

Adroddiad 01-21 gan y Pwyllgor Safonau Ymddygiad i'r Senedd o dan Reol Sefydlog 22.9

Chwefror 2022



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Adroddiad 01-21 gan y Pwyllgor Safonau Ymddygiad i'r Senedd o dan Reol Sefydlog 22.9

Chwefror 2022



Am y Pwyllgor

Sefydlwyd y Pwyllgor ar 28 Mehefin 2016. Ceir ei gylch gwaith yn:
<https://senedd.cymru/SeneddSafonau-5S>

Cadeirydd y Pwyllgor:



Jayne Bryant AS
Llafur Cymru

Aelodau cyfredol y Pwyllgor:



Rhun ap Iorwerth AS
Plaid Cymru



Andrew RT Davies AS
Ceidwadwyr Cymreig



David J Rowlands AS*
Grŵp y Gyngghair Annibynnol dros
Ddiwygio

*Bu David J Rowlands AS yn rhan o'r trafodaethau ar yr adroddiad hwn fel Aelod o Grŵp Plaid Brexit. Daeth ei aelodaeth o'r pwyllgor i ben ar 16 Hydref 2020, pan ymddiswyddodd o'r Grŵp Plaid Brexit. Ar 11 Tachwedd 2020, cafodd David ei ethol yn aelod o'r pwyllgor ar ran Grŵp y Gyngghair Annibynnol dros Ddiwygio.

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Argymhelliad

Argymhelliad 1. Mae'r Pwyllgor yn argymhell i'r Senedd, yn unol â 7.12(iii) o'r Weithdrefn ar gyfer Ymdrin â Chwynion yn erbyn Aelodau o'r Senedd, fod achos o dorri'r Cod wedi'i ganfod ac y dylid eithrio'r Aelod o drafodion am gyfnod o bedwar diwrnod calendr ar ddeg. Tudalen 13

1. Cyflwyniad

1. Nodir cylch gorchwyl y Pwyllgor Safonau Ymddygiad (y Pwyllgor) yn Rheol Sefydlog 22.¹ Yn unol â'r swyddogaethau a nodir yn Rheol Sefydlog 22.2, mae'n 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.”²

2. Lluniwyd yr adroddiad hwn ar gyfer y Senedd yn unol â Rheol Sefydlog 22.9 a pharagraff 8.1 o'r Weithdrefn ar gyfer Ymdrin â Chwynion yn erbyn Aelodau o'r Senedd³ (y Weithdrefn) ac mae'n ymwneud â chwyn yn erbyn Neil McEvoy AS.

3. Mae adroddiad y Comisiynydd Safonau Dros Dro (“y Comisiynydd”) ar ei ymchwiliad i'r gŵyn wedi'i atodi yn Atodiad A. Mae'n nodi manylion am y gŵyn a chasgliadau ymchwiliad ffurfiol y Comisiynydd.

4. Mae'r adroddiad hwn yn nodi manylion am y gŵyn a'r hyn a ystyriodd y Pwyllgor wrth lunio ei argymhelliad.

5. Gwnaed y gŵyn hon yn wreiddiol i'r Comisiynydd Safonau blaenorol yn 2018. Cymerodd y Comisiynydd yr awenau ar gyfer y gŵyn hon ym mis Tachwedd 2019 ac mae'n amlinellu yn adran tri o'i adroddiad gronoleg y gwaith o ystyried y gŵyn gan y cyn-Comisiynydd ac ef ei hun. Gohiriwyd trafodaeth y Pwyllgor oherwydd yr ymchwiliad gan Heddlu De Cymru, ac oherwydd i Neil McEvoy AS arfer ei hawl i gyflwyno sylwadau i'r Pwyllgor; nid oedd modd iddo wneud hyn yn ystod y cyfnod lle cafodd ei atal dros dro o drafodion y Senedd⁴.

6. Cyn ystyried y gŵyn am y tro cyntaf, dywedodd Rhun Ap Iorwerth AS wrth y Pwyllgor ei fod, yn rhinwedd ei swydd gyda Plaid Cymru, wedi bod yn rhan o faterion yn ymwneud â Neil McEvoy AS. Nododd y Pwyllgor nad oedd yr amgylchiadau dan sylw yn uniongyrchol gysylltiedig â'r gŵyn hon a chytunodd nad oeddent yn effeithio ar allu'r Aelod i weithredu'n ddiduedd mewn perthynas â'r gŵyn hon.

7. Ar ddechrau'r sesiwn dystiolaeth, gwrthwynebodd Neil McEvoy AS gyfraniad Rhun Ap Iorwerth AS a holodd a oedd Aelodau'r Pwyllgor yn ddiduedd o ystyried

¹ Y Rheolau Sefydlog

² Rheol Sefydlog 22.2(i)

³ Gweithdrefn y Senedd ar gyfer Ymdrin â Chwynion yn erbyn Aelodau o'r Senedd

⁴ Cafodd Neil McEvoy AS ei atal dros dro o drafodion y Senedd rhwng 9 Rhagfyr 2020 a 20 Ionawr 2021 yn dilyn argymhelliad yn adroddiad 03-20 Rheol Sefydlog 22.

penderfyniadau blaenorol y Pwyllgor mewn perthynas â chwynion am ei ymddygiad.

8. Mae Rheol Sefydlog 22.5 yn nodi (ychwanegwyd y pwyslais):

“Os bydd aelod o'r pwyllgor cyfrifol yn destun cwyn o dan Reol Sefydlog 22.2(i), neu os bydd wedi'i gysylltu'n uniongyrchol fel arall â chwyn o'r fath, ni chaiff gymryd rhan yn ystyriaeth y pwyllgor cyfrifol ar y gŵyn. O dan amgylchiadau o'r fath, ac mewn perthynas â'r ystyriaeth ar y gŵyn o dan sylw yn unig, caiff yr eilydd a etholwyd yn unol â Rheol Sefydlog 22.4A gymryd lle'r aelod hwnnw. Caiff yr Aelod a enwebwyd gymryd rhan yng nghyfarfodydd y pwyllgor cyfrifol i ystyried y gŵyn fel pe bai'n aelod o'r Pwyllgor.” (Ychwanegwyd pwyslais)

9. Fel y mae'r Rheol Sefydlog yn ei nodi, nid oes darpariaeth i Aelodau drefnu bod Aelod arall yn dirprwyo ar eu rhan oni bai bod ganddynt gysylltiad uniongyrchol â'r gŵyn. Cytunodd y Pwyllgor nad oedd gan unrhyw Aelod o'r Pwyllgor gysylltiad uniongyrchol â'r gŵyn.

2. Ystyried y gŵyn

10. Mae adroddiad y Comisiynydd yn nodi fel a ganlyn:

“The essence of the complaint was that Neil McEvoy had, contrary to paragraph 10 of the Code of Conduct for Assembly Members (“the Code”) used Assembly resources for party political and election purposes in relation to the Cardiff Council Grangetown ward by-election in November 2016, the Cardiff Council local elections in March 2017.”

11. Roedd y gŵyn yn ymwneud â pharagraff 10 o'r Cod Ymddygiad, sy'n nodi:

“Gofynnir i Aelodau gydymffurfio â'r 'Rheolau a Chanllawiau ar Ddefnyddio Adnoddau'r Cynulliad’⁵ ac unrhyw ganllawiau ar y defnydd o adnoddau'r Cynulliad sy'n ymwneud yn benodol ag ymgyrchoedd etholiadol.”⁶

12. Yn benodol, roedd y gŵyn yn honni'r achosion a ganlyn o fynd yn groes i baragraff 10:

- 1.** Argraffu nifer fawr o daflenni plaid wleidyddol, at ddibenion hyrwyddo ac ethol ymgeiswyr Plaid Cymru, trwy lungopiwr a ddarparwyd gan gomisiwn y Cynulliad (sic).
- 2.** Hawliwyd cost yr argraffu trwy ei lwfans costau swyddfa.
- 3.** Pan heriwyd bil gwerth uchel gan Gymorth Busnes i'r Aelodau, ceisiodd Mr McEvoy dwyllo staff y Cynulliad trwy gopïo nifer fawr o ffeiliau cyfrinachol ar argraffydd trydydd parti.
- 4.** Hawliwyd eitemau pellach drwy ei lwfans costau swyddfa a ddefnyddiwyd yn benodol at ddibenion ymgyrchu. Roedd y rhain yn cynnwys camera o ansawdd uchel ac offer recordio sain.
- 5.** Cynhaliodd gyfarfodydd ymgyrchu ar gyfer Cyngor Dinas Caerdydd yn ei swyddfa Cynulliad ranbarthol.
- 6.** Cyflogodd dri aelod o staff dros dro gyda'r unig nod o ymgyrchu dros ethol ymgeiswyr Plaid Cymru i Gyngor Caerdydd. Roedd eu cyfrifoldebau o ddydd i ddydd yn cynnwys dylunio, cyfieithu, argraffu a dosbarthu taflenni gwleidyddol plaid.
- 7.** Roedd yn dirprwyo tasgau pellach a oedd yn wleidyddol iawn eu natur yn rheolaidd i'w dri aelod o staff parhaol.
- 8.** Defnyddiodd systemau TGCh y Cynulliad i gynhyrchu, golygu a lanlwytho fideos ymgyrchu gwleidyddol i'r cyfryngau cymdeithasol.

⁵ Diweddarwyd y rheolau hyn ym mis Medi 2020, mae atodiad C yn cynnwys y fersiwn sy'n berthnasol i'r adroddiad hwn.

⁶ Cod Ymddygiad y Senedd.

- 9.** Ceisiodd dalu biliau mawr o fwyty'r Cynulliad i'w gyfrif costau swyddfa. Roedd y biliau hyn ar gyfer cinio pan oedd yn croesawu pobl fusnes flaenllaw y cafodd roddion gwleidyddol ganddynt.

- 13.** Cyfarfu'r Pwyllgor ar 29 Mehefin, 15 Medi 2020 a 28 Ionawr, 11 a 23 Chwefror 2021 i drafod a dod i'w gasgliad mewn perthynas â'r gŵyn hon.

3. Y broses o drafod Penderfyniad y Pwyllgor

- 14.** Bu'r Pwyllgor yn trafod a dorrodd yr Aelod Reol Sefydlog 22.2(i).⁷
- 15.** Wrth ystyried a fu achos o dorri'r Cod, adolygodd y Pwyllgor y ffeithiau a ganfuwyd gan y Comisiynydd ac a nodwyd yn ei adroddiad; barn y Comisiynydd bod y Cod wedi'i dorri; sylwadau gan Neil McEvoy AS i'r Comisiynydd; a sylwadau ysgrifenedig a llafar i'r Pwyllgor gan Neil McEvoy AS.
- 16.** Ar gais y Pwyllgor, rhoddodd y Comisiynydd dabl i'r Pwyllgor yn crynhoi pob un o'r achosion honedig o dorri'r Cod a ystyriwyd gan y Comisiynydd ac a oedd (i) Neil McEvoy AS wedi cyfaddef iddynt, (ii) y Comisiynydd wedi'u cadarnhau neu heb eu cadarnhau. Mae'r tabl a ddarparwyd gan y Comisiynydd ar gael yn Atodiad B.
- 17.** Aeth Neil McEvoy AS i sesiwn dystiolaeth y Pwyllgor ar 28 Ionawr 2021 mewn perthynas â'r gŵyn hon.
- 18.** Ar gais Neil McEvoy AS, cytunodd y Pwyllgor i wahodd y Comisiynydd i'r sesiwn dystiolaeth.
- 19.** Yn ystod y sesiwn dystiolaeth gyda'r Pwyllgor, nododd Neil McEvoy AS na ddylai'r Comisiynydd fod wedi parhau â'r ymchwiliad hwn yng ngoleuni ymddygiad y cyn-Comisiynydd Safonau.
- 20.** Yn sgil sylwadau Mr McEvoy, gofynnodd y Pwyllgor am sicrwydd gan y Comisiynydd ynghylch annibyniaeth ei ymchwiliad. Cadarnhaodd y Comisiynydd ei fod wedi cymryd yr awenau gydag ymchwiliad y cyn-Comisiynydd, ond nododd mai ei ganfyddiadau ef yn unig yw'r canfyddiadau, a'u bod yn seiliedig ar y ffeithiau a nodwyd yn unig. Gofynnodd y Comisiynydd i'r Pwyllgor nodi nad oedd Neil McEvoy AS wedi herio unrhyw ffeithiau yn yr adroddiad gydag ef pan roddwyd cyfle iddo roi sylwadau ar adroddiad drafft.
- 21.** Cymerodd y Comisiynydd gyfrifoldeb am ymchwilio i'r gŵyn ar ôl iddo gael ei benodi, gan fod y Comisiynydd blaenorol wedi'i derbyn fel cwyn dderbynadwy.
- 22.** Mae'r Pwyllgor yn nodi bod y Comisiynydd, wrth gynnal ei ymchwiliad, wedi cyfweld â Neil McEvoy AS o dan lw. Mae'r Pwyllgor hefyd yn nodi bod cyfyngiadau COVID-19 yn golygu bod y Comisiynydd yn mynd ar drywydd y materion gyda'r achwynydd drwy gwestiynau ysgrifenedig yn hytrach na chyfweliad. Mae'r Pwyllgor yn cytuno â barn y Comisiynydd mai hon oedd y ffordd orau o weithredu

⁷ Rheol Sefydlog 22.2(i)

o ystyried yr amser sydd wedi mynd heibio ers y camymddwyn honedig ac a oedd ymchwiliad pellach yn debygol o arwain at dystiolaeth newydd a allai gynorthwyo'r Pwyllgor Safonau Ymddygiad i benderfynu ar sancsiwn priodol pe bai unrhyw un o'r honiadau'n cael eu cadarnhau.

23. Dywedodd y Comisiynydd nad oedd wedi cyfathrebu â'r cyn-Comisiynydd Safonau mewn perthynas â'r gŵyn hon ac mai rôl weinyddol yn unig oedd gan staff y Comisiynydd. Ar ôl rhoi briff cychwynnol ynghylch y gŵyn, dywedodd fod eu rôl yn gyfyngedig iawn ac yn ymwneud â dod o hyd i bethau pan fyddai'n gofyn amdanynt, ac nad oeddent yn chwarae unrhyw ran wrth ddrafftio'r adroddiad ar wahân i'w brawfddarllen.

24. Cadarnhaodd y Comisiynydd nad oedd wedi gwrandao ar y recordiadau cudd a wnaed gan Neil McEvoy na darllen unrhyw drawsgrifiadau ohonynt yn ystod yr ymchwiliad i'r gŵyn hon⁸.

25. Nododd y Pwyllgor fod y Comisiynydd wedi holi ynghylch dibynadwyedd Neil McEvoy AS a'r achwynydd⁹, ac yn hynny o beth, mae'r Comisiynydd yn nodi yn ei adroddiad nad oedd modd iddo gadarnhau achos o dorri'r Cod mewn perthynas ag unrhyw fater sylweddol yn seiliedig dim ond ar dystiolaeth naill ai gan Mr Deem neu Mr McEvoy.¹⁰ Er mwyn dod o hyd i achos o dorri'r Cod, mae'n nodi bod angen tystiolaeth ategol arno. Lle nad oedd tystiolaeth ategol, ni ddaeth o hyd i achos o dorri'r Cod.

26. Mae'r Pwyllgor yn fodlon bod y Comisiynydd wedi cynnal yr ymchwiliad mewn modd annibynnol, teg a phriodol.

27. Gohiriwyd y gwaith hwn o ystyried y gŵyn gan fod Heddlu De Cymru yn ystyried cwyn gysylltiedig (ynghylch ymddygiad y cyn-Comisiynydd Safonau). Daeth y mater hwn i ben ym mis Hydref 2020 pan gadarnhaodd yr heddlu na fyddent yn cymryd unrhyw gamau pellach. Gwnaeth Neil McEvoy AS sylwadau yn nodi nad oedd proses yr Heddlu wedi dod i ben gan nad oedd eto wedi arfer ei hawl fel dioddefwr i adolygu'r penderfyniad. Can fod gwaith yr heddlu i ystyried y gŵyn wreiddiol wedi'i chwblhau, roedd y Pwyllgor o'r farn y gallai'r Pwyllgor barhau â'i waith i ystyried cam tystiolaeth lafar y broses.

Ar ôl adolygu adroddiad y Comisiynydd Safonau, a'r sylwadau a gyflwynwyd ar ei gyfer, mae'r Pwyllgor yn canfod bod Neil McEvoy AS wedi mynd yn groes i

⁸ Mae adroddiad y Pwyllgor Safonau Ymddygiad 03-21 yn trafod y recordiadau cudd.

⁹ Adroddiad y Comisiynydd paragraff 6.2-6.3

¹⁰ Adroddiad y Comisiynydd paragraff 6.7

baragraff 10 o'r Cod Ymddygiad mewn perthynas â'r achosion a ganfuwyd neu a gyfaddefwyd fel y nodir yn Atodiad B.

Argymhelliad y Pwyllgor - Sancsiynau posibl.

28. Mae achos o dorri'r Cod 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 arweiniad drwy eu gweithredoedd.

29. Wrth lunio ei argymhelliad, nododd y Pwyllgor fod Neil McEvoy AS yn cydnabod bod rhai o'i weithredoedd yn torri'r Cod Ymddygiad, a'i fod wedi cydweithredu â'r cyn-Comisiynydd ac wedi cymryd rhan mewn 39 awr o 'wrandawiadau' cyn tynnu yn ôl o'r broses ym mis Gorffennaf 2019. Cydweithredodd Neil McEvoy hefyd ag ymchwiliadau'r Comisiynydd, gan fynd i gyfweliad dan lw ar gais y Comisiynydd.

30. Nododd y Pwyllgor hefyd y sylw yn yr adroddiad gan y Comisiynydd yn adran 7.2, y gallai'r Pwyllgor fod eisiau ei ystyried:

"... whether this is a case of a Member making a number of errors about what use of Assembly resources was permissible or whether the extent of the contraventions demonstrates a wilful and persistent disregard of the provisions of the Election Guidance, the General Election Guidance, the Rules and the Code."

31. Ar ôl ystyried y mater yn ofalus daeth y Pwyllgor i'r casgliad bod Neil McEvoy AS wedi torri'r Cod i'r fath raddau mewn perthynas â'r materion hyn ei fod yn dangos ei fod yn diystyru darpariaethau'r Canllawiau Etholiad, y Canllawiau Etholiad Cyffredinol, y Rheolau, a'r Cod yn fwriadol ac yn barhaus.

