

# Y deunawfed adroddiad i'r Chweched Senedd o dan Reol Sefydlog 22.9

Hydref 2024



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# Y deunawfed adroddiad i'r Chweched Senedd o dan Reol Sefydlog 22.9

Hydref 2024



# Am y Pwyllgor

Sefydlwyd y Pwyllgor ar 23 Mehefin 2021. Ceir ei gylch gwaith yn:  
[www.senedd.cymru/SeneddSafonau](http://www.senedd.cymru/SeneddSafonau)

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Aelodau cyfredol y Pwyllgor:



**Cadeirydd y Pwyllgor:**  
**Hannah Blythyn AS**  
Llafur Cymru



**Mick Antoniw AS**  
Llafur Cymru



**Peredur Owen Griffiths AS**  
Plaid Cymru



**Samuel Kurtz AS**  
Ceidwadwyr Cymreig

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Roedd yr Aelod a ganlyn hefyd yn aelod o'r Pwyllgor yn ystod yr ymchwiliad hwn:



**Mark Drakeford AS \***  
Llafur Cymru

\* Roedd Mark Drakeford yn aelod o'r Pwyllgor ar y pryd ond fe esgusododd ei hun o weithgareddau'r Pwyllgor, ac felly ni chymerodd ran yn y gwaith o ystyried yr adroddiad.

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## Argymhellion

**Argymhelliad 1.** Mae'r Pwyllgor yn argymhell i'r Senedd, yn unol â pharagraff 8.22(a) o'r Weithdrefn, y bu achos o dorri'r rheolau ond nad oes angen cymryd camau pellach..... Tudalen 10

## 1. Cyflwyniad

**1.** Nodir cylch gorchwyl y Pwyllgor Safonau Ymddygiad ("y Pwyllgor") yn Rheol Sefydlog 22.<sup>1</sup> Yn unol â'r swyddogaethau a nodir yn Rheol Sefydlog 22.2, rhaid i'r Pwyllgor:

*"mewn perthynas ag unrhyw gŵyn a gyfeirir ato gan y Comisiynydd Safonau... ymchwilio i'r gŵyn, cyflwyno adroddiad arni ac, os yw'n briodol, argymhell camau mewn perthynas â hi."*<sup>2</sup>

**2.** Paratowyd yr adroddiad hwn ar gyfer y Senedd yn unol â Rheol Sefydlog 22.9 a pharagraff 8.23 o'r Weithdrefn ar gyfer Ymdrin â Chwynion yn erbyn Aelodau o'r Senedd<sup>3</sup> ("y Weithdrefn") ac mae'n ymwneud â chwyn a wnaed yn erbyn Andrew RT Davies AS.

**3.** Mae adroddiad y Comisiynydd Safonau ("y Comisiynydd") ar ei ymchwiliad i'r gŵyn wedi'i atodi yn Atodiad A. Mae'n nodi manylion y gŵyn a chasgliadau ymchwiliad ffurfiol y Comisiynydd.

**4.** Mae'r adroddiad hwn yn nodi manylion y gŵyn a thrafodaethau'r Pwyllgor wrth ddod i'w benderfyniad.

**5.** Darparwyd copi o'r adroddiad hwn i'r Aelod dan sylw ac i'r achwynydd.

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<sup>1</sup>Y Rheolau Sefydlog

<sup>2</sup>Rheol Sefydlog 22.2(i)

<sup>3</sup>Gweithdrefn y Senedd ar gyfer ymdrin â chwynion yn erbyn Aelodau o'r Senedd

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## 2. Trafod y gŵyn

- 6.** Daeth cwyn i law'r Comisiynydd mewn perthynas â thrydariad a bostiwyd gan Andrew RT Davies AS. Roedd y trydariad yn nodi: "Vaughan Gething's Labour government is embracing the same extreme ideology as its predecessor. Nothing has changed." Copïodd fel rhan o'r trydariad ddelwedd o wefan Guido Fawkes, yn dangos Mr Gething a menyw feichiog gyda'r testun "Welsh Government press release celebrates 'birthing people.' Wales makes womb for 'birthing people'".
- 7.** Roedd yr achwynydd o'r farn bod y trydariad hwn yn 'gelwydd amlwg', yn gamarweiniol ac yn beryglus.
- 8.** Yn ei asesiad o'r gŵyn, ystyriodd y Comisiynydd mai'r rheol a ganlyn o'r Cod Ymddygiad oedd fwyaf perthnasol:
- Rheol 3: Ni chaiff Aelodau ymddwyn mewn modd sy'n dwyn anfri ar y Senedd neu ei Haelodau yn gyffredinol.
- 9.** Cyfarfu'r Pwyllgor ar 23 Medi 2024 i drafod adroddiad y Comisiynydd a dod i'w gasgliad mewn perthynas â'r gŵyn.

