



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

Y Pwyllgor Safonau Ymddygiad **The Standards of Conduct Committee**

Dydd Mawrth, 22 Hydref 2013
Tuesday, 22 October 2013

Cynnwys **Contents**

Cyflwyniad ac Ymddiheuriadau
Introduction and Apologies

Adolygu'r Cod Ymddygiad a Chanllawiau Cysylltiedig: Cofrestr Buddiannau Ariannol yr Aelodau
Review of Code of Conduct and Associated Guidance: Register of Members' Financial Interests

Papurau i'w Nodi
Papers to Note

Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynndi yn y pwyllgor. Yn ogystal, cynhwysir trawsgrifiad o'r cyfieithu ar y pryd.

These proceedings are reported in the language in which they were spoken in the committee. In addition, a transcription of the simultaneous interpretation is included.

Aelodau'r pwyllgor yn bresennol **Committee members in attendance**

Mick Antoniw

Llafur (Cadeirydd y Pwyllgor)

Labour (Committee Chair)

Llyr Gruffydd	Plaid Cymru The Party of Wales
Mark Isherwood	Ceidwadwyr Cymreig Welsh Conservatives
Kirsty Williams	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats

**Eraill yn bresennol
Others in attendance**

Gerard Elias QC	Comisiynydd Safonau Cynulliad Cenedlaethol Cymru National Assembly for Wales Commissioner for Standards
-----------------	--

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

Claire Griffiths	Dirprwy Glerc Deputy Clerk
Joanest Jackson	Uwch-gynghorydd Cyfreithiol Senior Legal Adviser
Gareth Rogers	Pennaeth y Swyddfa Gyflwyno Head of Table Office
Meriel Singleton	Clerc Clerk

*Dechreuodd y cyfarfod am 10:00.
The meeting began at 10:00.*

**Cyflwyniad ac Ymddiheuriadau
Introduction and Apologies**

[1] **Mick Antoniw:** I thank everybody for waiting a while for this public formal meeting of the Standards of Conduct Committee. I will just deal with some of the formal matters to start. For the benefit of anyone coming into the public gallery, this is a reminder for them to switch off their mobile phones. Headsets are available for amplification of sound on channel 0 and for interpretation on channel 1. If the fire alarms go off, the ushers will tell everyone what to do and, if necessary, direct them to the fire exits. We are all here, so there are no apologies to receive. Llyr, I am grateful for your efforts amid the difficulties of the transport system. There are no substitutions. In attendance, we have the National Assembly for Wales Commissioner for Standards, Gerard Elias. We also have Gareth Rogers in attendance.

10:01

**Adolygu'r Cod Ymddygiad a Chanllawiau Cysylltiedig: Cofrestr Buddiannau
Ariannol yr Aelodau
Review of Code of Conduct and Associated Guidance: Register of Members'
Financial Interests**

[2] **Mick Antoniw:** This is a continuation of work that we have been doing. There is a paper that we considered at the last meeting, and there are a number of points that we need to consider with regard to the commencement of a consultation by the commissioner on issues relating to the register of interests. Perhaps the best way to proceed would be if I asked the

commissioner if he could outline the background to where we are now and then to proceed with his views on some of the issues that arise in respect of the register of interests, and his recommendations on how we might proceed to deal with those.

[3] **Mr Elias:** Thank you, Chair. As you rightly say, we have dealt for a year or more now with procedures for dealing with complaints. We have dealt with sanctions. We took a little time off to deal with lobbying and cross-party groups in the summer. I do not feel smug when I say that Westminster is plainly having some difficulties with some of those aspects that this committee has, I hope, cleared up, at least for Wales. We have now moved on to a consideration of the registration and declaration of interests. As I say in my paper, I am looking to take this out to consultation, if the committee agrees, with Members of the Assembly, Assembly officials and other interested parties, including the Electoral Commission.

[4] I am very grateful to Gareth Rogers for his paper, which was put before the last meeting. Essentially, it sought to raise matters that had been raised by Assembly Members and others as difficulties with the registration and declaration of interests in past years. What I have endeavoured to do in my paper is not so much to give guidance, I have to say, but rather to highlight those matters where I would perhaps be assisted by having some guidance from this committee—some steer before consultation. I sought to highlight those matters and, with your consent, Chair, I will simply take them one by one and invite the committee's views on them.

