

# Yr ail adroddiad ar bymtheg i'r Chweched Senedd o dan Reol Sefydlog 22.9

Hydref 2024



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# Yr ail adroddiad ar bymtheg i'r Chweched Senedd o dan Reol Sefydlog 22.9

Hydref 2024



# Am y Pwyllgor

Sefydlwyd y Pwyllgor ar 23 Mehefin 2021. Ceir ei gylch gwaith yn:  
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Aelodau cyfredol y Pwyllgor:



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



**Mick Antoniw AS**  
Llafur Cymru



**Peredur Owen Griffiths AS**  
Plaid Cymru



**Samuel Kurtz AS**  
Ceidwadwyr Cymreig

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



**Mark Drakeford AS \***  
Llafur Cymru

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

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## Argymhelliad

**Recommendation 1.** Mae'r Pwyllgor yn argymhell i'r Senedd, yn unol â pharagraff 8.22(a) o'r Weithdrefn, fod achos o dorri'r Cod wedi'i ganfod ac y dylai'r Aelod gael ei geryddu o dan Reol Sefydlog 22.10(i).....Tudalen 10

## 1. Cyflwyniad

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

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

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

**3.** Mae adroddiadau'r Comisiynydd Safonau ("y Comisiynydd") ar ei ymchwiliadau i'r cwynion wedi'u hatodi yn Atodiadau A a B. Mae'r adroddiadau yn nodi manylion y cwynion a chasgliadau ymchwiliadau ffurfiol y Comisiynydd.

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

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

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<sup>1</sup> Y Rheolau Sefydlog

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

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

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## 2. Trafod y gŵyn

**6.** Cafodd y Comisiynydd ddwy gŵyn wahanol yn ymwneud â defnydd Andrew RT Davies o'r gair "blanket" mewn perthynas â chymhwyso'r terfyn cyflymder 20mya ar y cyfryngau cymdeithasol, ar ôl i'r Pwyllgor Safonau Ymddygiad gyhoeddi ei Wythfed Adroddiad i'r Chweched Senedd o dan Reol Sefydlog 22.9.

**7.** Ar 1 Chwefror 2024 daeth y gŵyn a ganlyn i law:

*"Andrew Davies is continuing to falsely use the term 'blanket' when referring to the 20mph ruling." Which was evidenced by a tweet posted by Mr Davies earlier that day which included the text "Another bus route cut thanks to Labour and Plaids blanket 20mph speed limits."*

**8.** Ar 8 Chwefror 2024, cyflwynodd yr Achwynydd arall gŵyn yn honni bod yr Aelod wedi torri darpariaethau'r Cod Ymddygiad, am fod y Comisiwn wedi dyfarnu ei bod yn anghywir disgrifio'r terfyn cyflymder 20mya fel terfyn cyffredinol ("blanket limit"), a bod Andrew RT Davies wedi parhau i'w ddisgrifio felly.

**9.** Ystyriodd y Comisiynydd a oedd yr Aelod wedi torri'r rheolau a ganlyn o'r Cod Ymddygiad:

- Rheol 1 – Rhaid i Aelodau gynnal yr Egwyddorion Cyffredinol.
- Rheol 2 – Rhaid i Aelodau weithredu'n onest.
- Rheol 3 – Ni chaiff Aelodau ymddwyn mewn modd sy'n dwyn anfri ar y Senedd neu ei Haelodau yn gyffredinol.

**10.** Cyfarfu'r Pwyllgor ar 23 Medi 2024 i drafod adroddiadau'r Comisiynydd a dod i'w gasgliad mewn perthynas â'r cwynion.

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

11. Bu'r Pwyllgor yn trafod a dorrodd yr Aelod Reol Sefydlog 22.2(i).
12. Wrth drafod a dorrwyd y rheol, adolygodd y Pwyllgor ganfyddiadau'r Comisiynydd fel y'u nodir yn ei adroddiad.
13. Ni fanteisiodd yr Aelod ar y cyfle i wneud sylwadau llafar i'r Pwyllgor. Cyflwynodd yr Aelod sylwadau ysgrifenedig i'r Pwyllgor a oedd yn nodi'r rhesymau pam nad oedd yn cytuno â barn y Comisiynydd, a drafodwyd gan y Pwyllgor wrth iddo ddod i'w benderfyniad.
14. Nododd y Pwyllgor sylwadau gan un o'r achwynwyr.