### 3. Y broses o drafod Penderfyniad y Pwyllgor

10. Bu'r Pwyllgor yn trafod a dorrodd yr Aelod Reol Sefydlog 22.2(i).<sup>4</sup>
11. Wrth drafod a dorrwyd y rheol, adolygodd y Pwyllgor ganfyddiadau'r Comisiynydd fel y'u nodir yn ei adroddiad.
12. Ni fanteisiodd yr Aelod ar y cyfle i wneud sylwadau ysgrifenedig na sylwadau llafar i'r Pwyllgor.

#### Penderfyniad y Pwyllgor

13. Nododd y Pwyllgor sylwadau'r Comisiynydd ei fod yn ymwybodol, wrth ystyried y mater hwn, o hawl yr Aelod i ryddid mynegiant o dan Erthygl 10 o'r Confensiwn Ewropeaidd ar Hawliau Dynol<sup>5</sup> a bod angen bod yn hynod ofalus wrth wneud unrhyw beth a allai gyfyngu ar hawliau gwleidyddion o dan y ddarpariaeth honno.
14. Nododd y Pwyllgor hefyd sylwadau'r Aelod nad ef oedd wedi ysgrifennu'r testun a gopiwyd o'r erthygl a gyhoeddwyd yn Guido Fawkes, er mai ef oedd wedi llunio a rhannu'r trydariad yn bersonol.
15. Fodd bynnag, roedd y Pwyllgor yn cytuno â chanfyddiad y Comisiynydd fod hyn yn amherthnasol ac yn cytuno hefyd â'r sylwadau a ganlyn:

*"Members are fully responsible for any quotation they choose to include in a tweet in the same way as they are responsible for anything they retweet or any tweet that they like."*

16. Wrth ystyried y ffeithiau, nododd y Comisiynydd na chafodd y datganiad a ryddhawyd gan Ysgrifennydd y Cabinet dros Iechyd a Gofal Cymdeithasol ar 26 Ebrill 2024 ei gyhoeddi fel datganiad i'r wasg ac nad oedd yn dathlu'r trefniadau ar gyfer menywod a phobl sy'n rhoi genedigaeth. Roedd y datganiad yn dyfynnu adroddiad gan Arolygiaeth Gofal Iechyd Cymru,<sup>6</sup> gan nodi:

*"bod staff ar bob lefel yn y gwasanaeth yn gweithio'n galed i ddarparu profiadau da a bod trefniadau digonol ar waith i*

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<sup>4</sup>Rheol Sefydlog 22.2(i)

<sup>5</sup> Erthygl 10. Rhyddid Mynegiant y Confensiwn Ewropeaidd ar Hawliau Dynol (Saesneg yn unig)

<sup>6</sup> Gwelliannau sylweddol wedi cael eu gwneud i wasanaethau mamolaeth yn Ysbyty'r Tywysog Siarl ym Merthyr Tudful

*ddarparu gofal diogel ac effeithiol i fenywod a phobl sy'n rhoi genedigaeth."*

- 17.** Roedd y Pwyllgor yn cytuno ag ystyriaeth y Comisiynydd o ran y ffeithiau:

*"... the text was incorrect in material particulars. It was potentially misleading. There was no Welsh Government press release. Having read the Statement before posting the tweet the Member knew or ought to have known that it did not celebrate anything and that it dealt with the improved arrangements for all giving birth at the facility not just to those for birthing people."*

- 18.** Daeth y Comisiynydd i'r casgliad a ganlyn:

*"by posting the tweet including text that he knew or ought to have known was false in material particulars and potentially misleading without taking any steps to check its accuracy the Member brought the Senedd into disrepute."*

- 19.** Felly, ar ôl ystyried canfyddiadau a chasgliadau'r Comisiynydd, ynghyd â'r dystiolaeth ategol a ddarparwyd, cytunodd y Pwyllgor y bu achos o dorri'r Cod Ymddygiad, yn unol â chanfyddiadau'r Comisiynydd.