[5] I draw the committee's attention to what is on page 1 of my paper, and as the Group of States Against Corruption puts it, which is that, to remind ourselves, the main purpose of the register is to give public notification on a continuous basis—and that is important in my view—of those financial interests and material benefits held by Members that might be thought to influence their Parliamentary conduct or actions. I will now reference Gareth Rogers's paper, if I may. Paragraphs 10-13 of the paper relate to remunerated employment, office, trade and profession. As the committee will be aware, remuneration has to be declared. The stark question for you to consider and that I have posed is this: should pension income be included? Pensions are sometimes not regarded as remuneration; they are, if you like, an entitlement after a period of employment. On the other hand, the fact that a Member receives a significant—or, perhaps, a relatively insignificant—sum from a company, even if not for remuneration, may be thought by the public to demonstrate some affiliation with that company, if that company were to figure in the legislative process. So, I pose the question to the committee: why should pension income not be included? If it should be included, it would need to be put into the requirements, specifically in addition to remunerated employment and so on.

[6] **Mick Antoniw:** We will take these one at a time, rather than all together. So, are there any comments about highlighting why pension income should not be included in the register? Or, to counter pose it, why should pensioning be included?

[7] **Mark Isherwood:** How is this addressed elsewhere in the other UK Parliaments and, perhaps, internationally?

[8] **Mr Elias:** The answer to that is that I do not know how it is dealt with elsewhere. I believe that, for the most part, pensions are declarable, but it is a question of the wording of it.

[9] **Mark Isherwood:** It depends on the legal status of the pension fund. If they are managed by trustees, theoretically, they are at arm's length from the former employing body, but the former employing body, nonetheless, may be contributing funds to top up the pension fund to keep it sustainable. The question is the degree to which that might influence an Assembly Member.

[10] **Mr Elias:** Or be perceived so to do.

[11] **Mark Isherwood:** Or be perceived so to do. Hmm.

[12] **Kirsty Williams:** I am content that we should go out to consultation on the basis of including pensions, and that that should figure in the consultation.

[13] **Mr Elias:** Forgive me, Chair, but perhaps I should have said the obvious at the very beginning. This is a consultation procedure. I am certainly not inviting the committee to come to final views on anything other than the way in which I should approach Members.

[14] **Mick Antoniw:** At this stage, as you say, you would like a steer if there are any particular points or concerns that we have around any of those issues. I agree with Kirsty. Certainly, in Westminster, there are broader issues that relate to pensions as an income, because there are decisions being taken there on pension legislation and pension transfers. Those things do not affect us, but we have it in there, and I agree that it is something that we should consult on.

[15] **Mick Antoniw:** Would you like to move on to the next item?

[16] **Mr Elias:** Thank you very much. On contracts with the Assembly—this is Gareth Rogers' paragraphs 14 to 18—the current position is:

[17] 'Any remuneration or other material benefit which a 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'

[18] or, which to a Member's knowledge, his or her partner or any dependent child receives'.

[19] In other words, in the case of a Member, it is an absolute offence. If he or she is receiving such money, then that is a breach of the code. In the case of the Member's partner or a dependent child, the Member has to know that the partner or child is receiving public moneys from a company that has a contract, or is tendering for a contract, with the Assembly. The question, really, is: is the committee content that there should be the absolute offence for the Member, but knowledge for the Member's spouse or partner or child, or is it appropriate that it is only in those cases across the board where the Member has knowledge of his or her own position that there should be a breach? I have a second question, but I will take it one by one, perhaps.

[20] **Mick Antoniw:** On the knowledge point, are there any views on that? My thinking is that there has to be an element of knowledge. It just seems that it would be grossly irresponsible to penalise people for knowledge. Of course, 'knowledge' is what knowledge you would expect people to have, and, of course, that is always assessed on, I suppose, the facts at the time.

[21] **Kirsty Williams:** I am content with that on the basis of consultation with the expectation that 'the knowledge of' would be included at a later date. I think that it is particularly important in relation to spouses' positions; a Member could find themselves or their spouse working for an organisation at a level at which they would not be aware whether management was engaged in contracting with the Assembly. I think it is an important safeguard. So, I would be content to go out to consultation with the expectation that this would be included.

[22] **Mick Antoniw:** Okay. Shall we move on then? Sorry, I beg your pardon, Mark, you had a point to make.

[23] **Mark Isherwood:** I was just wondering what your views would be on whether the word ‘reasonable’ should be there, on the grounds that somebody might say, ‘Well, you should have known’ and, on a measure of reasonableness, you could then say whether that is an accurate claim or not.

[24] **Mr Elias:** I was going to suggest as a sort of half-way house, but one which maybe the public would expect, exactly that, if I may say so: that the position would be that the Member knew or ought to have known, and, if he or she is in that position, they are in breach of the code, because wilful blindness cannot let you escape from a position because you do not bother to make the enquiry when any sensible person would have done so. So, something like the reasonableness test can be imported for the Member. Should that also be imported then for the partner and/or dependant spouse?

[25] **Mick Antoniw:** Thank you. Moving on to the issue of limits, the gift limit currently is—

[26] **Mr Elias:** May I leave that, Chairman? We come to limits and gifts again at the end of the paper, so perhaps I could come back to that.

[27] **Mick Antoniw:** Okay.