#### Penderfyniad y Pwyllgor

15. Nododd y Pwyllgor fod y Comisiynydd wedi ysgrifennu at yr Aelod dan sylw ar 2 Chwefror 2024, yn nodi na ddylai'r Aelod ystyried bod penderfyniad blaenorol y Pwyllgor ynghylch defnyddio'r term "blanket" yn awgrymu, o bosibl, na fyddai parhau i ddefnyddio'r term yn gyfystyr â thorri Rheol 2 ac, o bosibl, yr Egwyddorion Gonestrwydd ac Uniondeb yn Rheol 1 o'r Cod.
16. Nododd y Pwyllgor fod y Llywydd wedi ysgrifennu at yr holl Aelodau ar 9 Mai 2024, gan eu hatgoffa y dylent "sicrhau nad ydynt yn fwriadol yn gwneud datganiadau anfanwl ac anghywir yn y Senedd ac mewn mannau eraill".
17. Nododd y Pwyllgor farn y Comisiynydd nad oedd trydar y negeseuon yn gyfystyr â thorri'r egwyddor gonestrwydd nac ail reol y cod ymddygiad gan nad oedd unrhyw fwriad i dwyllo. Cytunodd y Pwyllgor â'r farn hon.
18. Nododd y Pwyllgor ganfyddiad y Comisiynydd fod yr Aelod yn ymwybodol o gasgliad y Pwyllgor na ddylai Aelodau wneud datganiadau anfanwl ac anghywir, ac felly pan drydarodd y neges:

*"... the Member knew or ought to have known that it was "imprecise and inaccurate" and so false. By ignoring the Committee's admonition and the guidance given in paragraph 41, he failed to give the leadership required of him."*

- 19.** Mae paragraff 41 o'r Canllawiau ar y Cod Ymddygiad yn darparu “[na] ddylai Aelodau wneud datganiadau y maent yn gwybod – neu y dylent fod yn gwybod – eu bod yn ffug.” O ystyried bod yr Aelod yn llwyr ymwybodol o ganfyddiad y Pwyllgor hwn bod y term “blanket” yn anfanwl ac yn anghywir, roedd trydar y term hwnnw yn groes i'r ddarpariaeth hon.
- 20.** Felly, ar ôl ystyried canfyddiadau a chasgliadau'r Comisiynydd, ynghyd â'r dystiolaeth ategol a ddarparwyd, cytunodd y Pwyllgor y bu achos o dorri'r Cod Ymddygiad, yn unol â chanfyddiadau'r Comisiynydd, ar y ddau achlysur.

Mae'r Pwyllgor yn dyfarnu bod Andrew RT Davies AS wedi torri Rheolau 1 a 3 o'r Cod Ymddygiad.

Mae'r Pwyllgor yn dyfarnu nad yw Andrew RT Davies AS wedi torri Rheol 2 o'r Cod Ymddygiad.

## Argymhelliad y Pwyllgor

- 21.** Mae achos o dorri'r Cod Ymddygiad gan unrhyw Aelod o'r Senedd yn fater difrifol ym marn y Pwyllgor. Mae enw da Senedd Cymru, a ffydd a hyder y cyhoedd yn y sefydliad, yn dibynnu ar allu'r Aelodau i ddangos uniondeb ac arweinyddiaeth drwy eu gweithredoedd.
- 22.** Mae wedi dod yn fwyfwy cyffredin ymhlith cynrychiolwyr etholedig i ddefnyddio'r cyfryngau cymdeithasol, ac mae'n ddull pwysig o gyfathrebu a thrafod. Fodd bynnag, mae'r cyfryngau cymdeithasol hefyd yn cyflwyno heriau i'r Aelodau, o ystyried y potensial i'w camddefnyddio. Dylai Aelodau wneud pob ymdrech i sicrhau eu bod yn parhau i ymgorffori'r egwyddorion arweinyddiaeth wrth ddefnyddio'r cyfryngau cymdeithasol.
- 23.** Nododd y Pwyllgor farn y Comisiynydd:

*“As the Leader of the Welsh Conservatives and a former experienced member of the Standards of Conduct Committee it was incumbent of the Member to set a good example and to follow the guidance given by the Committee and in the Guidance on the Code of Conduct.”*

**24.** Wrth ddod i'w benderfyniad, rhoddodd y Pwyllgor ystyriaeth i'r ffaith fod yr Aelod yn gwbl ymwybodol o ganfyddiadau'r Pwyllgor yn yr Wythfed Adroddiad i'r Chweched Senedd a bod dwy gŵyn dderbyniadwy wedi dod i law ar y mater hwn.