32. Nododd y Pwyllgor hefyd y diffyg edifeirwch a ddangoswyd gan Neil McEvoy pan gyfarfu â'r Pwyllgor.

33. Mae'r Pwyllgor yn nodi nad oedd modd i'r Comisiynydd roi'r union gost i'r pwrs cyhoeddus, ond ei amcangyfrif lefel isel oedd £3450. Nid oes gan y Pwyllgor y pŵer i fynnu ad-daliad o'r gost hon. Serch hynny, byddem yn gwahodd yr Aelod i ad-dalu'r swm a amcangyfrifwyd gan y Comisiynydd.

Mae'r Pwyllgor yn gwahodd Neil McEvoy AS i ad-dalu'r golled amcangyfrifedig o £3450 i'r pwrs cyhoeddus.

34. Wrth ddod i'w benderfyniad ar sancsiwn, nododd y Pwyllgor hefyd na wnaeth Neil McEvoy AS fanteisio ar y cyfle i gywiro gwallau ffeithiol yn yr adroddiad gyda'r Comisiynydd yn unol â'r weithdrefn gwynion, er iddo gael cyfle i wneud hynny. Nid yw'n dderbyniol i Aelod hysbysu'r Pwyllgor bod 'gwallau amlwg' yn adroddiad y Comisiynydd, ond i beidio â darparu unrhyw gywiriadau neu dystiolaeth i'r gwrthwyneb ar ôl cael gwahoddiad i wneud hynny gan y Comisiynydd yn unol â'r weithdrefn sydd ar waith. Arweiniodd hyn at oedi cyn i'r Pwyllgor allu ystyried y mater gan fod yn rhaid iddo wneud rhagor o waith dilysu gyda'r Comisiynydd ynghylch honiadau a wnaed gan Neil McEvoy yn ei sylwadau i'r Pwyllgor.

35. Wrth benderfynu ar y sancsiwn priodol, ystyriodd y Pwyllgor lefel y sancsiynau blaenorol a osodwyd ar gyfer camddefnyddio adnoddau'r Senedd a lefel amcangyfrifedig y golled yn yr achos hwn.

Argymhelliad 1. Mae'r Pwyllgor yn argymhell i'r Senedd, yn unol â 7.12(iii) o'r Weithdrefn ar gyfer Ymdrin â Chwynion yn erbyn Aelodau o'r Senedd, fod achos o dorri'r Cod wedi'i ganfod ac y dylid eithrio'r Aelod o drafodion am gyfnod o bedwar diwrnod calendr ar ddeg.

36. Darparwyd copi o'r adroddiad hwn i'r Aelod dan sylw, a chafodd wybod hefyd am ei hawl i apelio o dan adran 8 o'r Weithdrefn.¹¹

37. Mae Cadeirydd y Pwyllgor wedi cyflwyno cynnig (yn unol â Rheol Sefydlog 22.11 a pharagraff 9.1 o'r Weithdrefn) yn galw ar y Senedd i gymeradwyo argymhelliad y Pwyllgor.

Materion sy'n codi o'r gŵyn hon

38. Mae gan y Pwyllgor nifer o bryderon mewn perthynas â'r adroddiad hwn.

39. Mae'r Pwyllgor yn nodi'r sylwadau gan y Comisiynydd mewn perthynas â staff cymorth Aelodau a sut mae eu hamser gwaith yn cael ei gofnodi. Mae'r Comisiynydd wedi tynnu hyn at sylw Prif Weithredwr a Chlerc y Senedd a Chadeirydd y Bwrdd Taliadau. Nid mater i'r Pwyllgor yw hwn.

40. Mae'r Pwyllgor o'r farn bod y dystiolaeth fel y'i nodwyd gan y Comisiynydd mewn perthynas ag ymddygiad uwch aelod o staff Neil McEvoy tuag at ddarpar dystion (paragraff 8.2-8.4) yn destun pryder mawr. Mae'r Comisiynydd yn nodi yn ei adroddiad:

¹¹ Gweithdrefn y Senedd ar gyfer Ymdrin â Chwynion yn erbyn Aelodau o'r Senedd.

"Had this misconduct been in relation to a civil or criminal court case rather than the investigation of a complaint it would have most likely have been dealt with as either contempt of court or an attempt to pervert the course of justice. Regrettably, these options are not available. The Committee may wish to consider whether there is need for legislation to allow interference with witnesses to an investigation by the Commissioner to be dealt with as a criminal matter."¹²

41. Mae'r Pwyllgor yn bwriadu argymhell yn ei adroddiad gwaddol y dylai ymyrryd mewn ymchwiliad sy'n cael ei gynnal gan y Comisiynydd Safonau fod yn drosedd benodol. Byddai hyn yn gofyn am newid deddfwriaethol, drwy newid Mesur Comisiynydd Safonau Cynulliad Cenedlaethol Cymru 2009. Yn y cyfamser, bydd y Pwyllgor yn argymhell i'r Senedd y dylai'r Cod Ymddygiad diwygiedig ar gyfer Aelodau o'r Senedd gynnwys rheol sy'n ei gwneud yn ofynnol i Aelodau gymryd mesurau rhesymol i sicrhau bod eu staff yn cydymffurfio â'r safonau ymddygiad yn y Cod¹³.

42. Ar 26 Ionawr 2021, cyn i waith y Pwyllgor i ystyried y gŵyn hon ddod i ben, adroddwyd ar gynnwys adroddiad y Comisiynydd yn y cyfryngau. Mae hyn yn anffodus. Fodd bynnag, ni wnaeth y sylw yn y cyfryngau ddylanwadu ar waith y Pwyllgor wrth ystyried y mater hwn.

43. Mae'r Pwyllgor hefyd yn teimlo ei fod yn anffodus iawn bod y gŵyn hon wedi cymryd tair blynedd i ddod i gasgliad. Cynhaliodd y cyn-Gomisiynydd Safonau gyfres o wrandawiadau rhwng mis Tachwedd 2018 a Gorffennaf 2019, pan wrthododd Neil McEvoy gymryd rhan ymhellach yn y broses. Mae'r Pwyllgor yn nodi bod y dull a fabwysiadwyd gan y Comisiynydd ar ôl iddo gael ei benodi wedi galluogi'r ymchwiliad i gael ei gwblhau mewn modd amserol. Mae'r Pwyllgor yn cydnabod y bu oedi, yn rhannol, oherwydd ymchwiliadau gan gyrff ymchwilio eraill (sef Heddlu De Cymru), sydd, yn unol â'r weithdrefn ar gyfer ymdrin â chwynion yn erbyn Aelodau o'r Senedd, yn cael blaenoriaeth dros waith y Pwyllgor¹⁴.

¹² Paragraff 8.5, adroddiad y Comisiynydd

¹³ Rheol 17 arfaethedig, ymgynghoriad Cod Ymddygiad

¹⁴ Y weithdrefn ar gyfer ymdrin â chwynion yn erbyn Aelodau o'r Senedd.

Atodiad A: Adroddiad gan y Comisiynydd Safonau (Saesneg yn unig)

**Atodiad A: Adroddiad gan y Comisiynydd
Safonau (Saesneg yn unig)**

REPORT

by

**THE ACTING SENEDD COMMISSIONER FOR
STANDARDS**

of the investigation of the complaint by

MICHAEL DEEM

against

NEIL McEVOY MS

1. INTRODUCTION

1.1. This is the report of the formal investigation of the complaint by Michael Deem against Neil McEvoy MS.

1.2 The documents relied upon in my consideration of this complaint are at Annex A. I considered numerous other documents. Where they are of no evidential value the personal details of individuals referred to in the documents have been anonymised. Notes written on documents in the course of the investigation have been redacted. Quotations from the documents and from the relevant provisions identified in section 4 are italicised. Footnote references are given to the main, although not necessarily all, supporting documents.

1.3 On 6 May 2020, by virtue of the coming into force of Part 2 of the Senedd and Elections (Wales) Act 2020, the titles of the National Assembly, its officers and its Members were changed. References to them before that date use the then correct nomenclature.

2. THE COMPLAINT

2.1 On 9 October 2017 Michael Deem complained to Sir Roderick Evans, the then Commissioner for Standards, about Neil McEvoy AM.¹ The essence of the complaint was that Neil McEvoy had, contrary to paragraph 10 of the Code of Conduct for Assembly Members (“the Code”) used Assembly resources for party political and election purposes in relation to the Cardiff Council Grangetown ward by-election in November 2016, the Cardiff Council local elections in March 2017. In particular the complaint alleged the following contraventions of paragraph 10 by Mr McEvoy –

1. *Printing large volumes of party political leaflets, designed for the promotion and election of Plaid Cymru candidates, via a photocopier provided by the Assembly commission (sic).*
2. *The cost of the printing was claimed through his office cost allowance.*
3. *When a high value bill was challenged by MBS, Mr McEvoy attempted to deceive Assembly staff by copying large volumes of confidential files on a third party printer.*
4. *Claimed further items through his office cost allowance that were specifically used for the purpose of campaigning. These included high quality camera and sound recording equipment.*
5. *Held Cardiff City Council campaign meetings in his regional Assembly office.*
6. *Employed 3 temporary members of staff for the sole purpose of campaigning for the election of Plaid Cymru candidates to Cardiff Council. There (sic) day to day responsibilities included designing, translating, printing and delivering party political leaflets.*

¹ Document 2

7. *Regularly delegated further tasks to his 3 permanent members of staff which were highly political in nature.*
8. *Used Assembly ICT systems to produce, edit and upload political campaign videos to social media.*
9. *Attempted to charge large bills from the Assembly restaurant to his office cost account. These bills were for dinner's (sic) when he hosted prominent business people, from which he obtained political donations.*

3. THE INVESTIGATION

3.1 Following receipt of the complaint Sir Roderick met with Mr Deem to seek clarification of a number of matters. On 16 October 2017 Mr Deem furnished Sir Roderick with a folder containing what he considered were the documents relevant to his complaint. Many of these documents were screenshots of messages between Mr Deem, Mr McEvoy and other members of Mr McEvoy's support staff ('AMSS'). On 20 February 2018 Sir Roderick wrote to Mr McEvoy outlining the complaint against him and seeking his written response to the allegations.² On 6 April 2018 Mr McEvoy wrote to Sir Roderick denying all the allegations against him.³ He maintained that denial at a meeting with Sir Roderick on 25 May 2018. In June 2018 Sir Roderick continued his preliminary investigation by way of informal meetings with [REDACTED] and [REDACTED] both former AMSS of Mr McEvoy. On 9 August 2018 Sir Roderick determined that the complaint was admissible and commenced his formal investigation. He wrote to Mr Deem and Mr McEvoy setting out the hearings process he intended to use for his formal investigation of the complaint. On 17 September 2018 Mr McEvoy was given a copy of all the documents provided by Mr Deem. On 19 November 2018 Mr McEvoy wrote to Sir Roderick admitting a small number of the allegations against him.⁴

3.2 Between 19 November 2018 and 5 July 2019 Sir Roderick held 12 hearings lasting in total more than 39 hours. At these hearings witnesses were examined in chief by Mr Deem and cross examined, where he elected to exercise that right, by Mr McEvoy. Audio recordings of all the hearings were made and Mr McEvoy was provided with a copy of them. Later the recordings were transcribed. Mr McEvoy has been provided with a copy of all these transcripts. At the hearing on 5 July 2019 Mr McEvoy, before Mr Deem had completed his cross-examination, said that he would take no further part in the process.⁵ The same day he wrote to Sir Roderick setting out his reasons for withdrawing from the hearings process.⁶ These included the amount of time he had already spent dealing with the complaint, the

² Document 18

³ Document 49

⁴ Document 3

⁵ Document 73 pages 1 - 3

⁶ Document 36

time he would in future have to spend on it, Sir Roderick's alleged bias, Mr Deem's alleged *political agenda* in making the complaint and the *endemic culture in the Assembly of resources being used for party political purposes*.

3.3 On 11 November 2019 Sir Roderick resigned as Commissioner for Standards. Following my appointment as Acting Commissioner for Standards on 13 November 2019 I familiarised myself with the investigation and the oral and documentary evidence available. I obtained further relevant documents. It was apparent that the investigation had been protracted for a number of reasons including other proceedings involving Mr Deem and Mr McEvoy, the extent of the alleged improper conduct, the volume of documentation, the illness or non-availability of Sir Roderick, Mr McEvoy and a number of potential witnesses, Mr McEvoy's withdrawal from the hearings process on 5 July 2019 and Sir Roderick's resignation. It was also plain that the hearing process, which I understood had not previously been used to investigate a complaint, had itself contributed to the delay. I resolved to complete the investigation using the more usual inquisitorial process. On 22 January 2020 I met with Mr McEvoy's legal adviser, showed him the evidence already available and explained to him how I intended to proceed.⁷ On 11 February 2020 I interviewed Neil McEvoy on oath. At the end of that interview I afforded Mr McEvoy to tell me anything else he considered relevant regarding the complaint. He availed of that opportunity and I have given careful consideration to everything he said.⁸ Mr McEvoy was provided with a copy of the transcript of his interview.⁹

3.4 Complaints must be investigated in accordance with the provisions of the National Assembly for Wales Procedure for dealing with complaints against Assembly Members.¹⁰ Under paragraph 1.5 of that document it is for the Commissioner to decide *when and how to carry out any investigation at any stage*. Whilst the Commissioner is empowered to take evidence on oath there is no requirement to do so. It had been Sir Roderick's intention to reach his decision based solely on evidence given by witnesses under oath and documents spoken to by these witnesses.¹¹ When, in July 2019, Mr McEvoy withdrew from the Investigation process he had not called any witnesses. To minimise the risk of unfairness I decided that in coming to my decision I would have regard not only to evidence on oath but also to the other documents, including witness statements, submitted by Mr McEvoy and Mr Deem. Having considered the transcript of Mr McEvoy's interview I believed it necessary to seek clarification of a number of matters from Mr Deem. Unfortunately, due to the Covid 19 pandemic there was no prospect of being able to meet with him, or any other potential witness, in the foreseeable future. I resolved to seek the clarifications by way of

⁷ Document 55 page 52 - 54

⁸ Document 55 pages 34 - 54

⁹ Documents 54 & 55

¹⁰ <https://standardscommissionerwales.org/wp-content/uploads/2013/10/FINAL-agreed-09.07.13-e-Procedure-for-dealing-with-complaints-against-assembly-members.pdf>

¹¹ Document 62 page 5

interrogatories.¹² Having perused Mr Deem's answers I decided to end my investigation.¹³ In making that decision I had regard to the passage of time since the alleged misconduct and to whether further investigation was likely to result in new evidence that might assist the Committee on Standards of Conduct in deciding on an appropriate sanction should any of the allegations be established.

4. THE RELEVANT PROVISIONS

4.1 Paragraph 10 of the Code provides –

10. Members are required to comply with the Rules and Guidance on the Use of Assembly Resources ("the Rules") and any guidance on the use of Assembly resources specifically relating to an election campaign.

4.2 Paragraph 12 of the Rules provides –

12. Assembly Members must ensure that they use Assembly Resources for the purpose of their activities as Assembly Members only and not for any of the purposes listed below, which are prohibited:

- *personal, business or commercial communications;*
- *party political activity of any kind, for example, party-political fund-raising, recruitment of party members and the organisation and publicising of party political meetings; and*
- *campaigning for the election or re-election of particular candidates for any public office (including the Member in question).*

4.3 Guidance on the use of Assembly Resources during the 2017 Local Elections ("the Local Election Guidance") was published in March 2017. Amongst its provisions were –

Claims must only be made for expenditure necessarily incurred in order to enable performance of the Member's duties as an Assembly Member.

This guidance applies to Assembly Members' use of Assembly resources during the run-up to the local elections being held in Wales on 04 May 2017 and takes effect immediately.

Constituency & Regional Offices

Constituency and regional offices may not be used in connection with campaigning. This includes prohibition on the display of materials or posters related to the local

¹² Document 60

¹³ Document 60

elections, use of office space for activities in any way connected to campaigning and any facilities or equipment at the office funded by the Assembly.

IT Equipment, Websites & Telephony

Assembly IT equipment and the Assembly's telephone system must not be used for campaigning purposes. This includes the use of Assembly-financed websites and broadband, as well as mobile phones, laptops and tablet devices.¹⁴

4.4 Guidance on the use of Assembly Resources during a local or UK general election ("the General Election Guidance") was published on 8 May 2017. It included all the provisions referred to in paragraph 4.3 save that the paragraph about application to the local elections on 5 May 2017 was replaced with –

This guidance applies to Assembly Members' use of Assembly resources during the run-up to local and UK general elections and takes effect immediately.¹⁵

5. FINDINGS OF FACT

5.1 The facts I found proved to the required standard are set out below and illustrated by way of a Gantt chart.¹⁶ Although the facts have been grouped according to the head of the complaint to which they most closely relate it should be understood that many findings are relevant to more than one of the allegations.

