

**Cynulliad Cenedlaethol Cymru**  
**Y Pwyllgor Safonau Ymddygiad**

Adroddiad 01–11 i'r Cynulliad o dan  
Reol Sefydlog 16.8 a pharagraff 7.12 o'r  
Weithdrefn ar gyfer Ymdrin â Chwynion  
yn erbyn Aelodau'r Cynulliad

Ionawr 2011



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## Y Pwyllgor Safonau Ymddygiad

Cylch gorchwyl y Pwyllgor Safonau Ymddygiad yw sicrhau bod Aelodau'r Cynulliad yn cynnal safonau ymddygiad priodol.

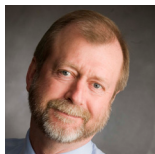
### Pwerau

Yn fras, mae gan y Pwyllgor bum prif swyddogaeth:

- ymchwilio i unrhyw gŵyn a gyfeirir ato gan y Comisiynydd Safonau, cyflwyno adroddiad arni ac, os yw'n briodol, argymhell y camau y dylid eu cymryd i'w datrys;
- ystyried unrhyw faterion o egwyddor ynglŷn ag ymddygiad yr Aelodau yn gyffredinol;
- goruchwyllo'r trefniadau ar gyfer llunio Cofrestr Buddiannau'r Aelodau a'r Cofnod o Aelodaeth o Gymdeithasau a ffurf a chynnwys y Gofrestr a'r Cofnod a'r trefniadau ar gyfer cadw'r Gofrestr a'r Cofnod a sicrhau eu bod yn hygyrch;
- cyflwyno adroddiad blynyddol i'r Cynulliad ar y cwynion a wnaed o dan Reol Sefydlog 16 ac ar gasgliadau'r Pwyllgor ynglŷn â safonau moesegol wrth gynnal busnes y Cynulliad;
- sefydlu a gosod gerbron y Cynulliad, weithdrefnau ar gyfer ymchwilio i gwynion o dan Reol Sefydlog 16.1(i).

Sefydlwyd y Pwyllgor ar 26 Mehefin 2007.

### Aelodau'r Pwyllgor



**Jeff Cuthbert**  
(Cadeirydd)  
Caerffili  
Llafur



**Paul Davies**  
Preseli Sir Benfro  
Plaid Geidwadol Cymru



**Chris Franks**  
Canol De Cymru  
Plaid Cymru



**Jenny Randerson**  
Canol Caerdydd  
Democratiaid Rhyddfrydol  
Cymru

Roedd yr Aelod isod hefyd yn aelod o'r Pwyllgor yn ystod yr ystyriaeth o'r cwyn hwn:



**Brynle Williams**  
Gogledd Cymru  
Plaid Geidwadol Cymru

## **PWYLLGOR SAFONAU YMDDYGIAD CYNULLIAD CENEDLAETHOL CYMRU**

**Adroddiad 01 – 2011 i'r Cynulliad o dan Reol Sefydlog 16.8 a pharagraff 7.12 o'r Weithdrefn ar gyfer Ymdrin â Chwynion yn erbyn Aelodau'r Cynulliad ("y Weithdrefn") mewn perthynas â chwyn a wnaed yn erbyn Alun Davies AC gan Trish Law AC**

### **CWYN YN ERBYN ALUN DAVIES AC**

#### **Cylch Gorchwyl y Pwyllgor Safonau Ymddygiad**

1. Mae Rheol Sefydlog 16.1(i) yn darparu i'r Pwyllgor Safonau Ymddygiad:

" (i) ymchwilio i unrhyw gŵyn a gyfeirir ato gan y Comisiynydd Safonau bod Aelod heb gydymffurfio:

(a) â Rheol Sefydlog 31;

(b) ag unrhyw benderfyniad gan y Cynulliad ynglŷn â buddiannau ariannol neu fuddiannau eraill yr Aelodau;

(c) â Rheol Sefydlog 32;

(ch) ag unrhyw benderfyniad gan y Cynulliad ynglŷn â safonau ymddygiad yr Aelodau;

(d) ag unrhyw god neu brotocol a wnaed o dan Reol Sefydlog 1.13 ac yn unol ag adran 36(6) o'r Ddeddf; neu

(dd) â Rheol Sefydlog 31A."

2. Mae dyfyniad o'r Rheolau Sefydlog, sy'n nodi cylch gwaith y Pwyllgor yn llawn, i'w weld yn Atodiad A. Gellir gweld rhestr o aelodaeth bresennol y Pwyllgor yn Atodiad B.