**Recommendation 1.** Mae'r Pwyllgor yn argymhell i'r Senedd, yn unol â pharagraff 8.22(a) o'r Weithdrefn, fod achos o dorri'r Cod wedi'i ganfod ac y dylai'r Aelod gael ei geryddu o dan Reol Sefydlog 22.10(i).

## 4. Materion o egwyddor gyffredinol

**25.** Dyma'r chweched adroddiad o sylwedd yn ystod y Senedd hon sy'n gysylltiedig â'r cyfryngau cymdeithasol. Mae'n ddyletswydd ar bob Aelod i gynnal y safonau uchel a ddisgwylir ganddynt fel cynrychiolwyr etholedig wrth drafod materion cyhoeddus, gan gynnwys ar y cyfryngau cymdeithasol.

**26.** Bydd yr Aelodau'n gyfarwydd â chyfrifoldeb y Llywydd wrth ymdrin ag ymddygiad yr Aelodau yn ystod Cyfarfodydd Llawn y Senedd ac mewn pwyllgorau, a'r ddyletswydd i lynu wrth ei dyfarniadau. Wrth ddefnyddio'r cyfryngau cymdeithasol i gynnal trafodaethau y tu hwnt i'r Siambr, mae'n ddyletswydd ar yr Aelodau i roi sylw cymesur i argymhellion y Pwyllgor hwn a chanfyddiadau'r Comisiynydd Safonau ynghylch dehongli'r Cod Ymddygiad a'r safonau a ddisgwylir gan Aelodau. Fel sydd wedi dod i'r amlwg yn yr achos hwn, dylai Aelodau ofalu nad ydynt yn fwriadol yn gwneud datganiadau sy'n anfanwl ac yn anghywir.

# Atodiad A: Adroddiad gan y Comisiynydd Safonau

## REPORT

by

### SENEDD COMMISSIONER FOR STANDARDS

of the investigation of a complaint against

**ANDREW R T DAVIES MS**

#### *Introduction*

1. This is the report of my investigation of a complaint by Shaun Haggerty (“the Complainant”) about the conduct of Andrew R T Davies MS (“the Member”) which I have considered in accordance with the Procedure for Dealing with Complaints against Members of the Senedd (“the Procedure”).
2. As required by paragraph 7.4(e) of that Procedure the complaint and all the evidence I relied upon in forming my opinion are at Appendix A. Footnote references have been provided to the evidence where appropriate.

#### **The Investigation**

3. On 1 February 2024 the Complainant wrote to me expressing his frustration that “*Andrew Davies is continuing to falsely use the term 'blanket' when referring to the 20mph ruling.*”<sup>1</sup> He attached a tweet posted by Mr Davies earlier that day which included the text “*Another bus route cut thanks to Labour and Plaids blanket 20mph speed limits.*”<sup>2</sup>
4. I was unsure whether the Complainant was simply drawing that matter to my attention or making a complaint about it. I sought clarification from him.
5. On 2 February I wrote to the Member warning him that he should not regard anything in the Committee’s Eighth Report as authorising him to describe the default speed limit as a blanket limit and that any continued use of that descriptor could amount to a breach of Rules 1 and 2 of the Code of Conduct.
6. Later that day the Complainant confirmed that he wished to make a complaint about the Member’s conduct.<sup>3</sup>
7. On 12 February I told both parties that I was undertaking a preliminary investigation to inform my decision on the admissibility of the complaint and invited them to make any representations they considered appropriate.

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<sup>1</sup> [Email Complainant – Commissioner 1 February 2024](#)

<sup>2</sup> [Tweet by Member 1 February 2024](#)

<sup>3</sup> [Email Complainant – Commissioner 2 February 2024](#)