Background

1. Since 2008 Mr McEvoy has been a councillor for the Fairwater ward of Cardiff City Council.
2. On 5 May 2016 Mr McEvoy was elected to the Assembly as a regional member for South Wales Central.¹⁷
3. Following his election Mr McEvoy employed Mr Deem as a caseworker from 20 June 2016 and from 22 August 2016 as his Office Manager.¹⁸
4. On 27 July 2017 Mr McEvoy suspended him from that post and on 27 February 2018 dismissed him.
5. Mr McEvoy did not complete an Assembly Member Delegation Form authorising Mr Deem to submit Office Cost Allowance claim forms on his behalf.¹⁹
6. On or about 16 June 2016 Mr McEvoy established his regional office at 321 Cowbridge Road East, Cardiff. That office was often referred to as the Canton office

¹⁴ Document 50

¹⁵ Document 15

¹⁶ Document 1

¹⁷ Document 54 page 4

¹⁸ Document 86 paragraph 10

¹⁹ Document 55 page 32

or as 321. Although in use from mid-June the office was not immediately fully operational.²⁰

7. The equipment at the regional office, paid for out of Assembly funds, included a printer ('the Assembly printer'). That printer was rented from a local firm. Prior to its move to Mr McEvoy's regional office it had been hired from that firm by Plaid Cymru and kept at the party's office at 56 Cowbridge Road East, Cardiff.²¹
8. On 3 November 2016 a by-election was held in the Grangetown ward of Cardiff City Council.²²
9. On 28 December 2016 a second printer ('the campaign printer') was installed at Mr McEvoy's regional office.²³
10. The campaign printer remained at the regional office until 17 March 2017 when it was moved to Mr Deem's garage. It remained there until it was moved on 27 March 2017 to the new campaign office which had been established at 36 Caerau Lane, Cardiff.²⁴ That office, sometimes referred to as the Caerau office or the campaign office, was in use from 18 March 2017.²⁵
11. Other than desk top printers, during the period considered in this report the only printers used at the regional office were the Assembly printer and the campaign printer.²⁶
12. On 4 May 2017 elections were held for all wards in Cardiff City Council. Mr McEvoy was re-elected as a councillor for the Fairwater ward.
13. Mr McEvoy was the Leader of Plaid Cymru on Cardiff Council and a very active member of the Plaid Cymru Cardiff Campaign Group for these elections.²⁷

Knowledge of the Rules, Code and Election Guidance

14. On or about 7 May 2016 Mr McEvoy was given a copy of the Assembly Members Handbook page 11 of which made clear that the use of Assembly resources, including AMSS, for party political or election purposes was a contravention of the Rules and the Code.²⁸
15. On 10 May 2016 Neil McEvoy attended a briefing by MBS at which he was told about the Rules.²⁹
16. On 19 December 2016 Mr McEvoy was party to a scheme devised by Mr Deem to mislead Assembly security staff by telling them that candidates attending to be

²⁰ Documents 54 pages 4 – 5; 62 pages 16 18 & 20 ; 65 pages 7 - 13

²¹ Documents 34; 35, 54 page 7

²² Document 62 pages 13 - 15

²³ Document 54 page 6

²⁴ Document 62 page 29; 63 page 50

²⁵ Documents 59: 54 pages 6, 62

²⁶ Document 60 A 39(a)

²⁷ Document 68 page 4

²⁸ Document 54 page 12

²⁹ Document 54 page 11 – 12

interviewed for the post of [REDACTED] were being interviewed for Assembly temporary AMSS post.³⁰ That deceit was necessary because, as both Mr Deem and Mr McEvoy well knew, the use of a room at the Assembly to interview candidates for that party paid post was a contravention of the Code and the Rules.

17. On 16 March 2017 Mr McEvoy was made aware of complaint that he had on 14 March 2017 used the Media Briefing Room at the Assembly for party political and election purposes contrary to paragraph 12 of the Code and paragraph 10 of the Rules.³¹ That complaint was upheld and Mr McEvoy was censured under Standing Order 22.10. In a letter to Sir Roderick on 5 April 2017 Mr McEvoy asserted that as a result of that complaint he had *looked at the Code more closely*.³² However, on 6 January 2017 Mr McEvoy ordered the removal from the office of approximately 30,000 highly political newspapers to avoid the risk of them being seen by Assembly Commission staff.³³ His direction demonstrates his awareness of the restrictions on the use of Assembly resources.
18. In late March 2017 the Local Election Guidance was published on the Assembly intranet and brought to the attention of all Members.³⁴ It came into effect immediately.
19. On 8 May 2017 the General Election Guidance was published on the Assembly intranet and brought to the attention of all Members. It came into effect immediately. That guidance was again brought to the attention of all Members in the Monthly Update sent to them on 16 May 2017.³⁵

Use of regional office for party political/election meeting

20. On 17 November 2016 Mr McEvoy caused or permitted his regional office to be used for a formal meeting of the Cardiff Campaign Group at which election campaign matters were discussed.³⁶
21. On 14 December 2016 Mr McEvoy caused or permitted his regional office to be used for a formal meeting of the Cardiff Campaign Group at which election campaign matters were discussed.³⁷
22. On 12 January 2017 Mr McEvoy caused or permitted his regional office to be used for a formal meeting of the Cardiff Campaign Group at which election campaign matters were discussed.³⁸

³⁰ Documents 12; 54 page 14

³¹ Documents 16; 54 pages 54 - 58

³² Documents 15

³³ Document 20; see paragraph 6.37

³⁴ Document 50

³⁵ Document 52

³⁶ See paragraph 6.23

³⁷ See paragraph 6.23

³⁸ See paragraph 6.23

23. Between 17 January and 17 March 2017 Mr McEvoy caused or permitted his regional office to be used for weekly meetings with his AMSS, some of which were attended by him and by the [REDACTED], at which party political and election campaign matters were discussed.³⁹
24. On 31 January 2017 Mr McEvoy caused or permitted his regional office to be used for a formal meeting of the Cardiff Campaign Group at which election campaign matters were discussed.⁴⁰
25. On 22 May 2017, 18 days before the Parliamentary General Election, Mr McEvoy caused or permitted his regional office to be used for a meeting with his AMSS attended by [REDACTED], at which election campaign matters were discussed.⁴¹

Use of rooms at the Assembly for party political/election meetings

26. On 19 December 2016 Mr McEvoy used or facilitated the use of rooms at the Assembly for election campaign purposes, namely, to interview and select [REDACTED].⁴²
27. On 6 March 2017 Mr McEvoy was present at a meeting of the Cardiff Campaign Group in the Plaid Cymru office at the Assembly at which election campaign matters were discussed. The meeting was called by the Chair of the Campaign Group at Mr McEvoy's request.⁴³
28. On 5 April 2017 Mr McEvoy was present at a meeting of the Cardiff Campaign Group in the Plaid Cymru office at the Assembly. The meeting was called by [REDACTED].⁴⁴

Use of regional office to store and use equipment for party political and election campaign purposes and to print, store and distribute party political and election campaign documents

29. On 2 August 2016 Mr McEvoy sent an email to [REDACTED], one of his AMSS telling him that leaflets to announce new candidates for Cardiff South could be printed in his regional office at a cost of a penny per sheet.⁴⁵
30. Between August 2016 and 17 March 2017 Mr McEvoy caused or permitted a document folding machine to be located at his regional office and to be used there to fold party political and election campaign documents.⁴⁶

³⁹ See paragraph 6.25

⁴⁰ See paragraph 6.23

⁴¹ See paragraph 6.24

⁴² See paragraph 6.23

⁴³ See paragraph 6.27

⁴⁴ See paragraph 6.27

⁴⁵ Documents 27; 60 A15, A16

⁴⁶ See paragraph 6.36

31. Between 28 December 2016 and 17 March 2017 Mr McEvoy caused or permitted the campaign printer to be located in the regional office where it was used exclusively for the production of party political and election campaign material.⁴⁷
32. On 6 January 2017 Mr McEvoy ordered the removal from his regional office of *30,000 highly political newspapers plus thousands of DM's*. He did so after he was told that a member of MBS staff was to visit his office on 9 January 2017. The newspapers had been stored at the office since 5 January 2017.⁴⁸
33. On 21 March 2017 Mr McEvoy, following a recommendation from Mr Deem, sent an email to Mr Deem instructing him to prevent any political activity at his regional office.⁴⁹
34. On 1 November 2016 at his regional office Mr McEvoy caused or permitted the printing on the Assembly printer of approximately 3000 election campaign leaflets for the Grangetown ward by-election on 3 November;⁵⁰
35. On 7 April 2017, less than one month before the Cardiff City Council elections, Mr McEvoy caused or permitted the printing of approximately 980 double sided election direct mail letters for the Riverside ward on the Assembly printer at his regional office.⁵¹
36. On 9 April 2017, less than one month before the Cardiff City Council elections, Mr McEvoy caused or permitted the re-printing of approximately 980 double sided direct mail letters for the Riverside ward on the Assembly printer at his regional office.⁵²
37. On 27 April 2017, less than two weeks before the Cardiff City Council elections, Mr McEvoy caused or permitted the printing of approximately 2000 election leaflets for the Riverside ward on the Assembly printer at his regional office.⁵³
38. Between mid-June 2016 and 28 March 2017 Mr McEvoy caused or permitted his regional office to be used to store election placards.⁵⁴

Use of staff for party political and/or election purposes

39. Between 31 October 2016 and 30 April 2017 Mr McEvoy employed [REDACTED], a temporary member of his AMSS, to carry out [REDACTED] work of a party political and election campaign nature during hours for which [REDACTED] was being paid to do Assembly related work.⁵⁵

⁴⁷ See paragraph 6.35

⁴⁸ See paragraph 6.37

⁴⁹ Documents 25; 54 pages 61 -65

⁵⁰ See paragraphs 6.14; 6.18; 6.19

⁵¹ See paragraphs 6.15; 6.18; 6.19

⁵² See paragraphs 6.16; 6.18; 6.19

⁵³ See paragraphs 6.17; 6.18; 6.19

⁵⁴ See paragraph 6.40

⁵⁵ See paragraph 6.28

40. Between 1 January and 8 June 2017 Mr McEvoy caused or permitted Michael Deem, his Office Manager, to carry out work of a party political and election campaign nature during hours for which he was being paid to do Assembly related work.⁵⁶

41. Between 17 January 2017 and 17 March 2017 Mr McEvoy caused or permitted [REDACTED] employed by Cardiff Plaid Cymru, to be based at his regional office and there to carry out [REDACTED] full range of election campaign duties.⁵⁷

42. On 21 March 2017 Mr McEvoy caused or permitted the [REDACTED] [REDACTED] to carry out election campaign work, namely the putting of election direct mail leaflets for the Grangetown ward into envelopes at the regional office.⁵⁸

Use of Assembly ICT system and electricity for party political/election purposes

43. Between 28 December 2016 and 17 March 2017 the campaign printer and the folding machine were operated at the regional office to process party political and election campaign documents using electricity paid for from public funds. When the internet and the Assembly printer were used there for such purposes further electricity expenditure paid for Assembly resources was incurred.⁵⁹

6. CONSIDERATION

6.1 Before dealing with the alleged contraventions of the provisions it is useful to consider some of the more general points.

6.2 In this complaint there are broadly speaking two conflicting accounts of what took place. Mr Deem in his complaint and the documents he submitted alleges breach of the provisions in the various ways set out in his complaint. Mr McEvoy, after initially denying all the allegations against him, now admits to a small number of them. He alleges that the complaint is politically motivated. He has described Mr Deem as a very difficult employee, with sociopathic tendencies.⁶⁰ During the investigation he said frequently that Mr Deem was dishonest.⁶¹ In their unsworn statements [REDACTED], another of the AMSS, [REDACTED], Mr McEvoy's Senior Adviser, and [REDACTED] AMSS, [REDACTED], a constituent, and [REDACTED], a businessman, all accuse Mr Deem of being dishonest.⁶²

⁵⁶ See paragraphs 6.29 to 6.32

⁵⁷ See paragraph 6.38

⁵⁸ See paragraph 6.39

⁵⁹ See paragraph 6.41

⁶⁰ Document 3

⁶¹ For example Document 66 page 50

⁶² Documents 75; 76; 78; 79; 80

██████ states that from May 2017 Mr Deem bullied ██████.⁶³ ██████ states that he saw Mr Deem bullying ██████.⁶⁴ ██████ also states that ██████ was bullied by Mr Deem and that the first conflict in Mr McEvoy's team was around May 2017 which is after the date of all the misconduct of which Mr Deem complains.⁶⁵ Mr Deem denies these allegations. It is plain that Mr Deem regarded his treatment and dismissal by Mr McEvoy as unfair. It is also plain that Mr Deem considered that Mr McEvoy had not properly supported his campaign as a Parliamentary candidate. These could have provided a motive for Mr Deem to make a false or exaggerated complaint.

6.3 I do not regard Mr Deem as an entirely reliable witness. As noted he was, as Mr McEvoy's Office Manager, responsible for the day to day control of what took place at the regional office. Unlike Mr McEvoy, Mr Deem has now accepted full responsibility for what he described as his *repeated and in some cases, flagrant, misuses of Assembly resources*.⁶⁶ By way of mitigation he pointed out that this was his first job in politics; that he took his lead on what was acceptable from Mr McEvoy; that he managed the regional office in accordance with Mr McEvoy's instructions; and that when he raised his concerns with Mr McEvoy he was told that all Members used resources in the same way.⁶⁷ Whilst I accept that this plea in mitigation has some merit it in no way excuses the conduct of Mr Deem far less that of Mr McEvoy. It was Mr Deem, albeit with Mr McEvoy's knowledge and tacit support, who instructed ██████ to give a false account to Assembly security staff at the time of the interviews for the ██████ post.⁶⁸ At the hearing on 6 December 2018 he admitted to Sir Roderick that he had told lies to MBS about a photocopier invoice and other matters but said that Mr McEvoy was involved in these deceptions.⁶⁹ It was only some months after his sacking by Mr Deem and the failure of a mediation process that he made his complaint.⁷⁰ Had that mediation been successful I do not doubt that Mr Deem would have continued to acquiesce in the misuse of Assembly resources. I doubt Mr McEvoy's view that the complaint was politically motivated as at the time it was made Mr Deem had withdrawn from politics.⁷¹ I am certain the complaint was not made for altruistic reasons and suspect that revenge was amongst Mr Deem's motives. The motive for making the complaint is, however, of little moment: the important issue is whether or not the relevant provisions were contravened.

6.4 I have also had regard to Mr McEvoy's reliability and credibility. I was not impressed by either. In his email and very detailed Table Summary sent to Sir Roderick on 6 April 2018 Mr

⁶³ Document 75

⁶⁴ Document 79

⁶⁵ Document 76

⁶⁶ Document 60 A26

⁶⁷ Document 60 A26

⁶⁸ Document 12

⁶⁹ Document 66 page 50

⁷⁰ Document 60 A27

⁷¹ Document 60 A34

McEvoy resolutely denied all the allegations against him.⁷² He repeated that total denial at his meeting with Sir Roderick on 25 May 2018. By 19 November 2018 he had altered his stance.⁷³ In his letter that day to Sir Roderick he admitted that *Some meetings took place in the office, which on reflection should have taken place elsewhere* but said that *This happens with every AM*. In the letter also admitted that [REDACTED] *did spend time in the constituency office and was interviewed in my Assembly office*. He went on *At the time, I thought this was permissible, because [REDACTED] would be contributing to constituency work as part of [REDACTED] role*. He confirmed his admissions when interviewed on oath on 11 February 2020.⁷⁴ It follows that his denials to Sir Roderick concerning the meetings were at best reckless but more probably deliberately false.

6.5 At the hearings and at his interview Mr McEvoy often tried to avoid giving direct answers to straightforward questions and on occasion, when pressed, gave answers which he must have known were absurd and untruthful.⁷⁵ For example, when questioned on oath at his interview on 11 February 2020 about a reference he made to cards in a message on 1 November 2016 Mr McEvoy was evasive. Initially he refused to accept that he was referring to cards left by canvassers at houses where they had called and found no one in but was unable to give any other explanation. When pressed he said that the reference might have been to business cards. When pressed further, and having been improperly prompted by [REDACTED] his Senior Adviser who was supporting him at the interview, Mr McEvoy said that the reference could have been to Christmas cards.⁷⁶ Given that this was two days before the Grangetown ward by-election in which Mr McEvoy and his staff were heavily involved, and nearly eight weeks before Christmas, his explanations are simply not credible and demonstrate Mr McEvoy's willingness to offer any explanation, however absurd, in an attempt to avoid the consequences of his misconduct. I also note his explanation for and complicity in a scheme for his staff to give false information to Assembly security staff.⁷⁷ There are many other examples of Mr McEvoy trying to avoid answering straightforward questions.

6.6 On numerous occasions during his interview Mr McEvoy asserted that due to the passage of time since the events in question he found it difficult to recollect what had happened and that had he been give the documents in advance he might have been able to give more precise answers.⁷⁸ I do not doubt that the passage of time may have dulled his recollection of events but would note that when he was made aware of the complaint in February 2018 the events were relatively recent.⁷⁹ As noted above, he did not in his email

⁷² Document 49

⁷³ Document 3

⁷⁴ Document 54 pages 20 - 21

⁷⁵ Document 72 pages 27 - 31

⁷⁶ Document 55 pages 5 - 11

⁷⁷ Document 12

⁷⁸ For example Documents 54 page 21; 55 pages 2, 18

⁷⁹ Document 18

and Table Summary of 5 April 2018⁸⁰ claim to have any lack of recollection of what had occurred: rather he resolutely denied any misconduct and was able to set out a very detailed response to all the allegations against him. He maintained that total denial at a meeting with Sir Roderick on 25 May 2018. On 17 September 2018 Mr McEvoy was provided with a copy of all the documents submitted to Sir Roderick in support of his complaint and had ample opportunity to study them before the first hearing more than two months later. All the documents put to Mr McEvoy at the interview on 11 February 2020 had been available to him from the time they were created: they were records of his office or screenshots of messages amongst a group of which he was a member. Furthermore, they were all amongst the copy documents given to him in September 2018. On 22 January 2020 I showed all the documents used at the 11 February interview to Mr McEvoy's legal adviser and explained to him what I believed to be their relevance to the complaint against his client. Mr McEvoy told me he was unaware of what had taken place at my meeting with his legal adviser whose first name was [REDACTED]. I find that extraordinary and hard to believe. I note that in the course of the interview Mr McEvoy told me that [REDACTED] had advised him to prepare for the meeting.⁸¹

6.7 Against that background I have, when evaluating the evidence, not found any significant matter established solely on the evidence of either by Mr Deem or Mr McEvoy.

6.8 On several occasions during his interview Mr McEvoy asserted that Mr Deem had admitted that the messages and emails he submitted in support of his complaint had been edited and so were not a true reflection of what had occurred.⁸² I have found no trace of any such admission at any of the hearings. The allegation was denied by Mr Deem who said that whilst in some instances the entire threads of messages had not been captured in the screenshots of his mobile phone individual messages had not been deleted or edited, nor had the order of messages been altered.⁸³ It is, of course, the case that as the screenshots were of the conversations of a group of which Mr McEvoy was a member he would have had all the messages on his own phone and could have identified any that were missing or altered. He has not done so. It is also the case that Mr McEvoy had access to all the emails and should readily have been able to identify those he claimed had been altered or edited. Again, he has not done so. I reject Mr McEvoy's allegation.