Mae'r Pwyllgor yn dyfarnu bod Andrew RT Davies wedi torri Rheol 3 o'r Cod Ymddygiad.

## **Argymhelliad y Pwyllgor**

- 20.** Mae achos o dorri'r Cod Ymddygiad gan unrhyw Aelod o'r Senedd yn fater difrifol ym marn y Pwyllgor. Mae enw da Senedd Cymru, a ffydd a hyder y cyhoedd yn y sefydliad, yn dibynnu ar allu'r Aelodau i ddangos uniondeb ac arweinyddiaeth drwy eu gweithredoedd.

- 21.** Mae'r Comisiynydd Safonau a'r Pwyllgor wedi ymdrin â nifer o gwynion yn ymwneud â defnydd Aelodau o'r cyfryngau cymdeithasol yn ystod y Chweched Senedd. Er y gellir ei ddefnyddio'n effeithiol fel offeryn ar gyfer cyfathrebu a thrafod, mae'n ddyletswydd ar Aelodau i sicrhau cywirdeb y wybodaeth y maent yn ei rhannu ac i wneud pob ymdrech i wahaniaethu rhwng datgan ffeithiau a mynegi barn.

- 22.** Byddai'r Pwyllgor hefyd yn rhybuddio'r Aelodau rhag dyfynnu neu ailadrodd/ailbostio gwybodaeth nad ydynt wedi ei llunio eu hunain, gan nad yw

hynny'n eu rhyddhau o'r cyfrifoldeb i wirio ffynonellau er mwyn sicrhau cywirdeb y wybodaeth.

**23.** Wrth ddod i'w benderfyniad, ystyriodd y Pwyllgor hawl yr Aelod i fynegi ei farn ar y cyfryngau cymdeithasol. Fodd bynnag, drwy ddyfynnu'n uniongyrchol o erthygl a oedd yn cynnwys gwybodaeth anghywir, mae'r Pwyllgor yn cytuno na wiriodd yr Aelod y wybodaeth yn ddigon manwl cyn postio ei sylwadau.

**24.** Er bod yr Aelod wedi torri'r Cod Ymddygiad yn ein barn ni, nid ydym yn ystyried bod rheswm dros gymryd unrhyw gamau pellach.

**Argymhelliad 1.** Mae'r Pwyllgor yn argymhell i'r Senedd, yn unol â pharagraff 8.22(a) o'r Weithdrefn, y bu achos o dorri'r rheolau ond nad oes angen cymryd camau pellach.

## 4. Gwersi a ddysgwyd o'r gŵyn hon

**25.** Dyma'r seithfed adroddiad o sylwedd yn ystod y Senedd hon sy'n gysylltiedig â'r cyfryngau cymdeithasol. Hoffai'r Pwyllgor atgoffa'r Aelodau i roi sylw dyledus i gywirdeb ffeithiol y wybodaeth y byddant yn ei llunio a/neu ei rhannu ar lwyfannau'r cyfryngau cymdeithasol. Fel gwleidyddion, rydym yn cydnabod bod rhaid i ni arwain drwy esiampl ac ni ddylai ein negeseuon ar y cyfryngau cymdeithasol fod yn eithriad. Bydd yr Aelodau hefyd yn ymwybodol bod cymorth ar gael o ran ymdrin â'r cyfryngau cymdeithasol, a sut i'w defnyddio'n gywir ac yn barchus.

**26.** Ar 24 Medi 2024, o ganlyniad i nifer gynyddol y cwynion a ystyriwyd gan y Comisiynydd Safonau ynghylch ymddygiad Aelodau ar y cyfryngau cymdeithasol, ysgrifennodd y Llywydd at y Pwyllgor i'w wahodd i ystyried y mater yn fanylach. Ar 30 Medi, cytunodd y Pwyllgor i gynnwys y gwaith hwn fel rhan o'i ymchwiliad i atebolrwydd yr Aelodau, gyda'r bwriad o adrodd yn ôl i'r Senedd gyda chynigion maes o law.