8. The Complainant did not avail of that opportunity. In his response of 14 February, the Member stated *“I strongly reject Mr Haggerty’s claim that I acted deceitfully. The Standards Committee recently considered usage of the term “blanket” to describe the new 20mph speed limit in Wales. The Committee agreed that, when using the term, I was expressing a value judgment and not a statement of fact. While the Committee believed that this description was incorrect, this was a matter of opinion. As such, enhanced protection under Article 10 of the European Convention on Human Rights meant that it had to be tolerated.”* He also informed me that he had used the blanket descriptor in the Siambur since publication of the Committee’s Eighth Report and that this had held to be in order.<sup>4</sup>
9. In view of that new information, I sought clarification from the Llywydd which resulted in her sending the letter of 9 May to all Members.<sup>5</sup>
10. On 13 May, having considered the Member’s submissions, I told both parties of my decision that the complaint was admissible and requested them to provide me with any further evidence they wished me to consider and with the contact details of any witnesses they believed I should interview. I offered the Member a meeting to discuss the investigative process but not the merits of the complaint.
11. Neither party responded to that request.
12. On 22 May I had a brief Teams meeting with the Member when I explained that if no further evidence was provided and no potential witnesses were identified I would proceed to draft my Findings of Fact. I also told him that once these were finalised, I was minded to allow both parties an opportunity to make oral or written submissions on whether the Findings amounted to a breach of any relevant provision. Although the meeting was about the process not the merits of the complaint, the Member told me that he believed that neither the Committee nor the Llywydd had banned the use of the blanket descriptor and that it had been left to each Member to decide if its use was appropriate.
13. On 29 May I sent my Findings of Fact to both parties, advised them that they had 14 days within which to submit written representations or corrections concerning them and that if no such representations were made the facts were, in accordance with paragraph 7.3 of the Procedure, deemed admitted. I also told them both that in the particular circumstances of this complaint, that after the Findings had been finalised, I was minded to afford them an opportunity to make written or oral submissions to me on whether the facts I had found established amounted to a breach of any relevant provision.

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<sup>4</sup> [Letter Member – Commissioner 14 February 2024](#)

<sup>5</sup> [Letter Llywydd – all Members 9 May 2024](#)

14. On 31 May the Member responded requesting inclusion in the Findings of a quotation from the Committee's Eighth Report.<sup>6</sup> The Complainant did not seek any corrections or additions. Having considered the Member's request, I acceded to it.
15. On 17 June I sent a copy of the final Findings to both parties. I confirmed that I was affording them an opportunity to make written or oral submissions to me on whether the facts I had found established amounted to a breach of any relevant provision.
16. Written submissions were made on 17 June by the Complainant and on 25 June by the Member.<sup>7 8</sup>

### Findings of Fact

17. I found the following facts, which except for Finding iii which was included at the request of the Member, are deemed to be admitted by both parties, established –
  - i. On 23 January 2024 the Committee's Eighth Report was published.<sup>9</sup> That report was in relation to a complaint that the Member had broken Rule 2 of the Code (duty to be truthful) by describing the 20mph default speed limit on restricted roads as a *"blanket"* limit. Whilst in that Report the Committee agreed my opinion that there had been no breach of that Rule, it also agreed that the Member's use of that descriptor was *"imprecise and inaccurate."* The Committee also said *"it is incumbent on all Members to uphold the high standards expected of us as elected representatives when debating issues in the public domain whether on social media, or elsewhere. This means Members should take care to not intentionally make statements which are imprecise and inaccurate."*
  - ii. A copy of that Report was sent to the Member on or about the date of publication and was read by him.
  - iii. Paragraph 14 of that Report, quoting from the Commissioner's report of his investigation, stated *"I am satisfied that the comments complained of should properly be regarded as involving a value judgement and that the Member ...was expressing [an] opinion about the 20mph default speed limit on restricted roads. I am satisfied that the Member believed, in my opinion incorrectly, that a restriction that applied to 97% of restricted roads could properly be described as a "blanket "limit and that [the Member] described the limit in that way in good faith. I am satisfied that due to ... enhanced protection under Article 10 of ECHR [the Member's] incorrect usage of the phrase has to be tolerated."*

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<sup>6</sup> [Letter – Member - Commissioner 31 May 2024](#)

<sup>7</sup> [Email Complainant – Commissioner 17 June 2024](#)

<sup>8</sup> [Letter Member – Commissioner 25 June 2024](#)

<sup>9</sup> [Eighth Report to the Sixth Senedd under Standing Order 22.9](#)