[28] **Mr Elias:** Paragraphs 17 to 20 are on financial sponsorship. This is a difficult issue, I think, with respect, because, as Gareth Rogers puts it in paragraph 18 of his paper:

[29] ‘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 donations 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.’

[30] It is a political question, in a sense, but I simply ask the broad question: how are contributions to be considered to the Member, and to the party? As I point out in the next bullet point:

[31] ‘Is not the aim, transparency, to catch the significant individual or corporate donors, however it is dressed up?’

[32] and, in a sense, to whomsoever the moneys are given.

[33] **Mark Isherwood:** It is difficult. I accept that if the individual Member, as a Member or as a candidate, benefited directly or indirectly from that donation, it should be declared. Equally, however, there is a separation between being an elected politician and being an officer, voluntary or paid, of a party. An association or a local constituency party is perfectly free to accept moneys without consulting the elected Members whatsoever, and going ahead even if the elected Members counsel against it. Therefore, it is a matter of getting the balance right.

[34] **Mick Antoniw:** For me, the key issue seems to be that, when people look at the register, they can understand what benefits or moneys there are and where they actually come from. This is really about understanding what potential areas of influence there may be. So, it is really about simplicity and transparency. It seems to me that the test is, I suppose, whether

a reasonable member of the public would understand what declaration there is. I am more than happy for this to proceed in this particular way, with the view that we need to be satisfied that what we have at the moment is understandable. If not, we may need to simplify it or to make it more transparent.

[35] **Mr Elias:** Perhaps more transparent in the sense that, where moneys are paid to a party, the donor or so is compelled so to state, as opposed to an individual. I do not know whether that would overcome the transparency point, but, certainly, more information as to how a donation or gift is given, for what purpose and to whom, may be something that ought to be required so as to identify more specifically whether it is actually of benefit to a specific Member or to a party. This is a matter, Chair, if I may say so, on which I would wish to consult with the Electoral Commission also, because it may have a view about it.

[36] **Kirsty Williams:** We are in danger of duplicating the work of the Electoral Commission, are we not, because there are clear rules about the registration of donations and the reporting by local political parties on donations received? It is very difficult then to be able to extrapolate necessarily how those donations flow into a political party and how they may or may not be used in the election or sponsorship of a particular candidate's campaign. I think that it is right that we should look at the Electoral Commission. I think that it is going to be very difficult to have clarity and transparency if you are expecting those donations that come into a local political party to find their way on to the Members' register. It is very complex.

10:15

[37] **Llyr Gruffydd:** A gaf i wneud un pwynt? Rwy'n meddwl mai'r peth pwysig yw bod modd i'r cyhoedd weld y cysylltiad. Efallai nad yw'n golygu creu rhestr ychwanegol, ond yn sicr mae angen hwyluso'r cysylltiad. Os oes cofrestr yn bodoli yn rhywle arall, dylai fod modd cysylltu neu gael perthynas rhwng y ddau beth. Wrth gwrs, gan ddod yn ôl at y paragraff ar waelod y dudalen gyntaf sy'n dweud

Llyr Gruffydd: May I make one point? I think that the important thing is that the public should be able to see that link. Perhaps that does not mean creating an additional list, but certainly we need to facilitate that link. If a register does exist elsewhere, it should be possible to link or build a relationship between the two things. Of course, coming back to the paragraph at the bottom of the first page, which says

[38] 'might be thought to influence their parliamentary conduct',

[39] byddwn i'n meddwl y byddai unrhyw gyfraniadau i'r blaid berthnasol yn lleol yn disgyn o fewn y categori hwnnw. Felly, rwy'n meddwl ei fod yn rhywbeth sydd angen ffocws arno yn yr ymgynghoriad, gan edrych i hwyluso darpariaeth y wybodaeth honno mewn rhyw ffordd yn hytrach nag ychwanegu categori ychwanegol o rywbeth y dylid ei ddatgan.

I would have thought that any contributions to the relevant party locally would fall within that category. So, I do think that it is something that needs to be focused upon in the consultation, in looking to facilitate the provision of that information in some way rather than adding a new category of things that should be declared.

[40] **Mr Elias:** May I take that on board, Chair, and—to pick up on Kirsty's point, if I may—in my discussions with the Electoral Commission, ensure that we do not provide either something different or, indeed, something that simply duplicates, but, at the same time, keep aware of the point that I think is being made in Gareth Rogers's paper, which is the need for transparency where money is filtering through to a particular candidate and is being used by that candidate?

[41] **Ms Jackson:** I just have a small point. Kirsty was referring to the dual registration point, which has, effectively, been done away with in the UK Parliament. You may or may not recall that, before the summer recess, you looked at the proposals in Scotland and that Scotland is thinking of something similar. Would it be of assistance if I were to liaise with the commissioner on the provisions regarding dual registration and what can be done about it, possibly?