## Cyflwyniad

3. Cyfarfu'r Pwyllgor ddydd Iau 15 Gorffennaf 2010 i ystyried, yn breifat, adroddiad a gyflwynodd y Comisiynydd Safonau (Richard Penn) i'r Pwyllgor ar 28 Mehefin 2010 mewn perthynas â chwyn a wnaed gan Trish Law AC (Blaenau Gwent) bod Alun Davies AC (Canolbarth a Gorllewin Cymru) wedi methu cydymffurfio â'r Cod ar Rolau a Chyfrifoldebau Gwahanol Aelodau Etholaeth ac Aelodau Rhanbarthol a wnaed yn unol â Rheol Sefydlog 1.13.
4. Casgliad adroddiad y Comisiynydd (paragraff 4.7) oedd bod Alun Davies wedi ymdrin â materion etholaeth nad ydynt o fewn ei ranbarth etholaethol heb gytundeb yr Aelod etholaeth ymlaen llaw a bod ei weithredoedd felly wedi methu cydymffurfio â'r Cod dan sylw.
5. **Penderfyniad unfrydol Aelodau'r Pwyllgor (Jeff Cuthbert AC [Cadeirydd], Chris Franks AC, Jenny Randerson AC a Brynle Williams AC) oedd argymhell i'r Cynulliad, yn unol â pharagraff 7.11 iii. o'r Weithdrefn, y canfuwyd methiant i gydymffurfio ac na ddylid cymryd unrhyw gamau pellach.**
6. Yn unol â Rheol Sefydlog 16.8 a pharagraff 9.1 o'r Weithdrefn, mae'r Pwyllgor yn bwriadu cyhoeddi'r adroddiad hwn a'i osod gerbron y Cynulliad. Bydd Cadeirydd y Pwyllgor yn cyflwyno cynnig (yn unol â Rheol Sefydlog 16.8 a pharagraff 9.1 o'r Weithdrefn) yn galw ar y Cynulliad i gymeradwyo argymhelliad y Pwyllgor.
7. Mae'r adroddiad hwn yn nodi manylion y gwyn a'r ffordd y penderfynodd y Pwyllgor ar ei argymhellion.

## Y Gwyn: Cyffredinol

8. Mae manylion llawn am y gwyn wedi'u nodi yn adroddiad y Comisiynydd, dyddiedig 24 Mehefin 2010, a'r dogfennau sydd ynghlwm ag ef [Atodiad C]. Maent yn cynnwys nifer o gwynion a nodwyd yn llythyrau Trish Law AC at y Comisiynydd, dyddiedig 2 Chwefror 2010, 9 Chwefror 2010 a 6 Ebrill 2010.
9. Cyflwynodd Alun Davies AC sylwadau ysgrifenedig i'r Pwyllgor (dyddiedig 9 Gorffennaf 2010) ar adroddiad y Comisiynydd [Atodiad D] a gwnaeth sylwadau llafar i'r Pwyllgor yn y gwrandawriad ar 15 Gorffennaf 2010 [Cofnod y Trafodion - Atodiad E]

10. Yn ei llythyrau at y Comisiynydd, gwnaeth Trish Law AC yn glir ei bod yn cwyno bod ymddygiad honedig Alun Davies AC yn cynnwys methiant i gydymffurfio â:

(a) Y Cod ar Rolau a Chyfrifoldebau Gwahanol Aelodau Etholaeth ac Aelodau Rhanbarthol a wnaed yn unol â Rheol Sefydlog 1.13.; a

(b) Y Cod Ymddygiad cyffredinol ar gyfer Aelodau'r Cynulliad sydd (ym mharagraff 8) yn ei gwneud yn ofynnol i Aelodau gydymffurfio â'r Canllawiau i Aelodau ar Ddefnyddio Adnoddau'r Cynulliad ac unrhyw ganllawiau ar ddefnyddio adnoddau'r Cynulliad sy'n ymwneud yn benodol ag ymgyrch etholiad (gan gynnwys y Cyngor i Aelodau'r Cynulliad sy'n ystyried sefyll ar gyfer etholiad a gyhoeddwyd gan y Clerc a'r Prif Weithredwr ar 18 Mehefin 2009).