## REPORT

by

### SENEDD COMMISSIONER FOR STANDARDS

of the investigation of a complaint against

**ANDREW R T DAVIES MS**

#### Introduction

1. On 26 April 2024 Anthony Jones (“the Complainant”) submitted a complaint to me about the conduct of Andrew R T Davies MS (“the Member”). In it he complained that a social media post by the Member earlier that day was “a blatant lie” and that it was misleading and dangerous. The tweet stated “*“Vaughan Gething’s Labour government is embracing the same extreme ideology as its predecessor. Nothing has changed.”* Copied into it from the Guido Fawkes website there was an image of Mr Gething and of a pregnant woman with the text “*Welsh Government press release celebrates ‘birthing people.’ Wales makes womb for ‘birthing people.’*”<sup>1</sup>
2. I have considered the complaint in accordance with the Procedure for Dealing with Complaints against Members of the Senedd (“the Procedure”).
3. As required by paragraph 7.4(e) of that Procedure the complaint and all the evidence I relied upon in forming my opinion are at Appendix A. Footnote references have been provided where appropriate.

#### Preliminary Investigation

4. On 29 April I told both parties that I was undertaking a preliminary investigation to inform my decision on the admissibility of the complaint and allowed them 14 days within which to make submissions to me on that issue.<sup>2 3</sup> The Complainant made no submission. The Member responded the same day asserting that when he referred to the Welsh Government policy as extreme ideology, he was expressing an opinion and was exercising his right to freedom of expression under Article 10 of ECHR. He said also that ta Ministerial Statement (“the Statement”) sent to and read by him on 26 April had referred to ‘birthing people.’<sup>4</sup>

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<sup>1</sup> [Complaint](#)

<sup>2</sup> [Letter to Member 29 April 2024](#)

<sup>3</sup> [Letter to Complainant 29 April 2024](#)

<sup>4</sup> [Letter from Member 29 April 2024](#)

5. On 3 May I asked the Member for a copy of the Welsh Government press release or a link to it.<sup>5</sup> He responded by email referring me to the Statement.<sup>6</sup>
6. On 21 May I wrote to the Member asking if he accepted that there was no such press release and the action, if any, that he took to check the accuracy of the Guido Fox article before he posted the tweet.<sup>7</sup> He responded on 24 May stating that he had not seen any Welsh Government press release but that when including the Guido Fawkes text in his tweet he had acted in good faith believing that the text was accurate. He offered to apologise if there was no such press release.<sup>8</sup>
7. I obtained confirmation from the Welsh Government press office that no press release had been issued about the arrangements for '*birthing people*'.
8. On 24 May, having considered all the available information, I was satisfied that the alleged conduct may have taken place and that, if proved it might amount to a breach of the Code of Conduct. As all the other admissibility criteria had been fulfilled, I decided that the complaint was admissible.
9. On 29 May I informed both parties of my decision and that I had started my formal investigation of the complaint. I requested both of them to provide me with the names and contact details of all persons whom they believed might have evidence relevant to my investigation. I offered the Member a meeting to discuss the investigative process but not the merits of the complaint.<sup>9 10</sup>

### **Formal investigation**

10. On 24 June I told the Member that I wished to interview him. The interview under oath took place on 15 July. On 18 July I sent him a copy of the audio recording of his interview and of the transcript and allowed him time to suggest any changes to it. On 26 July he confirmed that he was content with the accuracy of the transcript.<sup>11 12</sup>
11. On 26 July I told both parties that I had completed my investigation and sent them my Findings of Fact. I allowed them until 9 August to submit written representations or corrections regarding them.<sup>13 14</sup>
12. The Complainant made no submission. On 9 August the Member submitted his representations by way of a revised version of the Findings sent to him.<sup>15</sup>

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<sup>5</sup> [Letter to Member 3 May 2024](#)

<sup>6</sup> [Email from Member 3 May 2024](#)

<sup>7</sup> [Letter to Member 21 May 2024](#)

<sup>8</sup> [Letter from Member 24 May 2024](#)

<sup>9</sup> [Letter to Complainant 29 May 2024](#)

<sup>10</sup> [Letter to Member 29 May 2024](#)

<sup>11</sup> [Transcript of Member's interview](#)

<sup>12</sup> [Letter from Member 26 July 2024](#)