[42] **Mick Antoniw:** I know that it is something that has arisen, but it is, of course, the case that there is an overlap in any event, so there will, inevitably, be areas where there are requirements in respect of electoral purposes that overlap with specific requirements in respect of our financial register. So, it cannot be the case that we would say, 'Well, if it is on the Electoral Commission register, it does not need to be on ours,' because I do not believe that that fits in with the Government of Wales legislation or the Standing Orders that we have at the moment.

[43] **Mr Elias:** That is very helpful, Chair. Thank you very much.

[44] May I move on then to shareholdings, paragraphs 21 to 23 of Gareth's paper? There are two issues here. The first is blind trusts, Chair.

[45] '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.'

[46] We do not have, as far as I am aware, a wealth declaration provision, and declaring a blind trust in these circumstances may be thought to be just that. It is not providing greater transparency in relation to association with companies. I simply ask the question, as I think that the paper does: what is the purpose of the registration of these? Do they need to be registered? One has to have in mind here, and I think that we will come to it in a moment with children, the element of not infringing on what is truly a private matter, if it be that, when it is of no benefit to the public to know.

[47] **Mick Antoniw:** Yes. Of course, what it does do is give members of the public the knowledge that there is, in fact, a blind trust, so that measures have been put in place when someone may well be known to have an interest in areas of commerce or whatever, so that it is almost a declaration that a dividing line has actually been drawn there to ensure that there is no undue influence. So, it does give the public that information. Beyond that, I have not really got any comments.

[48] **Mark Isherwood:** My only view is that anything that could create a conflict of interest for a Member should be transparent and declared. However, if a Member could not know—it would be impossible for that Member to know, in this case, where assets were invested—that conflict could not arise.

[49] **Llyr Gruffydd:** However, there may be a case where the fact that the trust actually exists means that there is an interest, regardless of where the asset is.

[50] **Mick Antoniw:** It is worth being there for consultation, is it not? There are issues there, and there will probably be a mixture of views. It is obviously one to consider further on.

[51] **Mark Isherwood:** It links to the first point about pensions, for example. On pensions, even ethical organisations like churches sometimes invest in organisations or businesses that are not necessarily very popular. But, in terms of declaring pensions at the

beginning, we were not considering that as a factor—or were we? Here is a similar thing in the paper—pension trusts in which we are beneficiaries investing in shares or equities. This is addressing a similar point. In neither case, however, would the beneficiary necessarily know where that benefit might lie. Anyhow, I am happy to consult, but I just hope that we would get a wholly objective response based upon whether or not a conflict of interest could arise. To me, that is the material point for consideration.

[52] **Mr Elias:** Share options is the other matter that is raised in the paper. Of course, this is a case where I currently hold shares in Travel to Mars Ltd, or options to buy them, which are valueless, but may become worth a lot of money in 10 years' time; it is the ongoing issue as well that comes in here. I think that the question that I have posed is share options: I think that they do have to be declared, but questions of value do arise. Is not the value of the option at any time the underlying value of the share at any given time? So, if a share price increases and the option originally had been less than the limit that would normally be declared, well, it now becomes declarable.

[53] **Mick Antoniw:** I think that must be right. Is everyone agreed with that? We are happy with the steer on that. We agree with you.

[54] **Mr Elias:** On public bodies, this is another old chestnut, and I do not know whether it can be clarified, but Gareth puts it in his paper at paragraph 27 under 'public bodies'—what does membership of a public body mean? What if you are the chairman and you are signed up to it? What if you are the treasurer? Can you be a member without, as it were, having any formality? Is there a need for greater clarity of definition and, if so, what?

[55] **Mark Isherwood:** I am just thinking about the different bodies that I am on and the different categories. If you are a member of a housing association, you only have to have a £1 shareholding, but nonetheless, you are a member of that housing association, and many of us are patrons, trustees and directors—unpaid—of various third sector bodies.

[56] **Mr Elias:** Declarable?

[57] **Mark Isherwood:** Well, I declare them. I am very happy declaring them, to be fair—I do not think that that should be an issue. It is a question of how we define membership and how widely that term should apply. Personally I think that it should capture all the different categories that I have referred to.

[58] **Mick Antoniw:** There is no doubt that there is a lack of clarity, because there are people who will declare membership of the, I do not know, the Cwmtwrch tiddlywinks society—

[59] **Kirsty Williams:** It is a fine organisation. [*Laughter.*]

[60] **Mick Antoniw:** I did not realise that you were a member. They are not quite sure and therefore they think, 'Well, I'll put everything down', and you can end up with very long lists of things that really have no real financial consequence. The question is whether it is something that the public should know. Is it a matter of transparency? Is it worth tightening up in any event something that may create even more confusion if we try to over-define? It is one on which you will probably get a lot of responses in the consultation, I suspect.