- iv. In light of that text, the Member believed that he was entitled to continue to use the blanket descriptor;
- v. On 1 February 2024 in a social media post the Member described the default speed limit as a “*blanket*” limit.
- vi. When he did so he was aware of the contents of the Committee’s Report.
- vii. On 2 February I wrote to the Member informing him that he should not regard the Committee’s decision as indicating that the continued use of the descriptor might not amount to a breach of Rule 2 and perhaps the Honesty and Integrity Principles in Rule 1 of the Code.<sup>10</sup>
- viii. On 8 February 2024 the Complainant submitted a complaint about the Member’s use of that “blanket” descriptor since publication of the Committee’s Report.
- ix. In his representation on the admissibility of the complaint the Member asserted that he was entitled to continue to describe the limit as a “blanket” limit. He drew attention to the fact that he had on 30 January 2024 used that descriptor in Plenary without being called to order. He undertook not to again use the descriptor until the complaint had been dealt with.
- x. The Record of Proceedings shows that since the Committee’s Report was published four Members, other than the Member, have used the blanket descriptor in Plenary on a total of at least eight occasions without being called to order.
- xi. On 9 May 2024 the Llywydd wrote to all Members reminding them “*that they should not intentionally make imprecise and inaccurate statements in the Senedd or elsewhere.*”

## **Consideration**

18. I have considered whether the admitted conduct of the Member breached Rules 1, 2 and 3 of the Code of Conduct.

Rule 2 of the Code provides –

*“Members must act truthfully.”*

19. It has been accepted by the Member that when he made the statement on social media, he knew that the Standards of Conduct Committee had, only days earlier, said that the description of the default speed limit as a blanket limit was “*inaccurate and imprecise.*” He has also accepted that he was aware of the Committee’s

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<sup>10</sup> [Letter Commissioner – Member 2 February 2024](#)

admonition to all Members to *"take care to not intentionally make statements which are imprecise and inaccurate."*

20. As the Committee agreed in its Eighth Report *"Untruthfulness, like dishonesty, requires some element of deceit, fraud or moral turpitude."* I have found, and it has been accepted by both parties, that when he posted the comment on social media the Member believed that he was entitled to use the blanket descriptor despite the Committee stating that it was *'imprecise and inaccurate'*. I am satisfied that it was not his intention to deceive anyone. In these circumstances I cannot be satisfied that the conduct of the Member can properly be regarded as untruthful. Accordingly, it is my opinion that his conduct did not breach the Honesty Principle in Rule 1 of the Code or Rule 2 of the Code.
21. Rule 3 of the Code provides –
- "Members must not act or behave in a manner that brings the Senedd or its Members generally, into disrepute."*
22. The Member was the Member that in its Eighth Report the Committee found had not breached Rule 2 of the Code. He has admitted that he had read that Report and so was aware that the Committee had found the description of the default speed limit on restricted roads as a blanket speed limit to be *'imprecise and inaccurate'*. He was also aware that the Committee had admonished all Members to *'take care to not intentionally make statements which are imprecise and inaccurate.'* It is not disputed that his posting of the tweet that is the subject of this complaint was intentional.
23. I have considered and had due regard to the Member's submissions of 31 May and 25 June (but dated 25 July) in which he asserts that when he used the blanket descriptor, he was expressing an opinion and was entitled to continue to use that descriptor due to the enhanced protection of his right to freedom of expression under Article 10 of the ECHR. There is no doubt that the Member was commenting on matters within the political sphere when he posted the tweet. But as was stated in the Heesom case *"Whilst, in a political context, article 10 protects the right to make incorrect but honestly made statements, it does not protect statements which the publisher knows to be false."*<sup>11</sup> When he posted the tweet the Member knew or ought to have known that, although it was not untruthful or dishonest, it was false. It was not protected by the enhanced protection afforded to politicians.
24. The Member asserted also that his undertaking not to use that descriptor until this complaint had been dealt with demonstrated his willingness to co-operate with the complaints process and that he had no intention of breaching the honesty and integrity principles. The Member's willingness to co-operate with the complaints process is not doubted: Rule 17 of the Code requires that of all Members. I am satisfied that the Member did not intend to breach either of these principles. But he should have realised that his continued use of the blanket descriptor was likely to be

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<sup>11</sup> [Heesom v Public Service Ombudsman for Wales \[2014\] EWHC 1504 \(Admin\) per Hickinbottom J, para 38](#)

perceived as ignoring what the Committee had said in its Eighth Report and so to bring the Senedd into disrepute.

25. He further asserted that at worst his use of the blanket descriptor should be tolerated as *'an inaccurate exaggeration.'* As was made clear in Heesom the tolerance to be afforded to exaggerated statements made by politicians does not extend to statements that are false.