11. Er na chyfeiriwyd ato yn adroddiad y Comisiynydd, cafodd y Pwyllgor wybod drwy'r Cadeirydd (yr oedd yn rhaid cael ei gytundeb ar benderfyniad y Comisiynydd) yn ogystal â thrwy gyflwyniadau a wnaed i'r Pwyllgor gan Alun Davies AC ei hun, bod y Comisiynydd wedi penderfynu trin y cwynion am gamddefnyddio adnoddau'r Cynulliad fel mater ar wahân. Teimlai y gallai ymdrin â hwy o dan adran 10 o'r Weithdrefn. Mae hyn yn caniatáu i'r Comisiynydd, lle bu "methiant i gydymffurfio ond ei fod yn ddibwys", a lle mae'r Aelod wedi unioni'r cam ac wedi ymddiheuro, benderfynu peidio â chymryd unrhyw gamau pellach yn erbyn yr Aelod.

12. Fel arfer, ni fyddai materion sydd wedi eu trin fel hyn yn cael eu trafod ymhellach gan y Pwyllgor, ac, yn amlwg, nid oedd hawl gan y Pwyllgor, yn wyneb penderfyniad y Comisiynydd, i'w hystyried yn uniongyrchol. Fodd bynnag, yn yr achos hwn, mae'r materion hyn mor gysylltiedig â'r cwynion sy'n weddill fel ei bod yn gyfreithiol, ac yn wir, yn anochel, i'r Pwyllgor orfod eu hystyried yn anuniongyrchol wrth benderfynu a oedd yr amrywiol gwynion a wnaed gan Trish Law AC wedi'u profi.

13. Rheswm arall pam yr oedd angen gwneud hyn oedd nad oedd adroddiad y Comisiynydd, wrth fynegi'r canlyniad a nodir ym mharagraff 2 uchod, yn nodi ar sail pa un o'r amrywiol gwynion penodol a godwyd gan Trish Law AC oedd y daethpwyd i'r casgliad hwn. Felly roedd angen eu hystyried i gyd i ryw raddau er mwyn

sicrhau nad oedd canfyddiadau ffurfiol y Pwyllgor yn ymwneud â'r cwynion hynny yr oedd penderfyniad y Comisiynydd yn ymdrin ag hwy yn unig o dan adran 10 o'r Weithdrefn.

### **Y cyd-destun**

14. Gwnaed y cwynion hyn ac ymatebodd Alun Davies AC iddynt yng nghyd-destun y sefyllfa (ddigynsail) y mae Alun Davies AC ynddi, sef ei fod yn Aelod Cynulliad rhanbarth etholaethol Canolbarth a Gorllewin Cymru ond cafodd ei fabwysiadu fel darpar ymgeisydd i'r Cynulliad ar gyfer etholaeth Blaenau Gwent (sydd y tu allan i'r rhanbarth hwnnw).

### **Yr honiad penodol o fethiant i gydymffurfio**

15. Fel y mae adroddiad y Comisiynydd yn ei gwneud yn glir (gweler adran 3 yn arbennig), y mater yr oedd yn rhaid iddo ef a'r Pwyllgor ei ystyried oedd a oedd Alun Davies, yn y ffyrdd penodol y cwynwyd amdanynt, wedi methu cydymffurfio â gofyniad paragraff 1.4 (v) o'r Cod ar Rolau a Chyfrifoldebau Gwahanol Aelodau Etholaeth ac Aelodau Rhanbarthol:

“ni ddylai Aelod ymdrin ag achos etholaeth neu fater etholaeth nad yw o fewn ei etholaeth neu ei ranbarth (yn ôl fel y digwydd), heblaw drwy gytuno ymlaen llaw.”

16. Roedd Alun Davies AC yn derbyn, mewn perthynas â'r gweithgareddau yr oedd Trish Law AC wedi cwyno amdanynt, nad oedd wedi cael cytundeb ymlaen llaw ganddi hi nac unrhyw un o'r pedwar AC rhanbarthol sydd hefyd yn cynrychioli'r ardal.

### **Dehongli'r Cod yn y math hwn o achos**

17. Gall sefyllfa lle cafodd Aelod Cynulliad ei ethol i gynrychioli un ardal, ond sydd ar yr un pryd yn ceisio cael ei ethol ar gyfer ardal arall, achosi anawsterau arbennig.