<sup>13</sup> [Letter to Complainant 26 July 2024](#)

<sup>14</sup> [Letter to Member 26 July 2024](#)

<sup>15</sup> [Member's representations 9 August 2024](#)



## Findings of Fact

13. I had due regard to the representations made by the Member and set out in my Consideration how I dealt with them.

I found the following facts established -

- I. On 26 April 2024 the Cabinet Secretary for Health and Social Care published the Statement which included the following text *“The final report following an unannounced HIW inspection at Prince Charles Hospital is being published today. It concludes that staff at all levels in the service work hard to provide a good experience and that sufficient arrangements are in place to provide safe and effective care to women and birthing people.”*<sup>16</sup>
- II. In that Statement the Cabinet Secretary did not *“celebrate the arrangements for women and birthing people.”* In that Statement she quoted from the HIW inspection report *“staff at all levels in the service work hard to provide a good experience and that sufficient arrangements are in place to provide safe and effective care to women and birthing people”* and stated that as a result of the inspection she was *“in a position to de-escalate the health board to routine arrangements for maternity and neo-natal services.”*
- III. The Welsh Government did not issue any press release in relation to the HIW inspection of the arrangements at Prince Charles Hospital for women and birthing people.
- IV. Healthcare Inspectorate Wales (HIW) is the independent inspectorate and regulator of healthcare in Wales. HIW inspects NHS services, and regulates independent healthcare providers against a range of standards, policies, guidance and regulations to highlight areas requiring improvement. HIW is operationally independent but receives the majority of funding from the Welsh Government. Both its postal and email address refer to the Welsh Government.
- V. HIW is not part of the Welsh Government.
- VI. The HIW inspection report did not *“celebrate the arrangements for women and birthing people.”*
- VII. The HIW did not issue any press release in relation to its inspection of the arrangements at Prince Charles Hospital for women and birthing people. HIW published on its own website a copy of the inspection report with a brief summary of the key points and a statement by its Chief Executive welcoming the significant improvements since their last inspection.<sup>17</sup>
- VIII. On 26 April a copy of the Statement was sent to the Member.
- IX. On 26 April, after he had read the Statement, the Member posted a tweet including the following text *“Vaughan Gething’s Labour government is embracing the same extreme ideology as its predecessor. Nothing has changed.”* He copied into his tweet from the Guido Fawkes website an image of Mr Gething and of a pregnant woman with the text *“Welsh Government*

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<sup>16</sup> [Written Statement 26 April 2024](#)

<sup>17</sup> [Significant improvement made to maternity services at Prince Charles Hospital in Merthyr Tydfil | Healthcare Inspectorate Wales \(hiw.org.uk\)](#)

*press release celebrates 'birthing people.' Wales makes womb for 'birthing people.'* “

- X. *That tweet was composed and posted by the Member.*
- XI. The Member took no steps to check the accuracy of the Guido Fawkes text before including it in his tweet.

## Consideration

14. I consider first a number of matters arising from the Member's interview. The Member deponed that the Complainant had “*serially complained about me*” and that his complaints were vexatious and “*didn't deserve determining.*”<sup>18</sup> Since July 2023 the Complainant has made four other complaints about the Member's conduct. Three of these were inadmissible and the fourth was the subject of the Committee's Eighth Report. I do not consider that any of the four complaints were vexatious.
15. The Member also told me at interview that although he had personally composed and posted the tweet he had not written the text copied from Guido Fawkes that he copied in it.<sup>19</sup> I am clear that is irrelevant. Members are fully responsible for any quotation they choose to include in a tweet in the same way as they are responsible for anything they retweet or any tweet that they like. That has been made clear to Members repeatedly including during at least two awareness sessions I delivered at which the Member was present.
16. Third, the Member failed to answer when asked whether when he posted the tweet he was aware that paragraph 59 of the Guidance on the Code of Conduct which states “*Members are expected to reasonably fact check and verify their assertions.*”<sup>20</sup> As a former Member of the Standards of Conduct Committee I consider it inconceivable that he was not aware of that text. The Member did, however, confirm that he was familiar with the text of paragraph 19 of the Committee's Eighth Report which included the admonition “*It is incumbent on all Members to uphold the high standards expected of us as elected representatives when debating issues in the public domain, whether on social media or elsewhere. This means Members should take care to not intentionally make statements which are imprecise and inaccurate.*”<sup>21</sup> When he was asked if he accepted that a Member making a statement which he knew or ought to have known was false and misleading would belikely to bring the Senedd into disrepute, the Member responded “*If someone deliberately did that, of course, that would be a case of bringing the Senedd into disrepute. But I don't accept that in this case one iota*”<sup>22</sup>
17. Turning now to the Member's representations about the Findings of Fact, I accepted the thrust of the Member's representation regarding Finding II and have included the quotations from the Statement that he requested. I note, however, that the quotations are about the improvement to the arrangements now in place for “women