26. Rule 1 of the Code provides –

*"Members must uphold the Overarching Principles."*

The Leadership Principle is as follows *"Members must promote and support these Principles by leadership and example, and be willing to challenge poor behaviour wherever it occurs."*

27. As the Leader of the Welsh Conservatives and a former experienced member of the Standards of Conduct Committee it was incumbent of the Member to set a good example and to follow the guidance given by the Committee and in the Guidance on the Code of Conduct. He was aware of the Admonition in the Committee's Eighth Report *"that Members should take care to not intentionally make statements which are imprecise and inaccurate."* Paragraph 41 of the Guidance provides *"Members must not make statements which they know – or ought to have known – to be false"*. I am satisfied that when he posted the tweet the Member knew or ought to have known that it was *"imprecise and inaccurate"* and so false. By ignoring the Committee's admonition and the guidance given in paragraph 41, he failed to give the leadership required of him.

## **Opinion**

28. It is my opinion that the conduct complained of and found established amounted to a breach of Rule 3 and the Leadership Principle in Rule 1 of the Code of Conduct.

Douglas Bain CBE TD

Senedd Commissioner for Standards  
11 July 2024

**Documents relied upon in forming opinion or referred to in Report**

Document Number	Title
1	Email Complainant – Commissioner 1 February 2024
2	Tweet by Member 1 February 2024
3	Email Complainant – Commissioner 2 February 2024
4	Letter Member – Commissioner 14 February 2024
5	Letter Llywydd – all Members 9 May 2024
6	Letter – Member - Commissioner 31 May 2024
7	Email Complainant – Commissioner 17 June 2024
8	Letter Member – Commissioner 25 June 2024
9	Eighth Report to the Sixth Senedd under Standing Order 22.9
10	Letter Commissioner – Member 2 February 2024
11	Heesom v Public Service Ombudsman for Wales [2014] EWHC 1504 (Admin) per Hickinbottom J, para 38

**REPORT**  
**by**  
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**of the investigation of a complaint against**  
**ANDREW R T DAVIES MS**

***Introduction***

1. This is the report of my investigation of a complaint by Anne Powell (“the Complainant”) about the conduct of Andrew R T Davies MS (“the Member”) which I have considered in accordance with the Procedure for Dealing with Complaints against Members of the Senedd (“the Procedure”).
2. As required by paragraph 7.4(e) of that Procedure the complaint and all the evidence I relied upon in forming my opinion are at Appendix A. Footnote references have been provided to the evidence where appropriate.

**The Investigation**

3. On 2 February, following concerns expressed by another complainant, I wrote to the Member warning him that he should not regard anything in the Committee’s Eighth Report as authorising him to describe the default speed limit as a blanket limit and that any continued use of that descriptor could amount to a breach of Rules 1 and 2 of the Code of Conduct.<sup>1</sup>
4. On 8 February 2024 the Complainant submitted a complaint alleging that the Member had breached the provisions of the Code of Conduct because “*Since the Commission found that he was not correct to call the 20mph speed limit a blanket limit, Andrew R T Davies has continued to describe it as such.*”<sup>2</sup>
5. As I had already been provided with evidence by another complainant that on 1 February a tweet by the Member had included the text “*Another bus route cut thanks to Labour and Plaids blanket 20mph speed limit*” I did not seek supporting evidence from this Complainant.<sup>3</sup>
6. I informed the Complainant that I had dismissed another complaint she had made against the Member and that I was suspending my consideration of this new complaint pending the outcome of an almost identical complaint against the Member.

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<sup>1</sup> [Letter Commissioner – Member 2 February 2024](#)

<sup>2</sup> [Email Complainant – Commissioner 8 February 2024](#)

<sup>3</sup> [Tweet by Member 1 February 2024](#)

7. On 13 May I informed both parties that I had decided that the complaint was admissible and that I had started my investigation of it. I asked them to let me have any further evidence which they believed was relevant to my consideration, and the contact details of any persons whom they believed I should interview. I offered the Member a meeting to discuss the investigative process but not the merits of the complaint.
8. On 22 May I had a brief Teams meeting with the Member when I explained that if no further evidence was provided and no potential witnesses were identified I would proceed to draft my Findings of Fact. I also told him that once these were finalised, I was minded to allow both parties an opportunity to make oral or written submissions on whether the Findings amounted to a breach of any relevant provision. Although the meeting was about the process not the merits of the complaint, the Member told me that he believed that neither the Committee nor the Llywydd had banned the use of the blanket descriptor and that it had been left to each Member to decide if its use was appropriate.
9. On 30 May I informed both parties that as neither of them had provided any further evidence or the contact details of any potential witnesses I had ended by investigation. I sent them my Findings of Fact, advised them that they had 14 days within which to submit written representations or corrections concerning them and that if no such representations were made the facts were, in accordance with paragraph 7.3 of the Procedure, deemed admitted.
10. The Complainant did not make any representations.
11. On 31 May the Member responded requesting inclusion in the Findings of a quotation from the Committee's Eighth Report.<sup>4</sup> I acceded to that request.
12. On 17 June I sent a copy of the final Findings to both parties. I afforded them an opportunity to make written or oral submissions to me on whether the facts I had found established amounted to a breach of any relevant provision.
13. In his submission dated 25 July (but received on 25 June) the Member contended that –
  - when he used the blanket descriptor, he was expressing an opinion and was entitled to continue to use the blanket descriptor due to the enhanced protection of his right to freedom of expression under Article 10 of the ECHR;
  - his willingness to cooperate with the Standards process and to avoid breaching the Code showed that there was no intention to breach the honesty or integrity principles; and
  - his use of the blanket descriptor after publication of the Committee's Report should be tolerated as, at worst, "an inaccurate exaggeration."<sup>5</sup>