18. Yn ystod ei drafodaethau gyda'r Comisiynydd, ac mewn cyflwyniadau ysgrifenedig a llafar i'r Pwyllgor (gellir gweld y cyflwyniadau ysgrifenedig yn Atodiad 2 i'r adroddiad hwn), roedd Alun Davies AC yn dadlau y byddai gweithredu paragraff 1.4 (v) y Cod (a ddyfynnir ym mharagraff 12 uchod) yn llythrennol yn ei amddifadu o'i hawl fel dinesydd i ymgyrchu'n effeithiol ar gyfer ei ethol yn Aelod Cynulliad Blaenau Gwent yn etholiad y Cynulliad sydd ar ddod.



19. Tynnodd sylw at y ffordd y mae cyngor y Clerc i “Aelodau’r Cynulliad sy’n ystyried sefyll ar gyfer etholiad” (18 Mehefin 2009) yn ymdrin â’r mater ym mharagraff 4.2:

“While Standing Order 1.13(v) (*which is in identical terms to paragraph 1.4(v) of the Code*) prohibits Members from dealing with constituency cases arising outside their areas (unless by prior agreement), our advice is that this should only be interpreted as applying to Members *when acting as such*. An individual who is an Assembly Member cannot be prevented from doing something which a person who is not an Assembly Member can do. That would be an interference with the right of free expression. But in order to ensure that they do not breach Standing Order 1.13(v), Members must avoid dealing with such cases *as an Assembly Member*. If a Member wishes to take up issues as a prospective candidate, using their own resources and not those of the Assembly, and without taking advantage of their status as an Assembly Member in any way, then SO 1.13 would not prevent them from doing so.”

20. Roedd hwn yn fater y bu’n rhaid i ni gael cyngor penodol arno gan Brif Gynghorydd Cyfreithiol y Cynulliad a’i gyngor oedd y dylem ddehongli’r Cod ar Rolau a Chyfrifoldebau Gwahanol Aelodau Etholaeth ac Aelodau Rhanbarthol, mewn achos lle’r oedd Aelod Cynulliad yn ddarpar ymgeisydd ar gyfer etholaeth neu ranbarth nad oedd ef neu hi’n ei gynrychioli ar y pryd, fel bod paragraff 1.4(v) o’r Cod hwnnw’n berthnasol i weithgareddau a wneir *fel Aelod Cynulliad* yn unig. Dylid ystyried bod Aelodau sy’n dymuno ymgyrchu ar gyfer eu hethol i gynrychioli ardal wahanol i’r rhai y maent ar hyn o bryd yn eu cynrychioli, yn rhydd i wneud hynny, yn yr un modd ag unrhyw ddinesydd arall, *cyn belled â’u bod yn cymryd gofal nad ydynt yn defnyddio’u statws fel Aelod Cynulliad, neu adnoddau’r Cynulliad, wrth wneud hynny*.

21. Mater arall sydd angen ei ystyried mewn perthynas â’r methiant honedig i gydymffurfio felly yw a oedd y weithred y cwynwyd amdani wedi’i gwneud gan y person *fel Aelod Cynulliad*.

### **Cwynion Penodol**

22. Roedd y cwynion a wnaed gan Trish Law AC yn erbyn Alun Davies AC yn dod o dan bedwar pennawd:

(a) cyhoeddi datganiad i'r wasg yn rhoi cyhoeddusrwydd i ymweliad aelodau cyngor tref Tredegar â'r Senedd ym mis Ionawr 2010, ar ei wahoddiad ef, ac yn gwahodd pobl eraill o'r ardal honno a oedd â diddordeb i drefnu ymweliadau o'r fath drwy ei swyddfa yn y Cynulliad;

(b) gweithgareddau ym Mlaenau Gwent ddydd Gwener 29 Ionawr 2010 ac eto ddydd Llun 8 Chwefror 2010 yn ôl y dystiolaeth ar ei dudalen Facebook;

(c) bod yn bresennol mewn sesiwn friffio a roddwyd ddydd Iau 4 Chwefror 2010 gan Gyfarwyddwr Corfforaethol Adnoddau Cyngor Blaenau Gwent i aelodau Grŵp Llafur y Cyngor, cyn i gyllideb y cyngor gael ei chwblhau; a chael rhagor o wybodaeth gan y Cyfarwyddwr mew cyfarfod un i un yn nes ymlaen yr un diwrnod;

(d) gohebu â'r Gweinidog dros Blant, Addysg a Dysgu Gydol Oes, rhwng 8 Ionawr 2010 a 4 Chwefror 2010, mewn perthynas â'r bwriad i gau Ysgol Gyfun Nantyglo.