[61] **Mr Elias:** But equally, would the committee agree that the fact that you are an honorary member, or an honorary patron or honorary president, or unpaid, is not a reason that it should not be declared?

[62] **Mick Antoniw:** I agree, because it is also about influence—it is not just about

financial receipt; it is also about what influence there may be in the way that you then conduct yourself in decision making within the Assembly. It is certainly there to look at closely.

[63] **Mr Elias:** May I move on then, please, to paragraphs 30 to 32 of the paper? This is the question of the registration of the income of dependent children. Should they be registered? That is the question in Gareth Rogers's paper. If so, is the definition of dependent children still appropriate? Is the age limit of 13 appropriate? I point out in my comment about dependent children that the National Assembly is the only UK Parliament to require this. Again, if I may say so, it is as I put in the third bullet point:

[64] 'Private life versus need for openness re any remuneration'.

[65] This is perhaps the issue here. Is it really necessary that the public should know, if I am a Member, that my 13-year-old has a paper round? Equally, should the public know if he is a director of Cardiff Bay Development Corporation or whatever it may be? Catching the two is difficult. Members do have private lives, and their families do, too, and that is really the issue that I am seeking to highlight here. Are you happy with the age limit? Is that something that I should be consulting Members on: 13? At the end of the day, one would say that, of course, we all know when the employment of the dependant is material in the sense that the public might say that it would affect the Member's view of this, that or the other, but we have to draw up a regulation that covers it.

[66] **Mark Isherwood:** I think that you are referring to the three Members who have declared children in this context. I am one of them. I have had children over the age of 13 now for 15 years, all of whom have had part-time jobs of one description another, usually for a few hours a week while at school. Theoretically, however, that can currently capture them, even when they have gone to university and, in their first year, they have a part-time job, which they may not even have told me about until some months or weeks after they have done a few shifts at a local pub or what have you. It does seem to be a little bit silly that a son who works one shift a week on Saturday at McDonald's or a daughter who waits in a local pub restaurant for six hours a week just to supplement their pocket money should have to be declared in this way. Clearly, it would be different if they had left school at 16 and were receiving full-time well-paid remuneration from a company or business that had a relationship with the Assembly. That would be a different scenario altogether.

[67] **Mick Antoniw:** Are there any other comments? I have a couple of comments to make, apart from the following: would it not be wonderful if we could all declare that our children had an income to declare in the first place? It is an issue of some importance, in the sense that, where I think that this has arisen is where attempts have been made to conceal income or divert income by using children within that. However, the point that Mark makes is valid: should it not be that what we are looking at is, possibly, the declaration of income of dependent children that is relevant? We have this sort-of knowledge test: what could we be reasonably expected to know? You know the difference: there is no point in declaring 15/- a week from a paper round, but there would be if it was £20,000 from a company that you had an interest in and which is involved in something that you might be involved in taking decisions on.

[68] **Kirsty Williams:** The other side of that is that you could have a son or daughter waiting tables in the village pub that is looking for an extension to its licencing arrangements from the local authority, to which you may have written to lobby for that extension to the licence. Or, they could be waiting tables in a cafe that is running a campaign against parking fees in the local town or against double yellow lines outside the premises, and you may have lobbied the council or asked a question here about the double yellow lines or car parking charges. So, even though the remuneration and the job may seem small in the round, it does not necessarily mean that Assembly Members are not advocating or using their position to

benefit the business that is employing their children. I just do not think that you can turn around and say that it only occurs if the child is earning £20,000, or it is used to divert income; you could be using your influence to assist a business that might only be employing your child as the Saturday coffee person.

[69] **Mick Antoniw:** I think you got a steer there, Gerard.

[70] **Kirsty Williams:** It is difficult; it is not that simple, is it?

[71] **Mr Elias:** No, and, obviously, this will go out to consultation, and the consultation proceeds will come back to you for you to see what other people make of it as well. May I just press on the age limit, Chair? Is 13 thought to be reasonable?

10:30

[72] **Mick Antoniw:** My inclination would be to leave it for the purpose of consultation. However, we understand exactly the point you are making that it really does sound excessively intrusive. Let us see what comes out of the consultation process, but it might be an area that we need to review and change to 16.

[73] **Llyr Gruffydd:** Hoffwn ddod yn ôl at bwynt blaenorol Kirsty. Mae gwahanol gategoriâu a *scale* o ddiddordeb sydd angen ei ddatgan yn hyn o beth. A oes modd troi'r peth ar ei ben? Hynny yw, byddwn yn disgwyl i Aelod i ddatgan diddordeb o ran plentyn pe bai rhywbeth sylweddol angen ei ddatgan, ond mewn achosion fel y rhai y bu i Kirsty sôn amdanynt, efallai byddwn yn troi'r peth ar ei ben a disgwyl i'r Aelod ddatgan pe bai'r Aelod yn ymwneud ag achos a fyddai, o bosibl, yn cael ei weld fel rhywbeth y byddai gofyn iddo ef neu iddi hi ddatgan, ond bod y *scale* dipyn yn llai.