6.9 Much of the alleged misconduct of which Mr Deem complains relates to what he says took place at the regional office whilst he was the office manager and responsible to Mr McEvoy for the proper conduct of that office. Mr McEvoy said that he was rarely at his office and trusted Mr Deem to run it in accordance with the provisions of the Code. On several occasions Mr McEvoy attempted to distance himself from any misconduct that took place in

⁸⁰ Document 49

⁸¹ Document 54 page 26

⁸² For example Documents 72 page 9; 62 page 59

⁸³ Document 62 pages 59 - 62

his regional office. I note, however, that Mr McEvoy did not complete an Assembly Member Delegation Form authorising Mr Deem to submit Office Cost Allowance claim forms on his behalf. He told me that was because he was unaware of the form.⁸⁴ And even had he completed such a form Mr McEvoy would have remained responsible for any misconduct that took place. However, he also said that he had suspicions that Mr Deem was using the Assembly printer to carry out photocopying that was not Assembly related and accepted that he knew some campaign work was being done in the regional office.⁸⁵ Despite that knowledge it appears that Mr McEvoy took no action until 21 March 2017 when, at Mr Deem's recommendation he sent an email instructing Mr Deem to prevent any political activity at his regional office.⁸⁶ It is plain that he issued that instruction within hours of becoming aware that [REDACTED] had been recorded on the CCTV carrying out election campaign work at his regional office and his concern that this contravention of the Code and the Rules would come to the attention of MBS.⁸⁷ Mr McEvoy was, of course, a member of the group whose messages contain numerous references to conduct in breach of the Code both before and after 21 March. He was on the distribution list for the notes or minutes of meetings of his AMSS at his regional office at which party political and election campaign matters were routinely discussed. He was, along with [REDACTED] [REDACTED] present at a number of these meetings.⁸⁸ Mr Deem said that Mr McEvoy was in the regional office or in contact with his AMSS almost every day.⁸⁹ Mr McEvoy struck me at interview as a forceful individual who was very focussed on the importance of effective campaigning and the efficiency of his regional office. Whilst it may be the case that he was not aware of the details of every occasion on which his office was used for non-Assembly work I find it inconceivable that he was not well aware that such use was taking place.

6.10 Mr McEvoy told Sir Roderick that as a new member he was not fully aware of the Code provisions on use of Assembly resources until he read them on 16 March 2017 as a result of being informed of the complaint against him relating to his improper use of the Media Briefing Room.⁹⁰ He repeated that excuse to me at interview on 11 February 2020.⁹¹ He accepted, however, that he had on 10 May 2016 attended a meeting with a member of MBS at which the relevant provisions were discussed and had he had received a copy of the Members Handbook in which they were set out.⁹² Mr McEvoy had been a councillor since 2008 and must have been aware on the restrictions on the use of council resources for party political purposes which are very similar to the restrictions imposed by the Code and the Rules. It is hard to understand how he would not have expected similar restrictions to apply

⁸⁴ Document 55 page 32

⁸⁵ Document 54 pages 61 - 62

⁸⁶ Document 25

⁸⁷ Document 24

⁸⁸ Documents 53;

⁸⁹ Document 65 pages 4 - 9

⁹⁰ Documents 16; 49

⁹¹ Document 54 pages 11, 28

⁹² Document 54 page 12

to his use of Assembly resources or at least to make enquiry about the matter. The fact that on 19 December 2016 Mr McEvoy was party to a scheme, devised by Mr Deem, to mislead Assembly security staff by telling them that candidates attending to be interviewed for the post of Campaign Organiser were being interviewed for Assembly temporary posts suggests that he was well aware that use of Assembly rooms for that purpose was a breach of the Code and the Rules.⁹³ Mr McEvoy told me that this deceit was not because he was aware that using the rooms for that purpose was in breach of the Rules and the Code but rather so that other political parties would not find out that Plaid Cymru were appointing a Campaign Organiser.⁹⁴ I have reservations about his explanation. I do not accept that Mr McEvoy was unaware of the provisions of the Code and the Rules until 16 March 2017. His instruction on 6 January 2017 to move the approximately *30,000 highly political newspapers* from the regional office lest they be seen by Commission staff is clear evidence that Mr McEvoy knew that party political and election campaign material should not have been in his regional office.⁹⁵ Although according to Mr Deem the improper activity at the regional office reduced following the opening of the campaign office on 18 March 2017 he was clear that it did not stop.⁹⁶ I note that a number of the contraventions I have found established took place with Mr McEvoy's knowledge, in whole or in part, after his instruction on 21 March 2017.⁹⁷ That is inconsistent with Mr McEvoy's account that it was a genuine attempt to stop improper use of his office. It is consistent with Mr Deem's account that the instruction, which was made at Mr Deem's behest, was a device to provide an excuse if the improper use of Assembly resources was questioned.⁹⁸ Further if Mr McEvoy was seriously concerned to stop party political and election campaign activity at his office why did he not issue such an instruction after the newspaper incident in January 2017?⁹⁹ Both the Local Election Guidance and the General Election Guidance were very clear on the prohibition of the use of Assembly resources, including regional and constituency offices, for any purpose connected with the elections. Both were published on the Assembly intranet and brought to the attention of all Members. I do not believe that Mr McEvoy was in any doubt, from shortly after becoming a Member, about the restrictions on the use of Assembly resources.

6.11 Mr McEvoy appears to believe that the complaint is part of a campaign against him. From the outset he has claimed that it was politically motivated. At the hearing on 29 March 2019 he said that the complaint had been orchestrated by Mr Deem, [REDACTED] and [REDACTED].¹⁰⁰ During his interview on 11 February 2020 Mr McEvoy told me that this complaint was part of an *organised campaign* against him...*And the job of the last Commissioner* [Sir

⁹³ Document 12

⁹⁴ Document 54 page 14

⁹⁵ Document 20

⁹⁶ Document 62 page 26

⁹⁷ See Findings 25, 35, 36, 37, 38, 39, 40

⁹⁸ Documents 60 A24

⁹⁹ Document 20

¹⁰⁰ Document 71 page 5

Roderick] *was to throw me out of the Assembly* and that the investigation of the complaint was biased against him. He further asserted that *The job of the Public Service Ombudsman on the Council level...has been to exclude me from Cardiff Council*.¹⁰¹ Mr McEvoy's complaint to the police about Sir Roderick and the Llywydd's complaint about Mr McEvoy's conduct on which his complaint of bias is founded are both currently under police investigation and I make no comment on them. Since my appointment I have had no contact with Sir Roderick about this complaint and no one has lobbied me in favour of or against either Mr Deem or Mr McEvoy. The decisions I have made on Mr Deem's complaint are mine alone.

Head 1 (Printing large volumes of party political leaflets, designed for the promotion and election of Plaid Cymru candidates, via a photocopier provided by the Assembly commission (sic)).

6.12 The investigation of this head of the complaint was hampered by the lack of adequate records. A number the invoices from the supplier of the Assembly printer were for estimated volumes of printing and no record of any kind was maintained at the regional office of what had been printed on the Assembly printer.¹⁰² Further the records of who paid for the printing of documents on the Assembly printer are unsatisfactory. The invoices for printing done prior to November 2016 were not paid for out of Mr McEvoy's Office Costs Allowance ('OCA') which is surprising if, as he claims, the printing was all Assembly related. According to him these invoices were paid by Plaid Cymru¹⁰³ although he offered no satisfactory explanation of why his party paid for printing which he claims was Assembly related and could have been paid from his OCA. Another difficulty was what constituted political, as opposed to Assembly, activity or leaflets. I adopt the working definition given by Sir Roderick at the hearing on 29 November 2018 when he said *Would it help you if I were to give a preliminary opinion on this one issue of Assembly working and political working? It seems to me that the Assembly is inevitably a political organisation so that anything that an Assembly Member is involved in has to be political. That's the way of life. There are issues which are entirely your work as an Assembly Member, for example, casework. Casework has no political content, it seems to me. On the other hand, there are issues like campaigning which are entirely political. In the middle, there is bound to be some no man's land where one crosses over to the other*.¹⁰⁴ Amongst the leaflets referenced in the complaint there were many that arguably fall into this middle category. Whilst I have reservations about whether some of these have any real connection with Mr McEvoy's work as a Member I have decided to give Mr McEvoy the benefit of the doubt and so to consider the printing and processing only of those leaflets that are very clearly party political or election campaign related. I have adopted the same approach when deciding if staff and premises were or were not used for Assembly related purposes.

¹⁰¹ Document 54 page 33

¹⁰² Documents 35, 38, 39

¹⁰³ Document 55 page 43

¹⁰⁴ Document 65 page 90

6.13 But even adopting that approach there are, as set out in the following paragraphs, examples of the use of the Assembly printer for printing significant volumes of election leaflets. The use of that printer for that purpose constitutes a clear breach of paragraph 12 of the Rules and paragraph 10 of the Code and, where it took place after its publication in late March 2017, of the Election Guidance.

6.14 I am satisfied that on 1 November 2016 Mr McEvoy caused or permitted the printing on the Assembly printer in his regional office of approximately 3000 election campaign leaflets for the Grangetown ward by-election on 3 November contrary to paragraph 12 of the Rules and paragraph 10 of the Code. On 1 November 2016 the Assembly printer was the only printer at the regional office on which that volume of printing could have been done. The campaign printer did not arrive until 28 December 2016.¹⁰⁵ In a message chain on 1 November involving Mr McEvoy and a number of his AMSS he said *Didn't we agree to fit another 3k (ish) for Grange? We have spare people. Can you bring OB with you and any cards? Can get [REDACTED] on it.*¹⁰⁶ Mr McEvoy explained that OB is a reference to a polling district. [REDACTED] is [REDACTED] one of Mr McEvoy's AMSS. The reference to cards is a reference to cards put through letterboxes when a canvasser finds no one at home. In his unsworn statement [REDACTED], a long-standing member of the Cardiff Area Committee of Plaid Cymru, referred to *the dispatch of leaflets at regular intervals from his Cowbridge Road East office to all target wards in the city especially during the Grangetown by-election in November 2016 and in the last few months leading up to the local elections.*¹⁰⁷ Further evidence of this being election campaign material comes from Mr Deem.¹⁰⁸ When asked about this at interview Mr McEvoy was non-committal and initially claimed that the reference to cards might be to the printing of business cards. Then, after improper prompting by the person supporting him, he said that the cards might be Christmas cards. When pressed he was unable to give a credible explanation of the cards other than that they were cards put through letterboxes when a canvasser finds no one at home.¹⁰⁹ Mr McEvoy produced printing bills which he said were for leaflets for the by-election and so proved that the printing referred to in the message was not of election leaflets.¹¹⁰ I accept that other by-election material was printed by a third party but it is absurd to suggest that proves that these approximately 3000 leaflets were not printed at his regional office on the Assembly printer. Given the documentary evidence, clear evidence of Mr Deem, the closeness in time to the Grangetown ward by-election and the evasive and wholly unsatisfactory account given by Mr McEvoy I have no doubt that the message was about the printing on the Assembly printer of approximately 3000 leaflets for that by-election.

¹⁰⁵ Documents 54 page 6

¹⁰⁶ Document 28

¹⁰⁷ Document 17

¹⁰⁸ Document 60 A37

¹⁰⁹ Documents 55 pages 7 – 11; 60 A37

¹¹⁰ Document 72 pages 1 - 2

6.15 I am satisfied that on 7 April 2017, less than one month before the Cardiff City Council elections, Mr McEvoy caused or permitted the printing of approximately 980 double sided election campaign leaflets for the Riverside ward on the Assembly printer at his regional office contrary to the Election Guidance, paragraph 12 of the Rules and paragraph 10 of the Code. The evidence for this comes from Mr Deem, [REDACTED] and messages between [REDACTED] and [REDACTED], to which Mr McEvoy had access.¹¹¹ At that time [REDACTED], was based at the campaign office. The screenshot shows that [REDACTED] messaged *Printer working now. I'm printing 1000 Fairwater calling cards now!* and that [REDACTED] responds *Great. I'm doing riverside (sic) here.*¹¹² [REDACTED] was clear that [REDACTED] was at the regional office.¹¹³ Mr Deem told me that on 4 April the plan was to print 980 double sided direct mail letters to constituents in the Riverside ward using the campaign printer at the campaign office. However, due to a backlog of printing of other election material at the campaign office the printing was delayed until 7 April. Because of the continuing backlog [REDACTED] decided that the letters should instead be printed on the much slower Assembly printer at the regional office. That was done. Unfortunately that night it became clear that many of the addresses on the printed letters were incorrect resulting in all these letters having to be destroyed.¹¹⁴ At interview Mr McEvoy said that '*here*' was not necessarily a reference to his regional office and that there were several places where the printing could have taken place but that because he was not involved in printing it was difficult for him to comment.¹¹⁵ I accept the evidence of [REDACTED] and Mr Deem that *here* was a reference to the regional office. At that time the only usable printer at the regional office was the Assembly printer.¹¹⁶ This improper use of Assembly resources took place just two days after Mr McEvoy had told Sir Roderick that as a result of the complaint about his improper use of the Media Briefing Room he had *looked at the Code more closely.*¹¹⁷

6.16 I am further satisfied that on 9 April 2017, less than one month before the Cardiff City Council elections, Mr McEvoy caused or permitted the re-printing of approximately 980 double sided election campaign leaflets for the Riverside ward on the Assembly printer at his regional office contrary to the Election Guidance, paragraph 12 of the Rules and paragraph 10 of the Code. Mr Deem's account is that due to a backlog of printing the direct mail letters mentioned in paragraph 6.15 could not be re-printed on 8 April but that they were re-printed on 9 April.¹¹⁸ On 8 April Mr McEvoy, in a message to the same group said *We really must get up to date with the printing tomorrow. We must use both printers. Must*

¹¹¹ Documents 31; 68 page 42

¹¹² Document 31

¹¹³ Document 68 page 42

¹¹⁴ Document 60 A29, A30, A39

¹¹⁵ Documents 55 page 16;

¹¹⁶ Documents 60 A29, A39; 68 pages 42 – 43; 31; 68 page 42; 55 page 16; 62 page 71

¹¹⁷ Document 49

¹¹⁸ Document 60 A29, A30

get volunteers to people the offices.¹¹⁹ [REDACTED]'s evidence was that the two printers were the campaign printer at the campaign office and the Assembly printer at the regional office.¹²⁰ Mr Deem was of the same view. When questioned, Mr McEvoy said that the two printers might not be the Assembly printer and the campaign printer. He asserted that the reference might have been to other printers. He said that it might have been necessary to use two printers if there was a backlog of Assembly material to be printed. He said that the printing might not have happened. He did not accept that it was highly unlikely that there would be a backlog of Assembly printing less than one month before the Cardiff Council elections.¹²¹ But earlier in the interview he told me that after the opening of his campaign office on 18 March 2017 *there were no meetings we had to organise for Assembly work at that time. Everything the, most things, would have been for the election.*¹²² Given the unsatisfactory nature of Mr McEvoy's explanations and the context I have no hesitation in accepting the account of [REDACTED] and Mr Deem as substantially accurate. I am satisfied that the two printers were the campaign printer at the campaign office and the Assembly printer at the regional office and that on 9 April 2017 approximately 980 double sided direct mail letters to constituents in the Riverside ward were printed on the Assembly printer at Mr McEvoy's regional office. I am satisfied that he directed that printing.

6.17 I am satisfied that on 27 April 2017, less than two weeks before the Cardiff City Council elections, Mr McEvoy caused or permitted the printing of approximately 2000 election campaign leaflets for the Riverside ward on the Assembly printer at his regional office contrary to the Election Guidance, paragraph 12 of the Rules and paragraph 10 of the Code. As shown on a screenshot on 26 April 2017 [REDACTED] messaged the group, of which Mr McEvoy, Mr Deem and [REDACTED] were members, requesting the printing of 6200 leaflets.¹²³ Mr Deem submitted a copy of what he said were the leaflets in question.¹²⁴ It is an election leaflet for the Riverside ward election on 4 May. Mr Deem's evidence is that the plan was that these leaflets would be printed on the campaign printer at the campaign office at Caerau.¹²⁵ Unfortunately, the campaign printer had broken down and was not, as shown on a screenshot on 27 April, repaired until 11:41am that day.¹²⁶ The same screenshot shows that at 12:07 [REDACTED] messaged *I'm going to stay in [REDACTED] printing the riveside (sic) one. Will take all day.*¹²⁷ In a message five minutes later [REDACTED] says *4200 riveside (sic) and the rest of the Butetown rounds.*¹²⁸ According to Mr Deem [REDACTED] was asking that 4200 of the Riverside leaflets and the rest of the leaflets for the Butetown round should be printed

¹¹⁹ Document 32

¹²⁰ Document 68 page 56

¹²¹ Document 55 pages 16 – 18; 31, 68 pages 56 – 58; 62 page 71; 60 A30

¹²² Document 54 page 37

¹²³ Document 82

¹²⁴ Document 81

¹²⁵ Document 60 A31

¹²⁶ Document 83

¹²⁷ Documents 33; 83

¹²⁸ Document 85

at the campaign office leaving [REDACTED] to print the balance of 2000 Riverside leaflets on the Assembly printer at the regional office in [REDACTED]. According to Mr Deem it would, because of the slow printing rate on the Assembly printer, have taken until around [REDACTED]'s normal finishing time of 5pm to complete the printing. Both Mr Deem and [REDACTED] were clear that the printing of the leaflets was being done at [REDACTED], the regional office.¹²⁹ At the time the Assembly printer was the only usable printer at the regional office.¹³⁰ At interview Mr McEvoy was initially unable to give any explanation of the messages saying it all depended on the context. He did not agree with the position put to him that it was extremely unlikely that printing of Assembly related material that would *take all day* was being undertaken just a few days before a by-election in which he and his staff were heavily involved. After being pressed he offered as an explanation that the fact that in the message that there was a full stop rather than a comma between *Canton* and *Printing* meant that the two sentences were not connected.¹³¹ The words speak for themselves. Mr McEvoy's attempt to explain them away is absurd and contrary to the clear evidence of [REDACTED] and Mr Deem. Their evidence is entirely consistent with the documents. I have no hesitation in accepting their account as the truth.