### **Cwynion (a), (b) a (c)**

23. Daethom i'r casgliad yn gyflym fod y cwynion a nodir ym mharagraff (a), (b) a (c) uchod naill ai y tu allan i'n cylch gwaith neu nad oedd digon o dystiolaeth i ni ganfod methiant i gydymffurfio.

24. Ni ellir ystyried gwahodd y cyhoedd i ymweld â'r Senedd fel "ymdrin ag achos etholaeth neu fater etholaeth". Cydsyniodd Trish Law AC â hyn, mewn ffordd, yn ei llythyr dyddiedig 2 Chwefror er iddi dynnu sylw at y defnydd a fyddai wedi cael ei wneud o adnoddau'r Cynulliad. Fodd bynnag, gan fod y Comisiynydd wedi ymdrin â materion yn ymwneud â defnyddio adnoddau'r Cynulliad o dan adran 10 o'r Weithdrefn ni wnaethom ystyried yr honiad hwn ymhellach.

25. O ran ymweliadau Alun Davies AC â Blaenau Gwent ar 29 Ionawr a 8 Chwefror, mae'r dystiolaeth ynghylch yr hyn a wnaeth ar y ddau achlysur yn gyfyngedig a, gydag un eithriad, mae'n ymwneud ag ymgyrchu cyffredinol. Mae cyfeiriad at fod yn bresennol mewn cyfarfod ar safle Corus ym Mlaenau Gwent ar yr ail achlysur i drafod y prosiect ffilm a chyfryngau digidol. Ond nid oes dystiolaeth i brofi yn rhinwedd pa swydd yr oedd Alun Davies AC yn bresennol yn y trafodaethau

hynny ac felly nid oedd gennym sail ddigonol i ganfod achos o fethu cydymffurfio â'r Cod.

26. Yn yr un modd, ni fyddai bod yn bresennol mewn sesiynau briffio a roddir gan swyddog o'r cyngor yn achos o fethu cydymffurfio â'r Cod oni bai bod tystiolaeth fod Alun Davies AC wedi gwneud hynny *fel Aelod Cynulliad* ac nid oes digon o dystiolaeth i ddod i'r casgliad ei fod wedi gwneud hynny. Fodd bynnag, yn ychwanegol at hyn, nid oeddem yn credu bod mynd i sesiwn friffio gyfystyr ag ymdrin ag achos etholaeth neu fater etholaeth, yr ydym yn ei ddehongli fel cyfeirio at ryw broblem benodol sy'n effeithio ar etholwr unigol neu grŵp o etholwyr yn hytrach na dod i wybod am faterion cyffredinol sy'n effeithio ar ardal.

### **Cwyn (d)**

27. Roeddem yn teimlo bod cwyn Trish Law mewn perthynas â'r ohebiaeth rhwng Alun Davies AC a'r Gweinidog yn dod o fewn categori gwahanol. Roedd yn amlwg yn ymdrin ag achos etholaeth neu fater etholaeth, sef cynnig i gau Ysgol Gyfun Nantyglo. Yn ychwanegol at hyn, bu Alun Davies yn gohebu gan ddefnyddio, ar un achlysur, ei gyfrif e-bost fel Aelod Cynulliad ac ar achlysuron eraill (llythyrau dyddiedig 8, 11 a 26 Ionawr a 4 Chwefror) papur pennawd AC swyddogol, gyda logo a chyfeiriad y Cynulliad ac yn nodi'r anfonwr fel "Alun Davies AC".

28. Fel yr oedd y Weithdrefn yn gofyn i ni ei wneud, rhoesom gyfle i Alun Davies wneud unrhyw sylwadau ysgrifenedig neu lafar y dymunai eu gwneud. Pwysleisiodd yr angen i ddiogelu ei hawl i ymgyrchu'n effeithiol ar gyfer ei ethol yn Aelod Cynulliad Blaenau Gwent a disgrifiodd y gwyn gan Trish Law AC fel ymgais gwrth-ddemocrataidd i ymyrryd â'r hawl hwnnw. Cyfeiriodd yn benodol at y gwyn gysylltiedig mewn perthynas â defnyddio adnoddau'r Cynulliad a phwysleisiodd ei fod yn derbyn na ddylai fod wedi defnyddio adnoddau'r Cynulliad yn ei ohebiaeth â'r Gweinidog mewn perthynas ag Ysgol Gyfun Nantyglo. Eglurodd ei fod bellach wedi cymryd camau i osgoi hyn rhag digwydd eto, drwy ddefnyddio, mewn achosion o'r fath, ei bapur pennawd ei hun a oedd wedi'i greu er mwyn gwahaniaethu rhwng "Alun Davies AC" ac "Alun Davies", a thrwy sefydlu cyfrif e-bost preifat ar gyfer gohebiaeth sy'n gysylltiedig â'i waith ymgyrchu.