Llyr Gruffydd: I would like to come back to the previous point that Kirsty made. There are different categories and scales of interest that need to be declared in this sense. Would it not be possible to turn this upside down? That is, I would expect a Member to declare an interest regarding their child should there be something significant to declare, but in cases such as those mentioned by Kirsty, perhaps we could turn it on its head and expect a Member to make a declaration should that Member be involved in a case where it might be considered that he or she should make a declaration, but that the scale is significantly smaller.

[74] **Mick Antoniw:** It is about proportionality, really, is it not?

[75] **Kirsty Williams:** In the end, as Members, you have to take on that responsibility and do that reasonableness test yourselves, do you not? So, even if the rules do not require it of you, you have to take on the responsibility as the Member to say, 'Hang on a minute, this may put me in a vulnerable position and, even though the rules do not require it, I am better off registering this to avoid any suggestion'—or not to involve yourself in the double yellow lines or the car-parking charges.

[76] **Mr Rogers:** If I may, the one thing with the rules as they are currently drafted is that you could have an 18-year-old child living at home, but earning £40,000 in a high-profile company, which would not be required to be registered, whereas a sibling of 16 or 13 years of age would have to declare a paper round. So, the rules do not differentiate in the right way.

[77] **Mick Antoniw:** That is an important point and it may be one aspect of the drafting that should be removed. So, it is about looking at the areas where there may be financial or other interests, irrespective of whether it is dependent or not.

[78] **Mr Rogers:** Yes.

[79] **Mick Antoniw:** I agree.

[80] **Mr Elias:** Thank you very much for that.

[81] The next point, Chair, is a short point. It relates to the receipt of public funds, paragraphs 33 to 35. The question, really, is: if I have already, as a Member, declared my remuneration that is from public funds, whether it should be registered specifically under the category of receipt of public funds or whether, because I have declared it as remuneration, I have done my duty.

[82] **Mick Antoniw:** I would have thought that we would not want it in two places, would we? It should be registered, but do we really want a system where we end up duplicating what we are registering? It is a question of simplicity, is it not, for the register?

[83] **Kirsty Williams:** I declare an interest, because I am one of the people who has been caught out under paragraphs 33, 34 and 35. Although I had declared my husband's occupation, it still did not stop political opponents—mentioning no names, Llyr—

[84] **Llyr Gruffydd:** It was not me.

[85] **Kirsty Williams:** No, not you personally.

[86] My political opponents still decided to give the story to the *Western Mail* and accuse me of asking questions about Glastir only because my husband's business might or might not be affected. The rules are that, unless you are disproportionately affected by that, you do not have to declare an interest. So, the farming one is particularly difficult, and one that I feel particularly sensitive about.

[87] **Mick Antoniw:** What are your feelings on this? Do you feel that it would be better to have it?

[88] **Kirsty Williams:** Once again, you get into the business of the point at which you have a private life and at what point your partners' activities impinge upon your role. Having declared an occupation, do I then have to go a further step to say what the single farm payment is into a business that I do not have any holdings in, and which is also not only my husband's, but is shared with my brother-in-law, my mother-in-law and sister-in-law, who have very strong views about whether their business should be publicly declared because of my job?

[89] **Mr Elias:** It is a bit wider than the question that is here, but I take the point that you made, if I may say so. From my perspective, Chair—for what it may be worth—it is as long as the matter is registered, so that the public, press and media have access to it. If your husband is a farmer—to use the example—everyone knows that subsidies are available in different areas, so the public is not being kept out of the picture, as it were, by virtue of that registration.

[90] **Mick Antoniw:** All of those records are public as well. We want simplicity and transparency. We do not want duplication and we do not want the system to become so complicated that no-one can understand what it means or how to register anything.

[91] **Mark Isherwood:** Presumably, this would also apply to Members whose partners may be county councillors. My wife is a county councillor and she changes the committees that she sits on every few months, because councils do that sort of thing. I cannot keep up with all of that—I do not always know when she moves from one committee to another or

from a chairing to a non-chairing position. However, if it is declared that she is an elected county councillor for a given council, all those matters are checkable, if people have an interest.

[92] **Kirsty Williams:** It is not just county councillors, is it? At what point do you say that someone is in receipt of public funds? Do people who are married to GPs have to start declaring that income? What about nurses and teachers? What constitutes public funds? Farm subsidies, yes, but what about a nurse's salary, a teacher's salary or a doctor's salary? These are publicly funded jobs, so are we going to say that you have to declare not only your spouse's occupation, but the extent to which they are remunerated, because they are public funds?