<sup>18</sup> [Transcript of Member's interview page 13 lines 20 - 25](#)

<sup>19</sup> [Transcript of Member's interview page 2 line 21 – page 3 line 3; page 10 lines 23-24](#)

<sup>20</sup> [Transcript of Member's interview page 7 lines 2 - 9](#)

<sup>21</sup> [Eighth Report to the Sixth Senedd under Standing Order 22.9](#)

<sup>22</sup> [Transcript of Member's interview page 13 lines 4 - 10](#)

and birthing people” not just to those for birthing people. I note also that the HIW inspection report states no more than these arrangements are sufficient to provide safe and effective care.

18. The Member also invited me to find that he considered that the terms “*press releases*” and “*ministerial statements*” to be synonymous. I am not satisfied that was the Member’s belief when posting his tweet and so have not changed Finding III. If it was his belief, it was erroneous. There is a clear distinction, that would be recognised by those reading his tweet, between a ministerial statement and a press release.
19. The Member invited me to delete Finding V (HIW is not part of the Welsh Government) and instead find that HIW is part of the Welsh Government. I am satisfied that HIW is not part of the Welsh Government within the accepted usage of that phrase. I therefore did not alter Finding V.
20. I have not accepted the Member’s proposed re-writing of Finding VI because there was no evidence before me in relation to it. But even if there had been, I would not have accepted that the text referred to could reasonably be considered to be celebrating the improved arrangements for birthing people. I note again that these improvements were for all those giving birth and not, as implied in the tweet, just for “birthing people.”
21. Nor have I accepted the Member’s proposed changes to Finding VII but I have added text making clear that HIW published on its website a copy of the inspection report with a brief summary of the key points and a statement by its Chief Executive welcoming the significant improvements since their last inspection. In that summary reference was made to the improved arrangements for women and birthing people not just to those for birthing people as implied in the tweet. I do not accept that the summary could reasonably be considered to be celebrating the improved arrangements for birthing people.
22. For a number of reasons, I do not accept the Member’s proposed deletion of Finding XI and substitution of his proposed text. First, the proposed text refers to “*the Welsh Government press release*” but there was no such press release. Second, it is not in accord with the evidence given by the Member. When asked what steps, if any, he had taken to check the accuracy of the Guido Fawkes article before reproducing part of it in his tweet the Member answered “*Having read the article and comparing it back to the statement, obviously I was familiar with the terminology that was in the statement ... I reposted the Guido Fawkes article.*”<sup>23</sup> Finally, I do not accept that, having read the Statement which was about the now satisfactory arrangements for all those giving birth at the facility, the Member could reasonably have concluded that the extract from the Guido Fawkes article that he included in his tweet was a fair reflection of the Statement.

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<sup>23</sup> [Transcript of Member’s interview page 9 lines 7 - 13](#)