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<sup>4</sup> [Letter Member – Commissioner 31 May 2024](#)

<sup>5</sup> [Letter Member – Commissioner 25 July \(but received 25 June\) 2024](#)

14. In her response of 30 June, the Complainant submitted that the Member's continued use of the blanket descriptor after publication of the Standards Committee's Eighth Report "*should be regarded as a breach of the Code*" and that "*his behaviour clearly illustrates his contempt for the Senedd and the people of Wales.*" She also asserted that he had shown a lack of leadership.<sup>6</sup>

## Findings of Fact

15. I found the following facts, which except for Finding iii which was included at the request of the Member, are deemed to be admitted by both parties, established –
- i. On 23 January 2024 the Committee's Eighth Report was published.<sup>7</sup> That report was in relation to a complaint that the Member had broken Rule 2 of the Code (duty to be truthful) by describing the 20mph default speed limit on restricted roads as a "*blanket*" limit. Whilst in that Report the Committee agreed my opinion that there had been no breach of that Rule, it also agreed that the Member's use of that descriptor was "*imprecise and inaccurate.*" The Committee also said "*it is incumbent on all Members to uphold the high standards expected of us as elected representatives when debating issues in the public domain whether on social media, or elsewhere. This means Members should take care to not intentionally make statements which are imprecise and inaccurate.*"
  - ii. A copy of that Report was sent to the Member on or about the date of publication and was read by him.
  - iii. On 1 February 2024 in a social media post the Member described the default speed limit as a "*blanket*" limit.
  - iv. When he did so he was aware of the contents of the Committee's Report.
  - v. On 2 February I wrote to the Member informing him that he should not regard the Committee's decision as indicating that the continued use of the descriptor might not amount to a breach of Rule 2 and perhaps the Honesty and Integrity Principles in Rule 1 of the Code.
  - vi. On 8 February 2024 the Complainant submitted a complaint about the Member's use of that "*blanket*" descriptor since publication of the Committee's Report.
  - vii. In the course of a preliminary investigation of an almost identical complaint the Member asserted that he was entitled to continue to describe the limit as a "*blanket*" limit. He drew attention to the fact that he had on 30 January 2024 used that descriptor in Plenary without being called to order. He undertook not to again use the descriptor until the complaint had been dealt with.
  - viii. The Record of Proceedings shows that since the Committee's Report was published four Members, other than the Member, have used the blanket descriptor in Plenary on a total of eight occasions without being called to order.

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<sup>6</sup> [Email Complainant – Commissioner 30 June 2024](#)

<sup>7</sup> [Eighth Report to the Sixth Senedd under Standing Order 22.9](#)

- ix. On 9 May 2024 the Llywydd wrote to all Members reminding them *“that they should not intentionally make imprecise and inaccurate statements in the Senedd or elsewhere.”*

### **Consideration**

16. In considering whether the admitted conduct of the Member breached Rules 1, 2 and 3 of the Code of Conduct. I have had due regard to the submissions made by the parties and to all the available evidence.