6.18 In relation to the three instances in April 2017 I also had regard the evidence of [REDACTED] that although when [REDACTED] was based at the regional office most of the printing of leaflets was done on the campaign printer the Assembly printer was used to print direct mail election leaflets, when there was a backlog of leaflets to be printed or when the campaign printer had broken down.¹³² And in relation to those three instances and the printing on 1 November 2016 I had regard also to the email exchange between [REDACTED] and Mr McEvoy on 2 August 2016.¹³³ In that exchange [REDACTED] told Mr McEvoy *Cardiff South have been in touch. They're putting together a leaflet to announce their new candidates and they're wondering about printing it in the office i.e. are they able to? How much does it cost?* Rather than responding that election material could not be printed on the Assembly printer, then the only usable printer at the regional office, Mr McEvoy replied *Yes. Penny a sheet I think? B & W.* Mr Deem was clear that the message was an enquiry about printing leaflets about Cardiff South candidates at Mr McEvoy's regional office¹³⁴. At the hearing on 6 December 2018 Mr McEvoy disputed Mr Deem's account that the email was about printing at the regional office. He said that it was about the cost of printing at the Plaid Cymru Central Office at Ty Gwynfor, Cardiff. Mr Deem's position remained that it was about printing at the regional office.¹³⁵ It is unclear why Cardiff South would contact Mr McEvoy's regional office to ask about the cost of printing leaflets about their candidates at the Plaid

¹²⁹ Documents 60 A31; 68 page 42; 33: 68 page 42: 55 pages 19 – 22; 62 pages 73 -74

¹³⁰ Document 60 A39; 68 page 43

¹³¹ Document 55 pages 19 - 22

¹³² Document 68 pages 43 - 45

¹³³ Document 27

¹³⁴ Document 62 pages 85 – 88; 60 A15, A16

¹³⁵ Document 66 pages 25 - 28

Cymru Central Office. I accept Mr Deem's account as by far the more probable. Whilst there is no evidence that this printing took place there is evidence that on other occasions printing of material for Cardiff South took place at the regional office.¹³⁶ The exchange demonstrates clearly Mr McEvoy's willingness to use the Assembly printer to print election campaign documents.

6.19 In relation to all four instances I took account also of Mr McEvoy's inconsistent and on occasion untruthful evidence in relation to this aspect of the complaint. In his initial written response to the complaint and at his meeting with Sir Roderick, Mr McEvoy falsely denied that the Assembly printer had ever been used to print party political or election campaign documents. At interview on 11 February 2020 he maintained that denial but went on to say that he suspected Deem was using Assembly printer without his knowledge.¹³⁷ The four instances of use of the Assembly printer that I have found established were evidenced by messages of the group of which Mr McEvoy was a member. It was Mr McEvoy who on 8 April 2017 sent the message about using both printers the following day. I do not accept as honest his attempt to distance himself from the improper use of the Assembly printer. Initially he denied that the campaign printer had been used whilst it was at his regional office. However, when confronted with the evidence he changed his position saying *If you want me to say that the campaign printer was never used, I couldn't say that. They probably were, right, to be honest but a lot of what was alleged is incorrect because it wasn't the campaign HQ as alleged.*¹³⁸ Later he accepted that *some stuff...may well have been printed* in his regional office prior to the opening of the campaign office on 18 March 2017 and that that action was in breach of Rules.¹³⁹

6.20 On the four instances I have found established a total of approximately 8,920 sheets of election campaign material were printed on the Assembly printer between 1 November 2016 and 27 April 2017. The amount paid out of Mr McEvoy's OCA for that printing was approximately £89.

Head 2 (claiming cost of party political printing through OCA), Head 3 (attempt to deceive Assembly staff by copying large volumes of files on another copier), Head 4 (claimed for items used for campaigning through his OCA) and Head 9 (attempted to charge Assembly restaurant bills to his OCA).

6.21 Having carefully considered all the available material I have determined that there is insufficient evidence to establish the breaches of the Code and the Rules set out in Heads 3, 4 and 9 of the complaint or in Head 2 other than the printing outlined in paragraphs 6.15 to 6.20 above.

¹³⁶ Document 68 pages 52 - 54

¹³⁷ Document 55 pages 4 – 5, 43

¹³⁸ Document 54 page 54

¹³⁹ Document 54 page 58

Head 5 (Held Cardiff City Council campaign meetings in his regional Assembly office)

6.22 Under this head of the complaint it is convenient to consider also the use of Mr McEvoy's regional office to hold staff meetings at which election campaign matters were discussed and his use of rooms at the Assembly for party political and election campaign purposes.

6.23 I am satisfied that on 17 November 2016, 14 December 2016, 12 January 2017 and 31 January 2017 Mr McEvoy caused or permitted his regional office to be used for formal meetings of the Plaid Cymru Cardiff Campaign Group contrary to paragraph 12 of the Rules and paragraph 10 of the Code. In his formal response to the complaint sent to Sir Roderick on 6 April 2018 Mr McEvoy falsely denied that any formal party political meetings had been held at his regional office.¹⁴⁰ Despite that untruthful denial Mr McEvoy now admits this conduct of which there is overwhelming oral and documentary evidence.^{141 142} Both at the hearings and at his interview he asserted that in using his regional office to hold meetings about election matters he was simply following convention.¹⁴³ He said that it was, and remains, universal practice amongst Members and parties to discuss such matters at meetings held on Assembly premises. He asserted that the weekly meetings of both the Labour Party and Plaid Cymru Assembly Groups are attended by senior party officials in breach of the Code.¹⁴⁴ Mr McEvoy appears to have misunderstood the Code provisions. Such presence would not, in itself, be a contravention of the Code even during the period of an election. A breach would occur only if the senior official addressed the meeting on party political or election matters. Addressing the meeting about policy matters relevant to Assembly business would be perfectly proper. These weekly meetings are quite different in character to the formal meetings of the Cardiff Campaign Group which Mr McEvoy now admits were held in his regional office. But in any event I do not accept Mr McEvoy's evidence on this matter. ██████ gave evidence that prior to the meetings at Mr McEvoy's regional office the Campaign Group meetings had been held at Cardiff City Hall and that at or about the time that a move to Mr McEvoy's regional office was being considered there was a discussion about whether the regional office could be used for these meetings. ██████ recalled that someone, ██████ could not remember who, said that it would be alright provided they were held in the back room as it was not considered to be part of the office.¹⁴⁵ Mr McEvoy did not challenge ██████'s evidence on this matter. I accept ██████'s evidence which was consistent with the message sent to Mr Deem by Mr McEvoy on 14 March 2017 *Number 1 priory (sic) is to sort sublet to Plaid*.¹⁴⁶ Mr McEvoy

¹⁴⁰ Document 49 Table Summary No 1(c)

¹⁴¹ Documents 54 pages 10 – 14, 20 – 23; 68 pages 3 – 4; 4; 5; 6; 7; 9; 10; 11; 12; 84; 62 page 80; 65 page 98; 68 page 58;

¹⁴² Documents 6, 7, 8, 9, 10 and 84

¹⁴³ For example Documents 72 page 3; 54 pages 9 – 10, 13, 28

¹⁴⁴ Document 54 page 9

¹⁴⁵ Document 68 pages 26 – 27

¹⁴⁶ Document 22

said that the sub-let had not taken place because he had been told it was not allowed.¹⁴⁷ That is surprising as under the Determination Mr McEvoy could, subject to conditions, have sublet the back room of his regional office to Plaid Cymru.¹⁴⁸ At the time of the meetings at Cardiff City Hall Mr McEvoy was the Leader of the Plaid Cymru group on the Council. It is for others to consider whether his use of Council premises for political purposes was consistent with his duties under the councillor's Code of Conduct.¹⁴⁹

6.24 I am satisfied that on 22 May 2017, 18 days before the Parliamentary General Election, Mr McEvoy caused or permitted his regional office to be used for a meeting with his AMSS attended by [REDACTED] at which election campaign matters were discussed contrary to the General Election Guidance, paragraph 12 of the Rules and paragraph 10 of the Code . The Election Guidance for the June 2017 Parliamentary General Election was published on the Assembly intranet on 8 May 2017 and came into effect immediately. On 16 May 2017 a Monthly Update was sent to all Members drawing their attention to the Guidance. The Guidance prohibited the use, inter alia, of regional offices for any work in connection with the election. The evidence of this misconduct comes from [REDACTED], Mr McEvoy and from a screenshot of a message from him on 20 May 2017. In that message he said *DM list. Is there a mail merge for all contacts 2017 (excluding Labour & Cons) & the usual target list? Cover this on Monday. 9.30 staff meeting.* [REDACTED].¹⁵⁰ It is not surprising given the content of the message and the fact that this was 18 days before the General Election that when asked about the message at interview Mr McEvoy immediately accepted that it was party political or election related and that the reference to [REDACTED] was to his regional office.¹⁵¹ Then, after prompting by [REDACTED] who was supporting him at the interview, Mr McEvoy said that [REDACTED] might be a reference to *various places we'd meet in* [REDACTED] and that he did not attend the Monday morning meetings.¹⁵² Approximately one hour later, after a break in the interview, Mr McEvoy had a remarkable recovery of his memory and told me that *From memory here, it would seem, if I was at the staff meeting actually, that we'd probably...go through all the stuff as usual about our work and we may have touched on it at the end of the meeting, I suppose, looking at it here.*¹⁵³ Mr Deem was not present at this meeting. Mr McEvoy's attempt to row back from his initial response to the message does him no credit. I am satisfied that from the evidence that the meeting took place and that matters relating to the forthcoming General Election were discussed at it.

¹⁴⁷ Document 54 page 54;

¹⁴⁸ Determination of Members' Pay and Allowances 2016-17 paragraph 6.7.8 prohibited the use for party political purposes of any part of a constituency or regional office not sub-let to a political party

¹⁴⁹ Code of Conduct for Members and Co-opted Members of the County Council and the City and County of Cardiff paragraph 7(b)(iv) & (v)

¹⁵⁰ Document 26

¹⁵¹ Document 54 page 23

¹⁵² Document 54 page 26 - 27

¹⁵³ Document 55 pages 1 – 2 ; 26; 62 pages 74 – 76: 68 pages 89 – 92; 90

6.25 I am satisfied that between 17 January 2017 and 17 March 2017 Mr McEvoy caused or permitted his regional office to be used for weekly meeting with his AMSS some of which were attended by [REDACTED], at which election matters were discussed contrary to paragraph 12 of the Rules and paragraph 10 of the Code. There is evidence from [REDACTED] and Mr Deem and documentary evidence that during the period that [REDACTED] was based at the regional office there were weekly staff meetings there at which party political and election campaign related matters were discussed.¹⁵⁴ [REDACTED] attended some of these meetings and was, along with Mr McEvoy, on the distribution list for the minutes.¹⁵⁵ After the campaign office opened these meetings were normally held there.¹⁵⁶ At his interview on 11 February 2020 Mr McEvoy told me that *I won't attend on Monday* and implicitly accepted that there were regular Monday morning staff meetings.¹⁵⁷ The note of the meeting on Monday 27 February 2017 shows clearly that the meeting was about the Cardiff Council election campaign.¹⁵⁸ The title of the note is *Campaign Plan as discussed on 27 February*. Amongst the topics considered were the purchase of Nodding Neils which it appears were small models of Mr McEvoy to be sold to electors to display in their cars, use of the Plaid Cardiff brand, target voters and the creation of a lookalike list, a vote pledge advertisement, asking candidates to contribute to videos and to provide their photograph, calling cards and fund raising. It was also noted *On any free morning put Neil down for canvassing in Fairwater*. Mr McEvoy was a councillor for the Fairwater ward seeking re-election at the May 2017 elections. Both Mr Deem and [REDACTED] gave evidence that all those shown as addressees of the note of meeting, namely, Mr McEvoy, [REDACTED], Mr Deem, [REDACTED] and [REDACTED] had been present at it. Mr McEvoy did not cross-examine either of them on this matter and restricted himself to telling me at his interview that [REDACTED] was lying about almost everything and had conspired with [REDACTED] to lie about him as part of *a concerted campaign to make sure that I would not be re-elected to this Assembly*.¹⁵⁹ I accept the evidence of Mr Deem and [REDACTED] in relation to the meeting on 27 February. I also accept their evidence, which again was unchallenged, that there were weekly staff meeting some of which were attended by [REDACTED] at which party political and election campaign matters were discussed.

6.26 I am also satisfied that on 19 December 2016 Mr McEvoy caused or permitted the use of rooms at the Assembly to interview candidates for the post of [REDACTED] [REDACTED] contrary to paragraph 12 of the Rules and paragraph 10 of the Code.

¹⁵⁴ Document 63 pages 73 - 76; 68 pages 89 – 92; 51; 53; 90; 60 A20, A21, A22

¹⁵⁵ Documents 51; 53; 90; 68 pages 89 - 90

¹⁵⁶ Documents 53; 88

¹⁵⁷ Document 54 page 25

¹⁵⁸ Document 51

¹⁵⁹ Document 54 pages 31 – 33; 63 pages 75 – 76; 26; 55 pages 1 – 2; 62 pages 74 – 76; 68 pages 38 – 40, 89 – 92; 90

Mr McEvoy admitted this misconduct in his letter to Sir Roderick of 19 November 2018.¹⁶⁰ At the hearing on 29 November 2018 he said that the only mitigating factor was that the successful candidate, [REDACTED], did carry out some Assembly related work for him.¹⁶¹ When interviewed on 11 February 2020 Mr McEvoy told me that the interviews took place at the Assembly *for convenience*.¹⁶² In addition to his admissions there is overwhelming evidence of this misconduct from [REDACTED] who was the successful candidate and from documents.¹⁶³ [REDACTED]'s evidence, which was not challenged, was that Mr McEvoy chaired the selection panel. [REDACTED] was clear that whilst occasionally [REDACTED] would help out with Assembly related work whilst [REDACTED] was based at the regional office it was not amongst [REDACTED] duties. For the reasons set out at paragraphs 6.4 and 6.5 above I am satisfied that Mr McEvoy was well aware that his actions were in contravention of the Code and the Rules. I do not accept that Mr McEvoy's mitigation has any factual basis or substance.

6.27 I am satisfied that on 6 March and 5 April 2017 Mr McEvoy was present at, and so used, rooms in the Assembly for formal meetings of the Cardiff Campaign Group at which election campaign matters were discussed contrary to paragraph 12 of the Rules and paragraph 10 of the Code and that his use on 5 April was also in contravention of the Election Guidance. At interview Mr McEvoy admitted being present at meetings of the Cardiff Campaign Group that were held in the Plaid Cymru meeting room at the Assembly. He told me that the meeting on 6 March was called at his request but that it was a former [REDACTED] who called both meetings. He omitted to mention that the [REDACTED] was in fact the [REDACTED].¹⁶⁴ Mr McEvoy told me that the holding of such meetings on the Assembly estate was in accordance with convention.¹⁶⁵ As well as Mr McEvoy's admission there is oral and documentary evidence of this misconduct.¹⁶⁶

Heads 6 (Employed 3 temporary members of staff for the sole purpose of campaigning for the election of Plaid Cymru candidates to Cardiff Council) and 7 (Regularly delegated further tasks to his 3 permanent members of staff which were highly political in nature).

6.28 I am satisfied that between 31 October 2016 and 30 April 2017 Mr McEvoy employed [REDACTED], a [REDACTED] member of his AMSS, to carry out [REDACTED] work of a party political and election campaign nature during hours for which [REDACTED] was being paid by the Assembly Commission to undertake Assembly related work contrary to paragraph 12 of the Rules and paragraph 10 of the Code. At the hearing on 11 January 2019 [REDACTED] gave evidence that between the start of [REDACTED] employment as a [REDACTED] AMSS in October 2016

¹⁶⁰ Documents 49 & 3

¹⁶¹ Document 65 page 98

¹⁶² Document 54 page 10

¹⁶³ Document 68 pages 33, 58 - 59

¹⁶⁴ Document 68 page 19

¹⁶⁵ Document 54 pages 15 - 20

¹⁶⁶ Documents 13; 14; 68 pages 15 – 19; 54 pages 15 - 19

and the end of her [REDACTED] contract in April 2017 [REDACTED] numerous party political and election campaign documents, including election manifestos and leaflets, during time for which [REDACTED] was being paid as an AMSS.¹⁶⁷ Under rigorous cross-examination by Mr McEvoy [REDACTED] refuted the suggestions put to [REDACTED] that any such [REDACTED] had been carried out on a voluntary basis in [REDACTED] own time and that any [REDACTED] had done in [REDACTED] capacity as an AMSS was of Assembly related material.¹⁶⁸ [REDACTED]'s account was supported by Mr Deem and [REDACTED].¹⁶⁹ I also had regard to the fact that, despite being given ample opportunity, Mr McEvoy was unable to produce even a single example of Assembly related [REDACTED] had carried out.¹⁷⁰ Following that hearing [REDACTED] carried out a search of [REDACTED] records to check if [REDACTED] had ever [REDACTED] any document that could properly be described as relating to Assembly business. Amongst all the [REDACTED] [REDACTED] had carried out on behalf of Mr McEvoy [REDACTED] found only one, a single page invitation letter to a public meeting about illegal riding of motorbikes in Cardiff, which it could possibly be argued was Assembly related. At the hearing on 11 January 2019 Mr McEvoy denied that anything of a party political or election nature had been [REDACTED] by [REDACTED] in [REDACTED] capacity as an AMSS.¹⁷¹ He repeated that denial when interviewed on 11 February 2020. However, under questioning he told me that he could not deny that some [REDACTED] of non-Assembly work may have been carried out as arranging the [REDACTED] was, he claimed, a matter for Mr Deem.¹⁷² Mr McEvoy's involvement is plain from [REDACTED]'s evidence. I have no hesitation in accepting [REDACTED]'s evidence as accurate and rejecting Mr McEvoy's denial.

Head 7 (Regularly delegated further tasks to his 3 permanent members of staff which were highly political in nature)

6.29 I am satisfied that between 1 January 2017 and 8 June 2017 Mr McEvoy caused or permitted Michael Deem, one of his AMSS, to carry out work of a party political and election campaign nature during hours for which he was being paid by the Assembly Commission to undertake Assembly related work contrary to paragraph 12 of the Rules and paragraph 10 of the Code.