23. I now turn to each of the three allegations of misconduct set out in the complaint, namely that -
- the Member's tweet "*was a blatant lie*"
  - the Member "*was trying to confuse people who may not know what the HIW is or that they are independent to sow division and hate towards not only the welsh (sic) government but also trans people*"
  - "*Calling it an "extreme ideology" is dangerous language especially since the uk (sic) government is leading a campaign of hate towards trans people at the moment.*"
24. In considering these matters I was very conscious of the Member's right to Freedom of Expression under Article 10 of ECHR and of the need for the greatest care when doing anything to restrict the rights of politicians under it. "*Whilst in a political context, Article 10 protects the right of politicians to make incorrect but honestly made statements, it does not protect statements which the publisher knows to be false.*"<sup>24</sup> Nor, in my opinion, does it protect the right of politicians to make statements which they know or ought to know were incorrect and likely to mislead or to make incorrect statements recklessly and without making appropriate checks on their accuracy.
25. As the Member explained at interview the "extreme ideology" he referred to was the concept that anyone other than a person born a woman could give birth. I agree with him that he was quite entitled to express his opinion about that concept and to describe it in the manner he did.
26. I am not satisfied that the Member "*was trying to confuse people who may not know what the HIW is or that they are independent*" and attempting to sow division and hate towards trans people. Whilst his tweet may well have caused such confusion, I am clear that was not the Member's intention. Rather he was attempting to gain political advantage by ridiculing what he perceived to be the Welsh Government approach to transgender issues. He was entitled to do so provided he did so in a respectful way that was not misleading.
27. If it was the case that the Member's tweet "*was a blatant lie*" that would amount to a breach of the duty to act truthfully set out in Rule 2 of the Code. In its Eighth Report the Committee quoted from and approved the following extract from my investigation report "*Untruthfulness, like dishonesty, requires some element of deceit, fraud or moral turpitude.*"<sup>25</sup> Whilst I have no doubt that the Member's tweet, and in particular that part of it copied from Guido Fawkes, was incorrect and potentially misleading I am not satisfied that on the evidence it can be found to have been untruthful. I am therefore not satisfied that the Member breached Rule 2 of the Code of Conduct.

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<sup>24</sup> [Heesom v Public Service Ombudsman for Wales \[2014\] EWHC 1504 \(Admin\) per Higginbotham J, Para 38](#)

<sup>25</sup> [Eighth Report to the Sixth Senedd under Standing Order 22.9 paragraphs 14 and 16](#)

28. Had he not quoted the text from Guido Fawkes in his tweet, I would have had no hesitation in giving my opinion that he had breached no provision of the Code of Conduct or of any other relevant provision.
29. However, the Member accepted that he, personally, had composed and posted the tweet including that text copied from Guido Fawkes. That text was incorrect in material particulars. It was potentially misleading. There was no Welsh Government press release. Having read the Statement before posting the tweet the Member knew or ought to have known that it did not celebrate anything and that it dealt with the improved arrangements for all giving birth at the facility not just to those for birthing people. I am unable to accept that in these circumstances it was sufficient for the Member to rely on his asserted belief that *“the article published in Guido Fawkes, a mainstream, reputable and widely read news outlet, was accurate.”*<sup>26</sup> I note that during his interview the Member gave an apparently inconsistent account when he deponed *“I believe that I fact checked and satisfied myself that I’d acted reasonably and within the Code”* but that he provided no information as to the checks that he claimed to have carried out”.<sup>27</sup> I am satisfied that the Member made no attempt to check the accuracy of the text from Guido Fawkes that he copied into his tweet. He simply accepted what was in the Guido Fawkes article. I am satisfied that he knew or ought to have known that the copied text was false in material particulars and that it was potentially misleading. I am also satisfied that persons reading the text would be likely to be misled by it into believing that the Welsh Government had issued a press release which celebrated the arrangements for birthing people.
30. I am satisfied that by posting the tweet including text that he knew or ought to have known was false in material particulars and potentially misleading without taking any steps to check its accuracy the Member brought the Senedd into disrepute.
31. It is my opinion that by his conduct the Member breached Rule 3 of the Code of Conduct.

Douglas Bain CBE TD

Senedd Commissioner for Standards

13 August 2024

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<sup>26</sup> [Member’s representations 9 August 2024 Finding XI](#)

<sup>27</sup> [Transcript of Member’s interview page 7 lines 15 -16](#)

## STANDARDS CONFIDENTIAL

Document Number	Title
1	Complaint
2	Letter to Member 29 April 24
3	Letter to Complainant 29 April 24
4	Letter from Member 29 April 24
5	Letter to Member 3 May 24
6	Email Member 3 May 24
7	Letter to Member 21 May 24
8	Letter from Member 24 May 24
9	Letter to Complainant 29 May 24
10	Letter to Member 29 May 24
11	Transcript Member interview
13	Finding of Fact to Complainant 26 July 24
14	Finding of Fact to Member 26 July 24
15	Revised Finding of Fact from Member 9 August 24
16	Ministerial Statement
17	Eighth Report of the Standards of Conduct Committee
18	Heesom v Public Services Ombudsman