[93] **Mr Elias:** I think that my answer to all of those questions would be that, if that information can be determined by making inquiries to those bodies, you have declared what you need to declare. It is transparent and open.

[94] **Mick Antoniw:** What comes out of this is that what is important is that there is clarity, not just for members of the public who may want to look at this, but also for Assembly Members. I think that we need to have a clear system for Assembly Members, so that they know what to do, rather than thinking, 'Well, I might as well put down everything that I can think of, going back in perpetuity', so as not to fall foul of the system. We need to ensure that there is a level of clarity and protection in the system.

[95] **Mr Elias:** I will move on to paragraphs 36-38 on provision of services. It says that

[96] 'Members are required to deposit with the Presiding Officer a copy of any agreement that they enter into for the provision of services in the Member's capacity as an Assembly Member.'

[97] Gareth gives the example of a newspaper columnist—there have been one or two, I think—or maybe an ongoing radio or television programme. I am told that such a declaration has never been made. I simply pose the question: if the rule has never been used, is it being breached or is it necessary?

[98] **Mick Antoniw:** I suppose that the point is that it might be used at some stage. The culture of the Welsh media is that no-one gets paid for their contributions, so there is no contractual agreement. We will leave it there for the moment.

[99] **Mr Elias:** I move on to declarations of interests, paragraphs 39-41. This wording has been debated in Plenary session, has it not? It says:

[100] 'greater than that which might accrue to persons affected by the decisions generally'.

[101] Is this clear and fit for purpose? What does it mean? Can we clarify it any further?

[102] **Mick Antoniw:** We obviously want our rules to be fit for purpose.

[103] **Mr Elias:** It may be thought to be but, because there has been debate about it, Members have raised the issue that it is not clear what it means.

[104] **Mick Antoniw:** If you are thinking that it might be of benefit—in the guidance or within the rules themselves—we could have some narrative that expands on fitness for purpose. The purpose of these rules is to provide the best and most proportionate transparency and access to information that may be relevant to matters that affect Assembly Members in the conduct of their duty. Is that the sort of thing that you are thinking of?

[105] **Mr Rogers:** One question that has been raised directly with me is that, when these rules were first written, the Assembly was a corporate body. The set-up was very different and the way in which decisions were made within the institution was very different. Now, we have moved forward with the Government of Wales Act 2006 et cetera and the way in which decisions are made is very different. The instances within the rules when Members would have to make a formal declaration are very few and far between. In fact, I cannot think of any situation in which Members might find themselves that would lead to them having to make a formal declaration. It is about whether the Assembly, through the consultation, wants to consider whether the rules are still fit for purpose or whether they need to reflect the new way in which the legislature works.

[106] **Mick Antoniw:** Is your thinking that, when a Member is participating in a process of the Assembly in which they may have an interest, they should make a formal declaration at the commencement of when they speak? You could take that further. For example, in councils, as well as having to make a declaration, people can be prohibited from participating in the decision-making process. We do not want to go down that road.

[107] **Mr Rogers:** No; I am just raising a concern that has been raised with me.

[108] **Mr Elias:** Chair, I will try to give an example. If you had, in a particular county or a particular constituency area, a proposal to permit planning permission on all caravan sites—to take something a bit ridiculous—I would obviously be affected if I had ownership of any of the caravan sites. However, what if I owned the adjoining field, as opposed to my neighbour farmer who owns fields 10 miles away? Am I a person who is affected by the decision generally in a way that is greater than the constituents of that area as a whole? Members ask the question, ‘Am I?’ I do not know. What might happen to the land that abuts the caravan site? It may increase in value because people may see development spreading in 10 years’ time. So, I potentially benefit from the decision and I speak in favour of the caravan site being given planning permission. However, strictly speaking, I do not have a benefit from that particular piece of legislation. What is greater than what might accrue to persons affected is the area that we need to be looking at.

[109] **Mick Antoniw:** It is a minefield, is it not? Individuals do make declarations off their own back in debates and during the Assembly process occasionally. However, according to our rules, it is not necessary. As long as you have completed the register of interest correctly, there is a valid argument about what further benefit there is to having to think, at the beginning of a debate on a whole series of things, about making declarations about things that you have already declared in a register that is open. It is worth considering. I honestly do not know.

[110] **Kirsty Williams:** I think that the reason why Members feel the need to do that is because of the lack of clarity around the rules. Members are uncertain as to how they should behave. When Members do that it is because they are not confident that the current set up is going to cover them. If Members are doing that for that reason, it suggests that the current wording is not adequate and that we need to find a different way that gives confidence to Members and removes any doubt about what they should and should not do.