6.30 During the period relevant to this complaint Mr McEvoy had three permanent staff members. [REDACTED] was employed as his [REDACTED]. Michael Deem was employed initially as a caseworker but on 22 August 2016 was promoted by Mr McEvoy to the role of Office Manager. Mr McEvoy suspended him from that post on 27 July 2017 and dismissed him from his employment on 27 February 2018.¹⁷³ The third member of Mr McEvoy's

¹⁶⁷ Documents 67 pages 21, 29

¹⁶⁸ Document 67 pages 51 – 54,

¹⁶⁹ Document 68 pages 66, 92

¹⁷⁰ Documents 67 pages 81 - 88; 55 pages 23 - 25

¹⁷¹ Document 67 pages 51 - 54

¹⁷² Documents 55 page 28; 67 page 29 - 101; 62 pages 4 – 7; 60 A33; 68 page 92

¹⁷³ Document 86 paragraph 10

permanent staff was [REDACTED]. She was at first employed on a [REDACTED] but in [REDACTED] became a [REDACTED] staff member. Unlike the other two who were paid for a five day week [REDACTED] was paid only for [REDACTED] days per week.¹⁷⁴ [REDACTED] normally worked [REDACTED]. There is a huge volume of undisputed evidence that both [REDACTED] and [REDACTED] undertook Assembly related work outside normal office hours.¹⁷⁵

6.31 From the outset Mr McEvoy has maintained that all his AMSS did not work normal office hours but that each week they worked at least or more than the hours for which they were being paid out of Assembly funds. He accepted that his permanent staff did on occasion undertake party political or election work during what might be regarded as normal office hours but asserted that when that occurred the hours were made up by flexitime or doing Assembly related work outside normal office hours. [REDACTED], in his unsworn statement, gave a broadly similar account.¹⁷⁶ If it is true, as Mr McEvoy claimed at the hearing on 18 March 2018, that he instructed Mr Deem to ensure that staff timesheets were kept it is regrettable that the instruction was not followed.¹⁷⁷ Whilst there was no requirement to keep such records I have no doubt that accurate timesheets would have made the investigation of this part of the complaint much more straightforward. Having considered all the evidence in relation to [REDACTED] and [REDACTED] I cannot be satisfied that they did not each week, as claimed by Mr McEvoy, spend at least their contracted hours on Assembly related work. But lest there is any attempt to misrepresent my finding on this matter I wish to make clear that I am not saying that Mr McEvoy's staff, other than [REDACTED] [REDACTED] and Mr Deem, did not undertake party political and election campaign work during time for which they were being paid to do Assembly related work. Rather my finding is no more than that on the available evidence I cannot be satisfied to the required standard that such improper use of Assembly resources occurred.

6.32 That is not the case in respect of Mr Deem. There is an abundance of evidence from him, Mr McEvoy, [REDACTED] and documents that from January 2017 until the Parliamentary General Election on 8 June 2017 he spent a significant proportion of the time for which he was being paid to work as an AMSS undertaking work of a party political and election campaign nature. For example, during the hearing on 19 November 2018 Mr Deem gave evidence about the printing of documents on the campaign printer on 21 March 2017. At that time that printer was in Mr Deem's garage. Sir Roderick asked Mr Deem in whose time was the printing being done to which Mr Deem responded *On Assembly time*.¹⁷⁸ As Office Manager, Mr Deem was responsible to Mr McEvoy for the proper conduct of the regional office and for the supervision of everything, including party political and election campaign work by other AMSS and volunteers that improperly took place there. Mr McEvoy accepted

¹⁷⁴ Document 75

¹⁷⁵ Document 65 page 110

¹⁷⁶ Document 76

¹⁷⁷ Document 70 page 9

¹⁷⁸ Document 62 page 31

that he was responsible for Mr Deem's actions.¹⁷⁹ Along with [REDACTED], Mr Deem participated in weekly staff meetings, including those on 27 February 2017, 18 April 2017, 1 May 2017 and 22 May 2017 at which party political and election campaign matters were discussed.¹⁸⁰ At the hearing on 18 March 2019 Mr McEvoy said that from December 2016 onwards Mr Deem did very little Assembly related work whilst at the regional office.¹⁸¹ His contention was, however, that Mr Deem made up any Assembly time spent on party political and election campaign work by use of accumulated flexi-time. It was common ground that in the month prior to the June 2017 General Election much of Mr Deem's election campaign work was done on flexi-time.¹⁸² That work, unlike that undertaken from January to early May, did not result in any improper use of Assembly resources except where it was done in the regional office. At the disciplinary hearing on 22 February 2018 Mr Deem gave evidence that during April 2017 he was constantly around the Caerau campaign office and was *pretty much running campaign headquarters*. When it was put to him by Mr McEvoy that he had done this using flexitime he had built up Mr Deem responded *So there was a certain amount of flexitime but there was also a lot that was not flexitime, done on work time*.¹⁸³ The matter was put beyond doubt when at the hearing on 6 December 2018 Mr McEvoy said that the reason Mr Deem had been sacked was because he had not *undertaken every week 37 hours of Assembly work*.¹⁸⁴

6.33 Under this heading it is convenient to consider also the other instances of use of the regional office for party political and election campaign work in contravention of paragraph 12 of the Rules and paragraph 10 of the Code that were identified during the investigation. In some instances it has not been possible to identify the staff member involved. These improper usages are in addition to the other misconduct at the regional office and at the Assembly noted elsewhere in this report.

6.34 Before considering each instance of improper use it is instructive to consider the general comments Mr McEvoy has made on the subject. Both in his very detailed response to the complaint sent to Sir Roderick on 5 April 2018 and at his meeting with Sir Roderick on 25 May 2018 Mr McEvoy denied that any contravention of the Rules or the Code had occurred.¹⁸⁵ However, in the course of his interview on 11 February 2020 when asked if *prior to the acquisition of the campaign office quite a lot of campaign work and political work was done in the back office at 321* Mr McEvoy responded *Erm, there was ..there was a lot of campaign work done everywhere really*.¹⁸⁶ Later in the same interview he said *If you want me to sit here and say that. If you want me to say that the campaign printer was never*

¹⁷⁹ Document 66 pages 13 – 14, 66

¹⁸⁰ Documents 51; 53; 88; 90; 68 pages 58, 89 – 90; 63 pages 75 - 76

¹⁸¹ Document 70 pages 11 - 14

¹⁸² Document 70 pages 16-17, 46

¹⁸³ Documents 87 pages 25 – 27; 60 A26;

¹⁸⁴ Document 66 pages 30 - 31

¹⁸⁵ Document 49

¹⁸⁶ Document 54 page 51

*used, I couldn't say that. Erm, they probably were right to be honest, and, erm, but a lot of what was said and a lot of what was alleged is incorrect because it wasn't the campaign HQ, as ... as... as alleged.*¹⁸⁷ I have had regard to these comments when considering the matters in paragraphs 6.35 to 6.41.

6.35 I am satisfied that between 28 December 2016 and 17 March 2017 Mr McEvoy caused or permitted the campaign printer to be located at his regional office and used there to print party political and election campaign documents contrary to paragraph 12 of the Rules and paragraph 10 of the Code. Mr Deem, [REDACTED] and [REDACTED] all speak to the presence and use of the campaign printer.¹⁸⁸ [REDACTED] said it was the one on which most of the leaflets were printed and that the Assembly printer was only used for party political and election work if there was a backlog of printing, the campaign printer was broken or direct mail letters had to be printed.¹⁸⁹ At interview Mr McEvoy admitted that it was stored at his office but claimed that it was there as a result of a request from a senior member of Plaid Cymru. He said it was not used to his knowledge.¹⁹⁰ At interview on 11 February 2020 he agreed with an unintentionally misleading suggestion put to him that on or about 12 March 2017 the campaign printer had been moved from his office to Mr Deem's garage as a consequence of receiving Sir Roderick's letter advising him about the Media Briefing Room complaint against him.¹⁹¹ Mr McEvoy accepted that even the presence of the campaign printer in his office was a *technical breach*.¹⁹² At the interview on 11 February 2020 he said *at the beginning of the process. I wrote to Sir Roderick and, ermm, I stated that it shouldn't have been there, I broke the rules clearly ermm.*¹⁹³ The use of the campaign printer at the regional office to produce party political and election material is a more serious matter. It is plain from the evidence of Mr Deem, Mr McEvoy and the documents that the campaign printer was in fact moved from the regional office on 17 March 2017 as a direct result of Mr McEvoy realising that the CCTV cameras were recording all the improper use of his regional office including the use of the campaign printer.¹⁹⁴ On that date the campaign printer and the folding machine were taken by van to Mr Deem's garage where they remained until moved to the new campaign office around two weeks later. Whilst it has not been possible to quantify the use of the campaign printer whilst it was at the regional office the unchallenged evidence of [REDACTED] was that [REDACTED] used it for almost all the printing of leaflets.

6.36 I am satisfied that between August 2016 and 17 March 2017 Mr McEvoy caused or permitted a document folding machine to be located at his regional office and to be used

¹⁸⁷ Document 54 page 54

¹⁸⁸ Documents 62 pages 28 – 30; 60 A10; 68 page 43;

¹⁸⁹ Document 68 page 43

¹⁹⁰ Documents 62 page 3; 54 page 7

¹⁹¹ Document 54 page 35

¹⁹² Document 54 page 36

¹⁹³ Document 54 page 7

¹⁹⁴ Documents 24; 62 page 29; 63 page 50; 72 pages 21 - 29

there to fold party political and election campaign documents contrary to paragraph 12 of the Rules and paragraph 10 of the Code. Mr Deem and [REDACTED] both speak to the presence and use of the folding machine for improper purposes.¹⁹⁵ That was not challenged by Mr McEvoy. According to Mr Deem it was in the office whilst on loan from shortly after July 2016 and was purchased in January 2017.¹⁹⁶ At interview Mr McEvoy admitted that it was at his office and said that he could not deny it was used in part for party political material.¹⁹⁷ He told me that after the folding machine was moved to the campaign office a new folding machine was not purchased for his regional office as there was little requirement to fold Assembly related documents.¹⁹⁸ It has not been possible to quantify the extent to which it was used for improper purposes.

6.37 I am satisfied that between 5 and 7 January 2017 Mr McEvoy caused or permitted approximately 30,000 highly party political newspapers and thousands of party political direct mail letters to be stored at the regional office contrary to paragraph 12 of the Rules and paragraph 10 of the Code. The evidence of this matter comes from Mr Deem and a screenshot of messages of the group of which Mr McEvoy was a member. Mr Deem accepted that he had taken 60,000 of these newspapers to the regional office on 5 January with the intention that they would be stored there until collected by the candidates.¹⁹⁹ It appears that approximately half of them had been collected by 6 January. When in a message on 6 January 2017 Mr McEvoy was made aware that a member of MBS would be visiting his office on 9 January he ordered that the documents be moved the following day.²⁰⁰ At interview Mr McEvoy told me that he ordered the removal of the documents because they shouldn't have been there and didn't want Assembly staff to see them.²⁰¹ This admission is clear evidence of Mr McEvoy's awareness of the Rules and is hard to reconcile with the implication in his letter to Sir Roderick on 6 April 2017 that he was not aware of them until he was informed of the Media Briefing Room complaint against him on 16 March 2017.²⁰² I accept Mr McEvoy's evidence that the newspapers were printed by Trinity Mirror. There is nothing to suggest that they were paid for out of public funds.

6.38 I am satisfied that between 17 January and 17 March 2017 Mr McEvoy caused or permitted [REDACTED], who was employed by Cardiff Plaid Cymru as [REDACTED], to be based at his regional office where [REDACTED] carried out the full range of duties of that post contrary to paragraph 12 of the Rules and paragraph 10 of the Code. The evidence of this contravention comes from [REDACTED], Mr Deem, Mr McEvoy and from a number of screenshots passing between them and other members of Mr

¹⁹⁵ Documents 62 pages 28 – 30; 68 page 50; 63 pages 102 – 103; 60 A7, A9

¹⁹⁶ Document 64 pages 102 -103

¹⁹⁷ Document 54 page 38

¹⁹⁸ Document 54 page 37

¹⁹⁹ Document 65 page 102; 60 A23

²⁰⁰ Document 20

²⁰¹ Documents 20; 55 pages 16 -18; 54 page 45 – 50; 62 page 71; 60 A23;

²⁰² Document 3

McEvoy's staff. [REDACTED] gave evidence that from starting work as [REDACTED] [REDACTED] for the 2017 council elections on [REDACTED] 2017 until the campaign office was established on [REDACTED] 2017 [REDACTED] was based at Mr McEvoy's regional office.²⁰³ During that period [REDACTED] carried out the full range of duties of [REDACTED] post. [REDACTED] gathered information; met with candidates; prepared and printed on the Assembly printer direct mail letters in connection with the Cardiff Council elections; prepared and printed on the campaign printer leaflets and other documents in connection with these elections; and co-ordinated that election campaign.²⁰⁴ [REDACTED] put election campaign direct mail letters in envelopes as described in paragraph 6.39.²⁰⁵ [REDACTED] attended a number of meetings with Mr McEvoy and his AMSS at which party political and election matters were discussed.²⁰⁶ One such meeting was on 27 February 2017 the evidence of which is considered in paragraph 6.25.²⁰⁷ [REDACTED] accepted that on occasion [REDACTED] assisted Mr McEvoy's staff with a small amount of work that it could be argued was Assembly related.²⁰⁸ Mr Deem confirmed that [REDACTED] was based at the regional office from the date of her appointment until the campaign office opened on [REDACTED] 2017.²⁰⁹ He gave evidence as to the general nature of [REDACTED] role as the campaign organiser including [REDACTED] responsibility for ordering election boards and [REDACTED] attendance at meetings with AMSS at which party political and election campaign matters were discussed.²¹⁰ Neither in his cross-examination of [REDACTED] nor in his own evidence in chief did Mr McEvoy challenge [REDACTED] testimony about the specific work undertaken. Rather he put it to [REDACTED] that [REDACTED] was *lying about almost everything* and along with Mr Deem and [REDACTED] was part of an orchestrated campaign against him of which the complaint was a part.²¹¹ In his letter to Sir Roderick on 19 November 2018 Mr McEvoy admitted that [REDACTED] *did spend time in the constituency office and was interviewed in my Assembly office. At the time I thought this was permissible because [REDACTED] would be contributing to constituency work as part of [REDACTED] role.*²¹² I accept [REDACTED]'s unchallenged evidence about the party political and election campaign work [REDACTED] carried out whilst based at the regional office.²¹³ Whilst I accept Mr McEvoy's account that on occasion [REDACTED] assisted with a small amount of work that he contends was Assembly related it is very plain that almost all [REDACTED] time at the regional office was spent on party political and election campaign issues. I attach no weight to his supposed mitigation.

²⁰³ Documents 68 page 34; 69 pages 3 - 4

²⁰⁴ Documents 68 pages 44- 46, 52 -53; 69 page 6

²⁰⁵ Document 26

²⁰⁶ Document 68 page 89 – 92;

²⁰⁷ Document 53

²⁰⁸ Document 68 page 13

²⁰⁹ Documents 63 page 97; 60 A21

²¹⁰ Document s64 pages 24, 97; 60 A21

²¹¹ Document 71 pages 27 - 29

²¹² Documents 3;

²¹³ Documents 24; 68 pages 34, 38 – 44, 52 – 53, 56 – 58, 92; 63 page 97

6.39 I am satisfied that on 21 March 2017 Mr McEvoy caused or permitted the [REDACTED] to carry out election campaign work, namely the putting of election direct mail leaflets for the Grangetown ward into envelopes, at his regional office contrary to the General Election Guidance, paragraph 12 of the Rules and paragraph 10 of the Code. The evidence of this specific contravention comes from Mr Deem, Mr McEvoy and from a screenshot of signal messages they exchanged on 21 March 2017. At 12:31 that day Mr Deem messaged Mr McEvoy informing him that earlier that day [REDACTED] had been seen stuffing Grangetown ward direct mail letters if full view of the CCTV cameras. Mr McEvoy replied at 14:38 *We can't do that.* Mr Deem then messaged *Up to u how we do it but think we need to send a strong message. If it was a week later implications would be massive.*²¹⁴ It was as a result of this advice from Mr Deem that 71 minutes later Mr McEvoy sent the email instructing him to prevent any political activity at his regional office.²¹⁵ Despite his previous denials that election work had taken place at his office Mr McEvoy accepted under cross examination at the hearing on 29 March 2019 and at interview on 11 February 2020 that this conduct was election work and should not have been done in the office. He became very evasive when asked if he admitted to a contravention of the Code.²¹⁶ Despite the prohibition of party political work in the regional office sent out by Mr McEvoy following Mr Deem's recommendation, party political and election campaign work of which Mr McEvoy was aware continued to take place at his regional office.²¹⁷

6.40 I am satisfied that between mid-June 2016 and 27 March 2017 Mr McEvoy caused or permitted his regional office to be used to store election campaign boards or placards contrary to paragraph 12 of the Rules and paragraph 10 of the Code. The evidence of this misconduct comes from a photograph taken in 6 January 2017 to show the state of the premises following a break-in,²¹⁸ from a screenshot of a messages between [REDACTED] and Mr McEvoy,²¹⁹ from Mr Deem, [REDACTED] and [REDACTED] and from Mr McEvoy.²²⁰ At interview Mr McEvoy accepted that election boards or placards had been stored at his regional office but claimed that he believed it acceptable to store the placards in his office *because all they are is a copy of what the Assembly paid for.* He claimed he was *confused.* He explained that the placards bore the text 'Neil McEvoy Plaid Cymru' and that the Assembly had paid for the same wording to be displayed outside the office window.²²¹ I regard Mr McEvoy's alleged confusion as disingenuous.

²¹⁴ Document 24

²¹⁵ Documents 25; 60 A24

²¹⁶ Documents 54 pages 60 – 62; 72 pages 27 - 29

²¹⁷ See Findings of Fact 25, 35, 36 & 37

²¹⁸ Document 56

²¹⁹ Document 74

²²⁰ Documents 62 pages 23, 37; 68 page 49; 63 page 50

²²¹ Documents 55 pages 39 – 41; 56; 54 page 7; 62 pages 23, 36 – 37; 60 A32; 68 page 49

Head 8 (Used Assembly ICT systems to produce, edit and upload political campaign videos to social media)

6.41 I am satisfied that between 1 November 2016 and 27 April 2017 at his regional office Mr McEvoy caused or permitted the use of electricity paid for with Assembly Commission resources to power equipment used to process party political and election campaign documents contrary to paragraph 12 of the Rules and paragraph 10 of the Code. At interview Mr McEvoy accepted that where the printing or folding of party political or election campaign documents took place at his office the electricity used should not have been paid for out of Assembly resources. He went on to say that where the internet had been used for such purposes the electricity used should not have been paid for out of Assembly resources. It is irrelevant whether such printing was on the Assembly printer or the campaign printer during the period that it was housed at the office.²²² It was not possible to quantify the loss to public funds due to this conduct but I do not believe that it could have been significant.