Rule 2 of the Code provides –

*“Members must act truthfully.”*

17. It has been accepted by the Member that when he made the statement on social media, he knew that the Standards of Conduct Committee had, only days earlier, said that the description of the default speed limit as a blanket limit was *“inaccurate and imprecise.”* He has also accepted that he was aware of the Committee’s admonition to all Members to *“take care to not intentionally make statements which are imprecise and inaccurate.”*

18. As the Committee agreed in its Eighth Report *“Untruthfulness, like dishonesty, requires some element of deceit, fraud or moral turpitude.”*

19. I have found, and it has been accepted by both parties, that when he posted the comment on social media the Member believed that he was entitled to use the blanket descriptor despite the Committee stating that it was *‘imprecise and inaccurate’*. I am satisfied that it was not his intention to deceive anyone. In these circumstances I cannot be satisfied that the conduct of the Member can properly be regarded as untruthful. Accordingly, it is my opinion that his conduct did not breach the Honesty Principle in Rule 1 of the Code or Rule 2 of the Code.

20. Rule 3 of the Code provides –

*“Members must not act or behave in a manner that brings the Senedd or its Members generally, into disrepute.”*

The Member was the Member that in its Eighth Report the Committee found had not breached Rule 2 of the Code. He has admitted that he had read that Report and so was aware that the Committee had found the description of the default speed limit on restricted roads as a blanket speed limit to be *‘imprecise and inaccurate’*. He was also aware that the Committee had admonished all Members to *“take care to not intentionally make statements which are imprecise and inaccurate.”* It is not disputed that his posting of the tweet that is the subject of this complaint was intentional.

21. I do not agree with the Member that when he used the blanket descriptor, he was expressing an opinion and was entitled to continue to use that descriptor due to the enhanced protection of his right to freedom of expression under Article 10 of the ECHR. There is no doubt that the Member was commenting on matters within the



political sphere when he posted the tweet. But as was stated in the Heesom case *“Whilst, in a political context, article 10 protects the right to make incorrect but honestly made statements, it does not protect statements which the publisher knows to be false.”*<sup>8</sup> When he posted the tweet the Member knew or ought to have known that, although it was not untruthful or dishonest, it was false. It was not protected by the enhanced protection afforded to politicians.

22. The Member asserted also that his undertaking not to use that descriptor until this complaint had been dealt with demonstrated his willingness to co-operate with the complaints process and that he had no intention of breaching the honesty and integrity principles. The Member’s willingness to co-operate with the complaints process is not doubted: Rule 17 of the Code requires that of all Members. I am satisfied that the Member did not intend to breach either of these principles. But he should have realised that his continued use of the blanket descriptor was likely to be perceived as ignoring what the Committee had said in its Eighth Report and so to bring the Senedd into disrepute.

He further asserted that at worst his use of the blanket descriptor should be tolerated as *‘an inaccurate exaggeration.’* As was made clear in Heesom the tolerance to be afforded to exaggerated statements made by politicians does not extend to statements that are false.

23. Rule 1 of the Code provides –

*“Members must uphold the Overarching Principles.”*

The Leadership Principle is as follows *“Members must promote and support these Principles by leadership and example, and be willing to challenge poor behaviour wherever it occurs.”*

24. As the Leader of the Welsh Conservatives and a former experienced member of the Standards of Conduct Committee it was incumbent of the Member to set a good example and to follow the guidance given by the Committee and in the Guidance on the Code of Conduct. He was aware of the Admonition in the Committee’s Eighth Report *“that Members should take care to not intentionally make statements which are imprecise and inaccurate.”* Paragraph 41 of the Guidance provides *“Members must not make statements which they know – or ought to have known – to be false”*. I am satisfied that when he posted the tweet the Member knew or ought to have known that it was *“imprecise and inaccurate”* and so false. By ignoring the Committee’s admonition and the guidance given in paragraph 41, he failed to give the leadership required of him.

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<sup>8</sup> [Heesom v Public Service Ombudsman for Wales \[2014\] EWHC 1504 \(Admin\) per Hickinbottom J, para 38](#)

## **Opinion**

25. It is my opinion that the conduct complained of and found established amounted to a breach of Rule 3 and the Leadership Principle in Rule 1 of the Code of Conduct.

Douglas Bain CBE TD

Senedd Commissioner for Standards

11 July 2024

**Documents relied upon in forming opinion or referred to in Report**

Document Number	Title
1	Letter Commissioner – Member 2 February 2024
2	Email Complainant – Commissioner 8 February 2024
3	Tweet by Member 1 February 2024
4	Letter Member – Commissioner 31 May 2024
5	Letter Member – Commissioner 25 July (but received 25 June) 2024
6	Email Complainant – Commissioner 30 June 2024
7	Eighth Report to the Sixth Senedd under Standing Order 22.9
8	Heesom v Public Service Ombudsman for Wales [2014] EWHC 1504 (Admin) per Hickinbottom J, para 38