29. Yr eglurhad a roddodd i ni dros ddefnyddio papur pennawd y Cynulliad i ohebu â'r Gweinidog oedd ei fod yn teimlo, ar y pryd, ei bod yn rhesymol i Aelod Cynulliad ohebu ag Aelod Cynulliad arall gan ddefnyddio papur pennawd y Cynulliad, ac nid oedd wedi disgwyl i'r ohebiaeth dan sylw gael ei chyhoeddi ac nid oedd wedi bwriadu iddi gael ei chyhoeddi. Rhoddwyd cyhoeddusrwydd iddi gan Trish Law AC o ganlyniad i gais a wnaed ganddi i'r Gweinidog yn ymwneud â'r Ddeddf Rhyddid Gwybodaeth. Roedd Alun Davies AC wedi bwriadu, wrth ohebu â'r Gweinidog, iddo gael ei ystyried i fod yn gweithredu fel ymgeisydd yn hytrach na fel Aelod Cynulliad.

### **Casgliad y Pwyllgor ar gwyn (d)**

30. Daeth y Pwyllgor i'r casgliad unfrydol, waeth beth oedd bwriad Alun Davies AC, roedd yr ohebiaeth a fu rhyngddo ef a'r Gweinidog, wedi ei eirio'n ffurfiol ac yn ôl pob golwg yn dod ganddo ef yn rhinwedd ei swydd fel Aelod Cynulliad, gyfwerth ag ymdrin ag achos etholaeth neu fater etholaeth mewn perthynas ag etholaeth Blaenau Gwent heb gytundeb AC yr etholaeth (nac yn wir Aelodau Cynulliad rhanbarthol yr ardal) mewn ffordd nad oedd yn cydymffurfio â pharagraff 1.4 (v) y Cod ar Rolau a Chyfrifoldebau Gwahanol Aelodau Etholaeth ac Aelodau Rhanbarthol. Nid oes unrhyw fater o ymyrryd â'i hawl i ymgyrchu ar gyfer etholiad i'r etholaeth yn codi gan y byddai wedi bod yn agored iddo godi'r mater dan sylw fel Darpar Ymgeisydd i'r Cynulliad, gan osgoi unrhyw awgrym ei fod yn gweithredu fel Aelod Cynulliad.

31. Roedd y Pwyllgor yn sicr, felly, bod casgliad y Comisiynydd (a nodir ym mharagraff 2 uchod) wedi'i gyfiawnhau ac y dylai adrodd i'r Cynulliad yn unol â hynny.

### **Cosb**

32. Mae'r argymhellion y gall y Pwyllgor eu gwneud i'r Cynulliad mewn perthynas â chwyn, wedi'u nodi ym mharagraff 7.12 o'r Weithdrefn ac maent fel a ganlyn:

- i. na chanfuwyd unrhyw fethiant i gydymffurfio ac y dylid gwrthod y gŵyn;
- ii. y canfuwyd methiant i gydymffurfio ond ei fod yn ddibwys ac y dylid gwrthod y gŵyn;

- iii. y canfuwyd methiant i gydymffurfio ac na ddylid cymryd unrhyw gamau pellach;
- iv. y canfuwyd methiant i gydymffurfio ac y dylid “ceryddu” yr Aelod o dan Reol Sefydlog 16.9; neu
- v. y canfuwyd methiant i gydymffurfio ac y dylid gwahardd yr Aelod rhag gweithrediadau'r Cynulliad am gyfnod penodol.