[111] This relates to a pecuniary interest—a financial interest—but there are other interests that Members have and there is little guidance about what one should do in those circumstances. Yesterday, I was at a meeting at a local high school that is looking for funding from the Assembly. I would advocate funding for all the high schools in my constituency, but I have a particular interest in this one because my daughter goes to it. There is no pecuniary interest for me; I do not have shares in the high school or the building company that might build it. However, people would perceive an interest and there is little guidance around non-

pecuniary interest and what one should do in those circumstances. The fact that Members do it off their own back suggests a lack of clarity and confidence.

10:45

[112] **Mr Elias:** I am getting the message, Chair, that I should consult widely with the Members as to where the boundaries should be drawn.

[113] **Mick Antoniw:** Yes, it is not an easy one, but I think that we all agree that it is there and that we need to consult specifically on that, because that would be an additional change and a requirement on Assembly Members.

[114] **Mr Elias:** If I may, I will skate over the general points: the paper highlights the need for AMs to clearly understand their personal responsibility in this area, whatever advice they may or may not have taken. If in doubt, register. If the committee agrees, I propose to consult on that, so that they understand that that is the position.

[115] There are two recommendations in the GRECO report that affect us directly. GRECO recommends, in paragraph 41 of its report, that consideration be given to lowering the thresholds for reporting financial holdings. It seems, as I put in my paper, that this was directed principally at London, albeit with an invitation to Wales, Scotland and Northern Ireland to take action. Currently, the House of Commons threshold is £66,000, the House of Lords is £50,000, Wales is £27,000, Northern Ireland is £21,500 and Scotland is £29,000. You are asked to give consideration to lowering the threshold, but not necessarily to lower them. Perhaps it is tied in with paragraph 46. I will take that all together. Paragraph 46 asks for consideration to be given to lowering the current thresholds for registering accepted gifts. Again, this is directed principally at the House of Commons, where it is £660; in the House of Lords it is £500 and in Scotland it is £575. The report notes that Wales and Northern Ireland are markedly lower—we are at £270 and Northern Ireland is at £215—but this compares with the limit that GRECO points out of UK Ministers, which is £140. I make a frivolous point at the end, but maybe from a public perception it just has to be borne in mind. So, the question is whether you think I should be consulting with Members as to a lowering of either, or both, of these limits?

[116] **Mick Antoniw:** I think that the point you make at the end there is inaccurate, in that the national minimum wage would equate to around about that, rather than be 10 times that. Is this an area in which problems have arisen in the past? We are at the bottom end of the threshold, but I am happy to consult with Assembly Members on this. I have no real strong feelings on it.

[117] **Llyr Gruffydd:** Rwy'n meddwl ei fod yn addas inni gynnwys hynny yn yr ymgynghoriad. Nid wyf yn rhagweld y bydd unrhyw beth sylweddol yn codi yn sgîl hynny. Fel ymarferiad, mae'n bwysig ein bod yn cynnwys hynny ac yn rhoi cyfle i bobl ymateb.

Llyr Gruffydd: I think that it should be included in the consultation. I do not think that anything substantial will arise as a result of it, but I think that we should put it out there and give people an opportunity to respond to it.

[118] **Mr Elias:** I thank Gareth Rogers. Those are the matters that will be helpful to me.

[119] **Mick Antoniw:** You are welcome. Thank you for your time and consideration of this.

10:48

Papurau i'w Nodi
Papers to Note

[120] **Mick Antoniw:** We just have a few papers to note very quickly. We have a lobbying Bill Research Service paper, and you will all be aware of the debate on that. There are a number of individual items together, which I suggest that we look at to note as a whole. Are there any comments that an individual wants to make on the lobbying Bill paper? It is there for information, and I think that it is something that we are all aware of. Is there anything that anyone wants to raise on that, or can we just note it? It is worth being aware that the charities got together and are submitting their own evidence. They held their own commission and are submitting evidence to the Lords on the particular impacts, as it affects charities and their ability to do their sort of campaign work, which is probably our main concern. All the other areas are essentially non-devolved areas in any event. So, perhaps it is something to monitor after we get past the House of Lords stage of the legislation, as to whether there are any ongoing concerns that we might have from our position.

[121] **Mark Isherwood:** I did seek guidance from the clerk on certain aspects of this, and I understand that there may be specific exclusions applying to Wales, specified within this. So, it would be helpful if we were kept up to date on progress in those areas, so that we know where we should be focusing more attention and where we do not need to focus our attention.

[122] **Mick Antoniw:** Yes, I agree. What was important was the representation that was made by the Presiding Officer that we did not want this. Having done the work that we did on the lobbying issue in Wales, we did not want it to be complicated or overridden by something that was very much designed to deal with a Westminster issue. That has been conceded, so that is welcome news.

[123] Therefore, we note those papers. I thank Members and the commissioner for attending. That is the end of our agenda. Thank you for being so expeditious.

Daeth y cyfarfod i ben am 10:50.
The meeting ended at 10:50.