7. SUMMARY

7.1 I am satisfied that Mr McEvoy contravened paragraph 12 of the Rules and paragraph 10 of the Code by –

- I. between mid-June 2016 and 27 March 2017 causing or permitting his regional office to be used to store election campaign boards or placards;
- II. between August 2016 and 17 March 2017 causing or permitting a document folding machine to be located at his regional office and to be used there to fold party political and election campaign documents;
- III. between 31 October 2016 and 30 April 2017 causing or permitting [REDACTED], a [REDACTED] member of his AMSS, to carry out [REDACTED] work of a party political and election nature during hours for which [REDACTED] was being paid by the Assembly Commission to undertake Assembly related work;
- IV. on 1 November 2016 at his regional office causing or permitting the printing on the Assembly printer of approximately 3000 election campaign leaflets for the Grangetown ward by-election on 3 November;
- V. between 1 November 2016 and 27 April 2017 at his regional office causing or permitting the use of electricity paid for out of Assembly Commission resources to power equipment used to process party political and election campaign documents;
- VI. on 17 November 2016 causing or permitting his regional office to be used for a formal meeting of the Plaid Cymru Cardiff Campaign Group at which election campaign matters were discussed;

²²² Document 55 pages 19 – 20, 29 - 30;

- VII. on 14 December 2016 causing or permitting his regional office to be used for a formal meeting of the Plaid Cymru Cardiff Campaign Group at which election campaign matters were discussed;
- VIII. on 19 December 2016 using rooms at the Assembly for election campaign purposes, namely, to interview candidates for the post of [REDACTED];
- IX. between 28 December 2016 and 17 March 2017 causing or permitting the campaign printer to be located at his regional office and used there to print party political and election campaign documents;
- X. between 1 January 2017 and 8 June 2017 causing or permitting Michael Deem, and one of his AMSS, to carry out work of a party political and election campaign nature during hours for which he was being paid by the Assembly Commission to undertake Assembly related work;
- XI. between 5 and 7 January 2017 causing or permitting approximately 30,000 highly party political newspapers and thousands of party political direct mail letters to be stored at the regional office;
- XII. on 12 January 2017 causing or permitting his regional office to be used for a formal meeting of the Plaid Cymru Cardiff Campaign Group at which election campaign matters were discussed;
- XIII. between 17 January and 17 March 2017 causing or permitting the [REDACTED] [REDACTED] to be based at his regional office and there carry out election campaign work in connection with the elections to Cardiff City Council on 4 May 2017;
- XIV. between 17 January 2017 and 17 March 2017 causing or permitting his regional office to be used for weekly meetings with his AMSS , some of which were attended by [REDACTED], at which election campaign matters were discussed;
- XV. on 31 January 2017 causing or permitting his regional office to be used for a formal meeting of the Plaid Cymru Cardiff Campaign Group at which election campaign matters were discussed;
- XVI. on 6 March 2017 being present at, and so using, rooms at the Assembly for a formal meeting of the Cardiff Campaign Group;
- XVII. on 21 March 2017 at his regional office causing or permitting the Plaid Cymru employed [REDACTED] to carry out election campaign work, namely the putting of election campaign direct mail leaflets for the Grangetown ward into envelopes at his regional office;
- XVIII. on 5 April 2017 being present at, and so using, rooms in the Assembly for a formal meeting of the Cardiff Campaign Group;
- XIX. on 7 April 2017, less than one month before the Cardiff City Council elections, causing or permitting the printing of approximately 980 double sided election

campaign direct mail letters for the [REDACTED] ward on the Assembly printer at his regional office;

- XX. on 9 April 2017, less than one month before the Cardiff City Council elections, causing or permitting the re-printing of approximately 980 double sided election campaign direct mail letters for the [REDACTED] ward on the Assembly printer at his regional office;
- XXI. on 27 April 2017, less than two weeks before the Cardiff City Council elections, causing or permitting the printing of approximately 2000 election campaign leaflets for the [REDACTED] ward on the Assembly printer at his regional office; and
- XXII. on 22 May 2017, 18 days before the Parliamentary General Election, causing or permitting his regional office to be used for a meeting with his AMSS, attended by [REDACTED] at which election campaign matters were discussed.

The conduct at Heads XVIII to XXI was also contrary to the Local Election Guidance. The conduct at Head XXII was also contrary to the General Election Guidance.

7.2 In view of my findings the Committee may wish to consider whether this is a case of a Member making a number of errors about what use of Assembly resources was permissible or whether the extent of the contraventions demonstrates a wilful and persistent disregard of the provisions of the Election Guidance, the General Election Guidance, the Rules and the Code.

7.3 It has not been possible to accurately quantify the financial loss to the Assembly Commission of the various contraventions of the relevant provisions I have found established. I am clear that there was no direct financial gain by Mr McEvoy although the services provided free of charge to Plaid Cymru election candidates, including Mr McEvoy, would undoubtedly have been of assistance. The total cost of employing [REDACTED], whom I have found undertook only party political and election campaign [REDACTED] during the time that [REDACTED] was [REDACTED], was £1,093.34 whilst the cost of employing Mr Deem from 1 January 2017 to 8 June 2017 was £14,862.14.²²³ Having regard to all the evidence referred to in paragraph 6.32 it would be reasonable to believe that during that period at least 15% of the time for which Mr Deem was being paid to work as an AMSS was improperly spent undertaking party political and election campaign work. On that basis the cost of employing him whilst engaged in such improper work was approximately £2,229. The cost of improperly using the Assembly printer prior to December 2017 was, for reasons that remain unclear, met by Plaid Cymru although the rental costs of £240 per quarter were all paid by the Assembly. The costs of using it to print the approximately 8900 election leaflets in November 2016 and April 2017 was around £89 and was paid out of Assembly funds. In addition there was the cost of electricity to power that printing, the use of the campaign

²²³ Document 89

printer and the folding machine whilst they were at the regional office, the internet and heat and light. Overall £3,450 would be a very low estimate of the total cost of Mr McEvoy's misconduct.

8. ISSUES OF GENERAL PRINCIPLE

8.1 I have made both the Clerk and Chief Executive and the Remuneration Board aware of my concerns about the lack of any requirement to maintain records of the actual hours worked by AMSS each day. I believe that the absence of such records hampered my investigation of the present complaint. I believe that there is a real risk that AMSS could be used improperly for party political and election work in the manner alleged in this complaint and that in the absence of an appropriate system of control there is little prospect of being able to prove misconduct.

8.2 I also have to advise the Committee of misconduct by ██████████ who has since 1 July 2016 been employed by Mr McEvoy as his ██████████. ██████████. ██████████. On 4 July 2018 Mr Ford sent two abusive messages to ██████████, whom ██████████ knew was likely to be a witness in the investigation, in an attempt to persuade ██████████ not to give evidence.²²⁴ When asked by Sir Roderick to explain ██████████ admitted sending the messages and undertook not to repeat ██████████ misconduct.²²⁵ ██████████ has not apologised to either ██████████ or to Sir Roderick for this misconduct.

8.3 On or shortly before 26 November 2018 ██████████ asked a third party to contact ██████████, whom ██████████ knew was likely to be a witness in the investigation, and to make clear to ██████████ that ██████████ did not need to give evidence. The third party complied with the request and told ██████████ had done so. On 26 November 2018 ██████████ sent a text message to the third party asking ██████████ to send a text message to ██████████ making it clear to ██████████ that ██████████ did not have to give evidence. The third party complied with the request by forwarding ██████████'s text message to ██████████.²²⁶ ██████████ caused these messages to be sent to ██████████ in an attempt to persuade ██████████ not to give evidence. When interviewed by Sir Roderick on 29 November 2018 ██████████ admitted that ██████████ had asked the third party to contact ██████████ on both occasions. ██████████ has not apologised to either ██████████ or to Sir Roderick for this second episode of misconduct.

8.4 It is to the credit of both ██████████ and ██████████ that despite the distress caused by ██████████'s misconduct they took no notice of ██████████ attempt to suborn them.²²⁷ Whilst there is no direct evidence that Mr McEvoy directed or was at the time even aware of ██████████'s

²²⁴ Document 65 pages 1 - 2

²²⁵ Documents 65 pages 1 – 2 ; 57

²²⁶ Document 65 pages 1 - 2

²²⁷ Document 69 pages 16 - 17

misconduct he became aware of it in relation to [REDACTED] on or about 9 August 2018 and in relation to [REDACTED] at the hearing on 14 January 2019.²²⁸ If as Mr McEvoy asserts almost nothing improper took place in his regional office it is hard to comprehend why [REDACTED] should have been so anxious to stop [REDACTED] and [REDACTED] from giving evidence.

8.4 Had this misconduct been in relation to a civil or criminal court case rather than the investigation of a complaint it would have most likely have been dealt with as either contempt of court or an attempt to pervert the course of justice. Regrettably, these options are not available. The Committee may wish to consider whether there is need for legislation to allow interference with witnesses to an investigation by the Commissioner to be dealt with as a criminal matter.

9. PROCESS

9.1 [REDACTED] was afforded the opportunity to make representations to me about the accuracy and fairness of the criticism of [REDACTED] in section 8 of this report. In [REDACTED] response, [REDACTED] argued that I should not criticise [REDACTED] in the manner I had intended. I have had due regard to his representations.

9.2 Michael Deem and Neil McEvoy have been provided with the final draft of this report and afforded an opportunity to comment on its factual accuracy.²²⁹ I accepted a small factual accuracy correction sought by Mr Deem who also drew attention to his lack of opportunity to scrutinise the accuracy of unsworn testimony²³⁰. Other than an email on 8 June 2020 asserting that the final draft contained '*glaring errors*' Mr McEvoy did not avail of the opportunity to challenge the factual accuracy of anything in the final draft report.²³¹

9.3 A copy of the final report has today been sent to each of them.



Douglas Bain CBE TD

Acting Senedd Commissioner for Standards

19 June 2020

²²⁸ Documents 65 pages 1 – 2; 58

²²⁹ Documents 91; 92

²³⁰ Documents 93;94

²³¹ Documents 95;96

DOCUMENTS RELIED UPON:

These documents are published separately in 01-21: Supplementary Evidence

1. Gantt chart
2. Complaint
3. Letter Neil McEvoy – Commissioner 19 November 2018
4. Email [REDACTED] 16 November 2016 and agenda
5. Email [REDACTED] – Neil McEvoy 17 November 2016
6. Minutes meeting 17 November 2016
7. Agenda meeting 14 December 2016
8. Minutes meeting 12 December 2016
9. Agenda meeting 12 January 2017
10. Minutes meeting 12 January 2017
11. Screenshot Neil McEvoy – [REDACTED] 17 & 18 December 2016
12. Screenshot [REDACTED] – Neil McEvoy 19 December 2016
13. Email [REDACTED] 5 March 2017
14. Email [REDACTED] 4 April 2017
15. Election Guidance
16. Letter Commissioner – Neil McEvoy 16 March 2017
17. Statement of [REDACTED]
18. Letter Commissioner – Neil McEvoy 20 February 2018
19. Emails [REDACTED] 28 October 2016
20. Screenshot Michael Deem – [REDACTED] – Neil McEvoy 6 January 2017
21. Screenshot [REDACTED] – Neil McEvoy 17 February 2017

22. Screenshot Neil McEvoy – Michael Deem 14 March 2017
23. Screenshot Neil McEvoy – Michael Deem 17 March 2017
24. Screenshot Michael Deem – Neil McEvoy 21 March 2017
25. Emails Neil McEvoy – Michael Deem 21 March 2017
26. Screenshot Neil McEvoy – [REDACTED] 21 May 2017
27. Email [REDACTED] – Neil McEvoy 2 August 2016
28. Screenshot Neil McEvoy – [REDACTED] 1 November 2016
29. Screenshot Neil McEvoy – Michael Deem 15 November 2016
30. Screenshot Neil McEvoy – [REDACTED] 2 January 2017
31. Screenshot [REDACTED] 7 April 2017
32. Screenshot [REDACTED] – Neil McEvoy 8 April 2017
33. Screenshot [REDACTED] 27 April 2017
34. Clarity invoice 30 April 2016
35. Clarity invoice 31 May 2016
36. Letter Neil McEvoy – Commissioner 5 July 2019
37. Emails Clarity Copiers – Commissioner 15 & 16 April 2019
38. Clarity invoice 31 August 2016
39. Clarity invoice 30 September 2016
40. Clarity invoice 31 October 2016
41. Clarity invoice 30 November 2016
42. Clarity invoice 31 December 2016
43. OCA claim form 5 January 2017
44. Clarity invoice 31 January 2017
45. OCA claim form 13 February 2017
46. Rental agreement 16 November 2016
47. OCA claim form 5 January 2017 – rental

48. Clarity invoice 31 October 2016 – rental
49. Email and Table Summary Neil McEvoy – Commissioner 5 April 2017
50. Email MBS to Commissioner’s Office 11 March 2020
51. Note of campaign meeting 27 February 2017
52. Monthly Update May 2017
53. Note of campaign meeting 18 April 2017
54. Transcript Interview 11 February 2020 Neil McEvoy Part 1
55. Transcript Interview 11 February 2020 Neil McEvoy Part 2
56. Photograph of back room at regional office
57. Letter [REDACTED] – Commissioner 6 August 2018
58. Letter Commissioner – Neil McEvoy 9 August 2018
59. Screenshot Neil McEvoy – [REDACTED] 18 March 2017
60. Interrogatories – Michael Deem
61. Letter Commissioner – [REDACTED] 10 July 2018
62. Transcript hearing 19 November 2018
63. Transcript hearing 22 November 2018
64. Transcript hearing 23 November 2018
65. Transcript hearing 29 November 2018
66. Transcript hearing 6 December 2018
67. Transcript hearing 11 January 2019
68. Transcript hearing 14 January 2019
69. Transcript hearing 14 February 2019
70. Transcript hearing 18 March 2019
71. Transcript hearing 29 March 2019
72. Transcript hearing 17 June 2019
73. Transcript hearing 5 July 2019

74. Screenshot [REDACTED] – Neil McEvoy 27 March 2017
75. Statement – [REDACTED] 31 May 2018
76. Statement – [REDACTED] 1 June 2018
77. Email – McEvoy – Deem & others 12 May 2017
78. Statement - [REDACTED] 7 March 2018
79. Statement – [REDACTED]
80. Statement – [REDACTED]
81. Election leaflet [REDACTED] ward
82. Screenshot – [REDACTED] 26 April 2017
83. Screenshot 27 April 2017 – printer fixed
84. Minutes meeting 31 January 2017
85. Screenshot – [REDACTED] 27 April 2017
86. Decision in disciplinary appeal by Michael Deem
87. Transcript – disciplinary hearing 22 February 2018
88. Note of campaign meeting 1 May 2017
89. Employment costs [REDACTED] and Michael Deem
90. Note of campaign meeting 22 May 2017
91. Letter Acting Commissioner – Michael Deem 5 June 2020
92. Letter Acting Commissioner – Neil McEvoy 5 June 2020
93. Letter MD to Acting Commissioner 18 June 2020
94. Letter Acting Commissioner to MD 19 June 2020
95. Email NM to DB 8 June 2020
96. Letter DB to NM 8 June 2020

Atodiad B: Rhestr o Gyhuddiadau ac o Ganfyddiadau'r Comisiynydd

1. I gadarnhau dealltwriaeth y Pwyllgor o ba gwynion, neu rannau ohonynt, y mae Mr McEvoy yn cyfaddef iddynt.

Oherwydd yr ymatebion amrywiol a roddwyd gan Mr McEvoy i'r materion a nodwyd yn y gŵyn, nid yw'n syml nodi pa elfennau y mae'n eu cyfaddef erbyn hyn a pha rai, os o gwbl, y mae'n eu gwadu. Pan ymatebodd i'r gŵyn am y tro cyntaf, bydd llawer yn cofio ei fod wedi gwadu, yn fanwl, yr holl achosion honedig o gamymddwyn. Yn ystod yr ymchwiliad cyfaddefodd i rywfaint o'r camymddwyn hwnnw ond, ar adegau, roedd hyn yn cynnwys amgylchiadau yr oedd yn eu hystyried yn rhai esgusodol neu liniarol. Ar adegau eraill dywedodd na allai wadu bod rhywbeth wedi digwydd, ond nid oedd yn fodlon cyfaddef iddo ddigwydd. Ar achlysur arall, cyfaddefodd Mr McEvoy i achos o gamymddwyn ond yn ddiweddarach tynnodd y cyfaddefiad hwnnw yn ôl. Dylid nodi, fel yr amlinellir ym mharagraff 9.2 o'r adroddiad, nad oedd Mr McEvoy, ar wahân i honiad bod yr adroddiad yn cynnwys 'gwallau amlwg', wedi manteisio ar y cyfle a roddwyd iddo i herio cywirdeb ffeithiol unrhyw un o'r canfyddiadau ym mharagraff 5.1. Dylid nodi hefyd y gwelwyd yn ystod yr ymchwiliad nifer o achosion o gamymddwyn nad ydynt wedi eu cynnwys yn y gŵyn. Ar ôl cael cyngor cyfreithiol, roeddwn yn fodlon y byddai ymdrin â'r materion newydd hyn yn yr adroddiad yn briodol. Yn y paragraffau a ganlyn, rwyf yn ymdrin â'r materion newydd hyn o dan y Rhan o'r gŵyn y maent yn ymwneud agosaf â hi. I gynorthwyo'r Pwyllgor, cyfeirir at y canfyddiadau a'r adrannau perthnasol yn yr adroddiad. Ceir cyfeiriadau at y dogfennau ategol yn yr adrannau hyn o'r adroddiad.

Rhan 1

(Argraffu nifer fawr o daflenni plaid wleidyddol, at ddibenion hyrwyddo ac ethol ymgeiswyr Plaid Cymru, trwy lungopiwr a ddarparwyd gan Gomisiwn y Cynulliad) Nid yw Mr McEvoy wedi cyfaddef unrhyw beth mewn perthynas â'r Rhan hon o'r gŵyn. Cadarnhawyd pedwar achos o ddefnydd amhriodol o'r fath o argraffydd y Cynulliad yn ystod yr ymchwiliad. Digwyddodd y rhain ar 1 Tachwedd 2016 (Canfod Ffaith 34 a pharagraff 6.14); 7 Ebrill 2017 (Canfod Ffaith 35 a pharagraff 6.15); 9 Ebrill 2017 (Canfod Ffaith 36 a pharagraff 6.16) a 27 Ebrill 2017 (Canfod Ffaith 37 a pharagraff 6.17).

Rhan 2

(Hawliwyd cost yr argraffu hwn (h.y. yr argraffu yn Rhan 1 uchod) drwy ei lwfans costau swyddfa). Ni wnaeth Mr McEvoy gyfaddef i'r camymddwyn honedig hwn. Heblaw am y pedwar achos o ddefnydd amhriodol o argraffydd y Cynulliad a gadarnhawyd mewn perthynas â Rhan 1, nid oedd tystiolaeth o hawlio costau argraffu amhriodol o Lwfans Costau Swyddfa Mr McEvoy. Heblaw am y pedwar achos hyn, nid oedd modd i mi gadarnhau'r camymddwyn hwn (paragraff 6.21).