33. O ystyried:

- (a) eglurhad Alun Davies AC am fethu cydymffurfio;
- (b) y ffaith nad yw wedi methu cydymffurfio ag unrhyw safon berthnasol o'r blaen;
- (c) y cynseiliau (cyfyngedig) sydd ar gael i ni o briodoldeb gwahanol gosbau yn achos rhai eraill sydd wedi methu cydymffurfio;
- (d) natur newydd y materion a godwyd gan y cwynion hyn; a
- (e) sicrwydd clir Alun Davies AC i ni ei fod yn cymryd y Cod o ddifrif a'i fod eisoes (mewn perthynas â'r agwedd o ddefnyddio adnoddau sydd ynghlwm â'r mater) wedi cymryd camau penodol er mwyn ymateb i gyngor y Comisiynydd;

**ein barn ni oedd nad oedd angen unrhyw gosb benodol, yn ychwanegol at gyhoeddi'r canfyddiadau a nodir yn yr adroddiad hwn, yn yr achos hwn.**

**Troednodyn**

34. Hoffem ychwanegu'r sylwadau ychwanegol canlynol, sydd o natur fwy cyffredinol a gododd o'n hystyriaethau o'r cwynion hyn:

- a) Hoffem fynegi ein diolch i'r Comisiynydd am ymchwilio i'r materion hyn gyda gofal a gwrthrychedd amlwg;
- b) Rydym yn nodi sylw'r Comisiynydd bod rhai agweddau ar y Cod yn gwarantu rhagor o ystyriaeth gyda golwg i'w hadolygu, yn enwedig yn wyneb y materion a godwyd gan y cwynion hyn ac edrychwn ymlaen at glywed rhagor ganddo ynglŷn â'r mater hwn;

- c) Mewn un ystyr, bu'r cyfle i egluro'r materion a godwyd gan yr achos hwn yn amserol, oherwydd mewn llai na blwyddyn, am y tro cyntaf, bydd y Cynulliad yn cael ei ddiddymu cyn etholiad cyffredinol y Cynulliad. Golyga hynny y bydd holl Aelodau'r Cynulliad yn peidio â dal y swydd honno drwy gydol yr ymgyrch etholiadol. Er bod honno'n sefyllfa ychydig yn wahanol i'r un a gododd yn yr achos hwn, fodd bynnag, mae gwersi y gall yr holl Aelodau eu dysgu o'r sefyllfa a'r angen i ofalu peidio â rhoi'r argraff, wrth ymgyrchu ar gyfer ailetholiad, bod ganddynt statws nad oes ganddynt.

**Jeff Cuthbert AC**

**Chris Franks AC**

**Jenny Randerson AC**

**Brynle Williams AC**

**Gorffennaf 2010**

## Atodiadau

A	Rheol Sefydlog 16 - Y Pwyllgor Safonau Ymddygiad
B	Aelodaeth y Pwyllgor Safonau Ymddygiad
C	Adroddiad gan Richard Penn, Y Comisiynydd Safonau Ymddygiad
D	Ymateb ysgrifenedig dyddiedig 9 Gorffennaf 2010 gan Alun Davies AC
E	Cofnod Trafodion y gwrandawriad llafar yn y Pwyllgor Safonau Ymddygiad ar 15 Gorffennaf 2010

Bu oedi o ran cyhoeddi'r adroddiad hwn, yn unol â pharagraff 7.13 o Weithdrefn Cynulliad Cenedlaethol Cymru ar gyfer Ymdrin â Chwynion yn erbyn Aelodau'r Cynulliad, oherwydd i Alun Davies, AC apelio i banel apêl a sefydlwyd gan y Llywydd. Ar ôl i'r panel apêl gwblhau eu hystyriaethau, a gwrthod yr apêl, mae'r Pwyllgor bellach yn cyhoeddi ei adroddiad.

## RHEOL SEFYDLOG 16 — Y Pwyllgor Safonau Ymddygiad

### Teitl a Chylch Gorchwyl

16.1 Bydd Pwyllgor Safonau Ymddygiad, y mae'n rhaid iddo:

- (i) ymchwilio i unrhyw gŵyn a gyfeirir ato gan y Comisiynydd Safonau bod Aelod heb gydymffurfio:
  - (a) â Rheol Sefydlog 31;
  - (b) ag unrhyw benderfyniad gan y Cynulliad ynglŷn â buddiannau ariannol neu fuddiannau eraill yr Aelodau;
  - (c) â Rheol Sefydlog 32;
  - (ch) ag unrhyw benderfyniad gan y Cynulliad ynglŷn â safonau ymddygiad yr Aelodau;
  - (d) ag unrhyw god neu brotocol a wnaed o dan Reol Sefydlog 1.13 ac yn unol ag adran 36(6) o'r Ddeddf; neu
  - (dd) â Rheol Sefydlog 31A

cyflwyno adroddiad ar y gŵyn honno ac, os yw'n briodol, argymhell camau mewn perthynas â'r gŵyn honno;

