt of the letter from the Commissioner indicating receipt of a complaint which was admissible, the AM met with the Commissioner and indicated her intention to admit to conduct giving rise to bringing the Assembly into disrepute.

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

Gerard Elias QC

13 February 2013

Annex B

Bethan Jenkins AM

A Personal Statement

1. On 19 December 2012 I appeared before the Cardiff City Magistrates Court and pleaded guilty to the following charge:
Driving while under the influence of alcohol
2. I was sentenced as follows:
20 month driving, with £700 fine
3. My conviction is something that I will always regret wholeheartedly and I am and will remain deeply sorry for what I have done.
4. On this occasion, I fell well below the standards I expect of myself and I therefore fully understand why, through my actions, I have brought the Assembly into disrepute. Therefore, I accept this charge.
5. I am completely aware and believe deeply that Assembly Members have a big role to play as ambassadors for the institution. While that clearly did not happen on this occasion, it is a belief that I otherwise strive strictly to adhere to.
6. It is for that reason, and because I had fallen below the standards expected of me as an AM – particularly for those who placed their faith in me in returning me to office – that I took the earliest available opportunity to apologise. I chose to make a public apology without waiting for it to become public knowledge or for charges to be laid.
7. I also took the opportunity at the hearing in December to issue a fresh apology, because I wanted to be sure that as many people as possible were aware of the deep regret I feel, and to give my thanks for the hugely comforting support, and many well wishes I had following my arrest.

8. I have played over in my mind many times why I took the course of action that led to my arrest. Shortly before this time I was forced to take a leave of absence for two weeks and received medical help and advice with stress and related issues. Since my arrest I have taken time off from work to be treated for depression, an illness I'm beginning to come to terms with for the first time. Although I have now returned to work, that treatment continues.
9. It has not been easy for me to discuss the issues around my depression, except to say they are deeply personal. It would not aid my recovery to have to go into the matter in great detail here. With hindsight, I had not recognised these problems with my health soon enough. I am hugely grateful to all those who have helped me take on this illness.
10. I do not wish to make excuses. I simply hope this account assists the committee and the Assembly in their deliberations. It is my aim to be as helpful as far as I can in this process.
11. While this period of absence has not been pleasant for me, it has given me time to reflect, particularly on issues of mental health and how they affect my constituents as well as myself. I am resolved in this regard to do more to promote awareness of mental health issues, and to offer to sufferers and campaigners the help in any way I can give as a representative, as many people selflessly supported me through this difficult period.
12. I have now returned to my AM role with a fresh purpose and it is my intention to ensure that safeguarding the reputation of the Assembly sits at the heart of everything I do. I take a meticulous approach to dealing with constituents and their issues, and I aim to continue to work tirelessly in representing them, as well as fully involving myself in the work we do as a legislature.
13. I hope this statement is helpful to the committee, and goes some way to explaining the circumstances around my actions.

Bethan Jenkins AM

Bettan Jenkins

7 February 2013