Rhan 3

(Pan heriwyd bil gwerth uchel gan Gymorth Busnes i'r Aelodau, ceisiodd Mr McEvoy dwyllo staff y Cynulliad drwy gopïo nifer fawr o ffeiliau cyfrinachol ar argraffydd trydydd parti). Ni wnaeth Mr McEvoy gyfaddef i'r camymddwyn honedig hwn. Nid oedd tystiolaeth foddhaol ohono ac nid oedd modd ei gadarnhau (paragraff 6.21).

Rhan 4

(Hawliwyd eitemau pellach drwy ei lwfans costau swyddfa a ddefnyddiwyd yn benodol at ddibenion ymgyrchu. Roedd y rhain yn cynnwys camera o ansawdd uchel ac offer recordio sain). Ni wnaeth Mr McEvoy gyfaddef i'r camymddwyn honedig hwn. Nid oedd tystiolaeth foddhaol ohono ac nid oedd modd ei gadarnhau (paragraff 6.21).

Rhan 5

(Cynhaliwyd cyfarfodydd ymgyrchu ar gyfer Cyngor Dinas Caerdydd yn ei swyddfa Cynulliad ranbarthol). Er iddo wadu'r honiad i ddechrau, cyfaddefodd Mr McEvoy iddo ddefnyddio ei swyddfa ranbarthol ar 17 Tachwedd 2016, 14 Rhagfyr 2016, 12 Ionawr 2017 a 31 Ionawr 2017 ar gyfer cyfarfodydd Grŵp Ymgyrch Caerdydd. (Canfyddiadau 20, 21, 22 a 24 a pharagraff 6.23)

Mewn cyfweiliad, cyfaddefodd Mr McEvoy i ddechrau fod cyfarfod wedi'i gynnal yn ei swyddfa ranbarthol ar 22 Mai 2017 lle trafodwyd materion gwleidyddol ac etholiadol. Ar ôl cael ei annog gan [REDACTED], tynnodd y cyfaddefiad hwn yn ôl (Canfyddiad 25 a pharagraff 6.24). Ni nodwyd y digwyddiad hwn yn y gŵyn. Ni wnaeth Mr McEvoy gyfaddef unrhyw beth mewn perthynas â thrafod materion gwleidyddol ac ymgyrchu etholiadol mewn cyfarfodydd staff wythnosol a gynhaliwyd rhwng 7 Ionawr a 17 Mawrth 2017 (Canfyddiad 23 a pharagraff 6.25). Ni nodwyd y cyfarfodydd hyn yn y gŵyn.

Cyfaddefodd Mr McEvoy iddo ddefnyddio ystafell yn y Senedd (Tŷ Hywel) ar 19 Rhagfyr 2016 i gyfweld ag ymgeiswyr ar gyfer swydd [REDACTED].

Dywedodd fod y cyfweiliadau wedi'u cynnal yno 'er hwylustod' ac mai'r unig ffactor lliniarol oedd bod yr ymgeisydd llwyddiannus wedi gwneud rhywfaint o waith iddo yn ymwneud â'r Cynulliad (Canfyddiad 26 a pharagraff 6.26). Ni nodwyd y digwyddiad hwn yn y gŵyn.

Cyfaddefodd Mr McEvoy ei fod yn bresennol ar 6 Mawrth a 5 Ebrill 2017 yng nghyfarfodydd Grŵp Ymgyrch Caerdydd a gynhaliwyd yn ystafell gyfarfod Plaid Cymru yn y Senedd. Honnodd fod cyfarfodydd o'r fath yn cydymffurfio â'r confensiwn (Canfyddiadau 27 a 28 a pharagraff 6.27). Ni nodwyd y digwyddiadau hyn yn y gŵyn.

Cyfaddefodd Mr McEvoy fod presenoldeb argraffydd yr ymgyrch yn ei swyddfa ranbarthol yn torri'r rheolau yn dechnegol. Yn y cyfweiliad, derbyniodd y gallai rhywfaint o argraffu deunydd etholiad fod wedi'i wneud ar argraffydd yr ymgyrch yn y swyddfa ranbarthol yn y misoedd cyn etholiadau mis Mai 2017 (Canfyddiad 31, paragraff 6.35 a Dogfen 54 tudalennau 57-58). Ni nodwyd y mater hwn yn y gŵyn.

Cyfaddefodd Mr McEvoy fod y peiriant plygu wedi'i leoli yn ei swyddfa ranbarthol a dywedodd na allai wadu iddo gael ei ddefnyddio'n rhannol at ddibenion gwleidyddol plaid (Canfyddiad 30 a pharagraff 6.36). Ni nodwyd y mater hwn yn y gŵyn.

Dywedodd Mr McEvoy ei fod wedi gofyn am symud 30,000 o bapurau newydd hynod wleidyddol o'i swyddfa ranbarthol yn fuan ar ôl dod yn ymwybodol eu bod yno (Canfyddiad 32 a pharagraff 6.37). Ni nodwyd y mater hwn yn y gŵyn.

Yn ei lythyr at Syr Roderick ar 19 Tachwedd 2018, cyfaddefodd Mr McEvoy fod [REDACTED] wedi treulio amser yn y swyddfa etholaethol. Ni heriodd y dystiolaeth o ran y maint o amser a natur y gwaith a wnaeth yno ond honnodd [REDACTED] dweud celwydd am bron popeth (Canfyddiad 41 a pharagraff 6.38). Ni nodwyd y mater hwn yn y gŵyn.

Cyfaddefodd Mr McEvoy fod rhoi taflenni etholiad mewn amlenni yn waith etholiadol na ddylai fod wedi'i wneud yn ei swyddfa ranbarthol ar 21 Mawrth 2017 (Canfyddiad 42 a pharagraff 6.39). Ni nodwyd y mater hwn yn y gŵyn.

Cyfaddefodd Mr McEvoy fod byrddau neu blacardiau etholiad yn cael eu storio yn ei swyddfa ranbarthol ond dywedodd ei fod yn credu bod hynny'n dderbyniol oherwydd esboniodd mai'r cyfan ydyn nhw yw copi o'r hyn y mae'r Cynulliad wedi talu amdano (Canfyddiad 38 a pharagraff 6.40). Ni nodwyd y mater hwn yn y gŵyn.

Rhan 6

(Cyflogodd dri aelod o staff dros dro gyda'r unig nod o ymgyrchu dros ethol ymgeiswyr Plaid Cymru i Gyngor Caerdydd. Roedd eu cyfrifoldebau o ddydd i ddydd yn cynnwys dylunio, cyfieithu, argraffu a dosbarthu taflenni gwleidyddol plaid). Ni wnaeth Mr McEvoy unrhyw gyfaddefiad mewn perthynas â'r honiad hwn, ond mewn cyfweiliad dywedodd na allai wadu y gallai [REDACTED] fod wedi gwneud rhywfaint o waith [REDACTED] ar gyfer dogfennau nad oeddent yn ymwneud â'r Cynulliad (Canfyddiad 39 a pharagraff 6.28). Ni wnaeth gyfaddef i'r honiad ac nid oedd unrhyw dystiolaeth mewn perthynas â gwaith a wnaed gan aelodau o staff dros dro eraill.

Rhan 7

(Dirprwyo tasgau pellach a oedd yn wleidyddol iawn eu natur yn rheolaidd i'w dri aelod o staff parhaol). Derbyniodd Mr McEvoy nad oedd Mr Deem wedi ymgymryd â 37 awr o waith Cynulliad bob wythnos (Canfyddiad 40 a pharagraff 6.32). Ni nodwyd y mater hwn yn y gŵyn.

Rhan 8

(Defnyddiodd systemau TGCh y Cynulliad i gynhyrchu, golygu a lanlwytho fideos ymgyrchu gwleidyddol i'r cyfryngau cymdeithasol). Derbyniodd Mr McEvoy fod unrhyw ddefnydd o'r rhyngwyd, y naill argraffydd neu'r llall, neu'r peiriant plygu at ddibenion amhriodol yn defnyddio trydan y telir amdano gydag arian cyhoeddus (Canfyddiad 43 a pharagraff 6.41).

Rhan 9

(Ceisiodd dalu biliau o fwyty'r Cynulliad gyda'i gyfrif costau swyddfa. Roedd y biliau hyn ar gyfer cinio pan oedd yn croesawu pobl fusnes flaenllaw y cafodd roddion gwleidyddol ganddynt). Ni wnaeth Mr McEvoy gyfaddef i'r camymddwyn honedig hwn. Nid oedd dystiolaeth foddhaol ohono ac nid oedd modd ei gadarnhau (paragraff 6.21).

Atodiad C: Rheolau a Chanllawiau ar Ddefnyddio Adnoddau'r Cynulliad (Saesneg yn unig)

Rules and Guidance on the Use of Assembly Resources

This document relates to paragraph 10 of the Code of Conduct.

Last updated: May 2016

Owner: Assembly Commission

Contact: Members' Business Support

Background

1. This document, which applies from 6 May 2016, sets out for Assembly Members rules and guidance relating to the use of Assembly Resources.
2. The information has been approved by the Chief Executive and Clerk of the National Assembly in her capacity as Principal Accounting Officer for the Assembly Commission.
3. The word 'must' in this document denotes a rule. Any other wording in this document is guidance.
4. 'Assembly Resources' means any support provided to Assembly Members by the Assembly Commission. That support may be in the form of financial resources, staff resources or any other form of support provided by the Assembly Commission.
5. This document identifies the different sets of rules on the use of Assembly Resources by which Members must abide. In particular, Members are advised to refer to:
 - The Remuneration Board's **Determination for the Fifth Assembly** ('the Determination')
 - The **Code of Conduct** for Assembly Members. This document is referred to in paragraph 10 of the Code of Conduct.
 - The National Assembly for Wales **Standing Orders**.
6. Members must ensure that they understand and comply with this document. Members who are in doubt as to whether they may use Assembly Resources for a particular purpose must first obtain written confirmation from the Head of Members' Business Support (MBS) that use of Assembly Resources for the purpose in question is permitted.

Principles of Support

7. The Determination sets out a number of general principles of conduct that underpin the rules by which allowances may be claimed. These principles apply equally to the use of all Assembly Resources provided to Assembly Members. Members are strongly encouraged to familiarise themselves with them and to act on them accordingly.

Similarly, the Code of Conduct for Assembly Members sets out general standards of conduct to which Members must have regard when using Assembly Resources.

8. Members have personal responsibility for all expenses incurred and resources used in their name. They should, therefore, only delegate work to staff having ensured that staff have a clear understanding of the limits of the authority given to them.
9. Complaints of misuse of Assembly Resources may be referred to the Standards Commissioner.
10. Other rules and guidance produced by the Assembly Commission from time to time will also be subject to the principles of support detailed above.

Conduct

11. Further information is available to Members regarding conduct, behaviour and the recording of interests. The documents listed below support and complement this document as to the use of Assembly Resources:
 - **Register of Members Interests**
 - **Guidance on the recording of employment of family members**
 - **Rules on the operation of Cross Party Groups**
 - **Guidance on lobbying and access to Members**
 - **AMSS Code of Conduct (internal link only)**
 - **National Assembly for Wales ICT Security and Usage Rules (internal link only)**
 - **Official Languages Scheme**
 - **Guidance on booking rooms (internal link only)**
 - **The Policy Research and Communications Fund (internal link only)**

Use of Resources for Assembly business

12. Assembly Members must ensure that they use Assembly Resources for the purpose of their activities as Assembly Members only and not for any of the purposes listed below, which are prohibited:
- personal, business or commercial communications;
 - party political activity of any kind, for example, party-political fund-raising, recruitment of party members and the organisation and publicising of party political meetings; and
 - campaigning for the election or re-election of particular candidates for any public office (including the Member in question).

Stationery, Printing, Copying and Postal Resources

13. Stationery, printing, copying and postal resources provided by the Assembly Commission (“Central Resources”) must not be used for the following purposes:
- newsletters and annual reports;
 - leaflets;
 - greetings cards and similar communications; or
 - circulars (communications sent in identical, or near identical, form to numerous addresses).
14. However, Central Resources may be used for Circulars that are:
- sent in response to requests for communications from recipients of Circulars;
 - sent to signatories of a petition addressed to the Member (but this exception does not apply if the Member is a petitioner); and
 - surgery notices.¹
15. Members are able to use their Office Costs Allowance to cover the cost of stationery, printing, copying and postage for items for which Central Resources may not be used (as listed in paragraph 13), but which are for their activities as Assembly Members. Surgery Notices may also be advertised and the costs met from the Office Costs Allowance.
16. Members drawing on the use of Assembly Resources for publications, must comply with the Assembly Commission’s **Official Languages Scheme**.

¹ A surgery notice is a document whose sole purpose is to inform constituents of the place, date and time of Members’ surgeries or to tell the public about how to find out this information. The fact that a document of another description (e.g. a newsletter) also contains such information does not mean that the document constitutes a Surgery Notice.

Assembly Member Websites and Social Media

17. Assembly Members' websites, which have been established or maintained using Assembly Resources, may only be used for activities related to the role of an Assembly Member. Care will be needed to avoid giving the impression that the content of a Member or a group's website, supported by Assembly Resources, is intended to support the election of a particular candidate (or candidates) of a political party. Information on the content of communications is provided in paragraphs 31 -38.
18. The following will not, in themselves, be regarded as breaching the prohibition on party political content:
 - The website identifying the Member as being a member of a political party or the website displaying the logo of that Member's party.
 - Links on the website to one or more (separate) websites that carry party political content. The website must make clear that the links lead to websites that are not hosted by the Assembly Member and not funded from Assembly Resources.
19. Members are responsible for ensuring that any future changes to social media platforms do not result in these rules being breached.
20. When using social media, Members are reminded that although they may not be drawing on Assembly Resources, they are still bound by the Code of Conduct for Assembly Members and the ICT Security and Usage Rules. Similarly, support staff are bound by the AMSS Code of Conduct and the ICT Security and Usage Rules.

Booking of rooms on the Assembly estate

21. Assembly Members may book meeting rooms for their activities as Members only. Meeting rooms must not be booked for party political purposes i.e. a room must not be booked primarily or substantially for the purpose of promoting the work of any political party.
22. Responsibility and accountability for the use of meeting rooms rests with the Assembly Member who has made the booking (or on whose behalf the booking was made). In addition, that Assembly Member (or another Member) must attend the meeting.
23. Information on the booking of rooms involving external visitors may be accessed here: **Guidance on booking rooms.**

Sponsoring events on the Assembly estate

24. Members sponsoring events on the Assembly estate must abide by the rules and responsibilities that fall to them as stated in the Events policy and the accompanying terms and conditions.

Use of the Assembly estate for filming

25. Media operations, such as filming or recording, in any part of the Assembly estate must never disrupt the activity in that area or impact on visitor access.
26. The prior consent of the Presiding Officer, requested via the Media Office, must be obtained in order to carry out filming, photography or recording in the Siambr, committee rooms, public galleries or other restricted access areas.
27. For party political content, media operations are allowed in public areas in the Senedd and in Members' offices. However, media operations for these purposes, are not allowed in restricted areas, such as the Siambr or committee rooms. Overt campaigning for votes is not allowed anywhere on the Assembly estate.
28. During an Assembly election period, when the Assembly has been dissolved, no media operations are allowed on the Assembly's estate by, or for the benefit of, a political party or individual candidate.
29. Further advice or guidance can be given by the Media Office [0300 200 6252].

Use of Assembly Resources during Election Periods

30. Members must abide by guidance that will be produced around times of elections. This includes guidance on dissolution during Assembly elections and guidance for European, UK or local elections.

Content of communications

31. The following section on the content of communications is drawn from the Rules and Guidance on the Policy Research and Communications Fund, as set out by the Remuneration Board.
32. Members may use Assembly Resources to engage with their constituents, and, in particular:
 - a. communicate their work to the public;
 - b. raise awareness of their work;
 - c. improve transparency and accountability; and
 - d. encourage engagement with constituents.
33. Members must not use Assembly Resources for the purposes of overt party political communications (such as, the use of Assembly Resources to campaign for votes for a political party).
34. Members must exercise judgement in each case to ensure that resources are used appropriately. The test that Members must apply is, firstly, that Assembly Resources are being used in respect of the purposes shown in paragraph 32 above; and, secondly, that it is not done in an overtly party political way.

35. Members must seek advice in advance from MBS where there is any doubt about whether the proposed communications would be an acceptable use of Assembly Resources. MBS will advise Members accordingly.

Illustrative examples of resources that might be used in communicating with constituents (this list is not exhaustive)

36. The following are examples of how resources might be used to promote local communication and engagement:
- to develop resources that make connections between the Assembly’s responsibilities and powers, local issues and the Member’s activity;
 - to assist with the development of a professionally produced newsletter;
 - to produce regular newsletters;
 - to produce constituent surveys or conduct listening groups with constituents in order to take soundings on issues of local importance;
 - to develop resources that build connections between the Assembly and other democratic institutions in the locality e.g. making connections and raising awareness of differences between the work of local councillors, local MPs, Members and MEPs;
 - to produce public information videos about an individual Member’s work – what I do, how to get in touch, how I can help, where to find me, what I’m working on, etc.;
 - to develop professional websites integrated with social media platforms; and
 - to develop blogs.

Examples of typical content when using Assembly resources for communicating with constituents (this list is not exhaustive)

37. The following is a list of content that would be considered appropriate when engaging with constituents using Assembly resources:
- statements or information about the Member’s work as a Member;
 - articles promoting constituency activity;
 - information highlighting government schemes that have specific benefits to the constituency/constituents, including contact points e.g. job centres;
 - information about changes to benefits or otherwise that are directly related to their constituents and how they can obtain help and further information;
 - statements about Wales or UK government activity, but only where the Member directly links them to their constituency or region or can

demonstrate that constituents would have a particular interest in, or need to know about, that activity;

- items reporting what Members have said or done in the Assembly;
- items raising awareness of issues and encouraging constituents to participate in consultations/surveys;
- small, discreet logos, along with the logo of the National Assembly.

38. Content that would **not** be considered appropriate and that must be avoided:

- party political statements/overtly campaigning for votes;
- promoting party activity – e.g. information about party meetings;
- large, imposing party logos;
- general statements about government activity across Wales (or the UK) without reference to the Member's constituency or region.