- (ii) ystyried unrhyw faterion o egwyddor ynglŷn ag ymddygiad yr Aelodau yn gyffredinol;
- (iii) goruchwyllo'r trefniadau ar gyfer llunio Cofrestr Buddiannau'r Aelodau a'r Cofnod o Aelodaeth o Gymdeithasau, a ffurf a chynnwys y Gofrestr a'r Cofnod, a'r trefniadau ar gyfer cadw'r Gofrestr a'r Cofnod a sicrhau eu bod yn hygyrch;
- (iv) cyflwyno adroddiad blynyddol i'r Cynulliad ar y cwynion a wnaed o dan Reol Sefydlog 16.1(i), a'r camau a gymerwyd o ganlyniad iddynt, ac ar gasgliadau'r Pwyllgor ynglŷn â safonau moesegol wrth gynnal busnes y Cynulliad; a
- (v) sefydlu a gosod gerbron y Cynulliad weithdrefnau ar gyfer ymchwilio i gwynion o dan Reol Sefydlog 16.1(i).

### Aelodaeth

16.2 Rhaid i'r Llywydd beidio â bod yn aelod o'r Pwyllgor, ond mae gan y Llywydd hawl i gyflwyno papurau iddo, er mwyn tynnu sylw'r Pwyllgor at unrhyw ystyriaethau y mae'r Llywydd yn credu eu bod yn briodol.



- 16.3 Yn ddarostyngedig i Reol Sefydlog 16.4, ni fydd Rheol Sefydlog 10.42 yn gymwys i'r Pwyllgor Safonau Ymddygiad.
- 16.4 Os bydd aelod o'r Pwyllgor yn destun cwyn o dan Reol Sefydlog 16.1(i), ni chaiff gymryd rhan yn ystyriaeth y Pwyllgor ar y gŵyn. O dan amgylchiadau o'r fath, ac mewn perthynas â'r ystyriaeth ar y gŵyn o dan sylw yn unig, caiff Aelod arall o'r un grŵp gwleidyddol, sydd wedi'i enwebu ymlaen llawn gan arweinydd y grŵp hwnnw, gymryd lle'r aelod hwnnw. Caiff yr Aelod a enwebwyd gymryd rhan yng nghyfarfodydd y Pwyllgor i ystyried y gŵyn fel pe bai'n aelod o'r Pwyllgor. Ni chaiff Aelod gymryd lle mwy nag un aelod o'r Pwyllgor mewn cyfarfod.

### **Cyfarfodydd**

- 16.5 Rhaid i'r Pwyllgor gyfarfod cyn gynted ag y gellir ar ôl i gŵyn gael ei chyfeirio ato gan y Comisiynydd Safonau; ac ar adegau eraill fel y bydd y cadeirydd yn ei gynnull.
- 16.6 Caiff y Pwyllgor gyfarfod yn gyhoeddus neu'n breifat, ond wrth ystyried cwyn, rhaid i'r Pwyllgor gyfarfod yn breifat oni bai ei fod yn penderfynu fel arall.
- 16.7 Rhaid caniatáu i unrhyw Aelod sy'n destun ymchwiliad gan y Pwyllgor gyflwyno sylwadau i'r Pwyllgor ar lafar neu mewn ysgrifen a chaniateir i'r Aelod gael cwmni person arall mewn gwrandawriadau llafar (a gaiff gymryd rhan yn y trafodion gyda chaniatâd y cadeirydd, ond ni chaiff bleidleisio).

### **Adroddiadau**

- 16.8 Os yw'r Pwyllgor wedi ymchwilio i gŵyn a gyfeiriwyd ato gan y Comisiynydd Safonau, rhaid iddo gyflwyno adroddiad i'r Cynulliad cyn gynted ag y bo modd ar ôl cwblhau'r ymchwiliad.
- 16.9 Caiff adroddiad o dan Reol Sefydlog 16.8 gynnwys argymhelliad i geryddu Aelod am fethu â chydymffurfio ag unrhyw un o'r materion a gynhwysir yn Rheol Sefydlog 16.1(i).
- 16.10 Os caiff cynnig i ystyried adroddiad o dan Reol Sefydlog 16.8 ei gyflwyno gan aelod o'r Pwyllgor, rhaid trefnu bod amser ar gael cyn gynted ag y bo modd i'r cynnig gael ei drafod. Ni chaniateir cyflwyno gwelliant i gynnig o'r fath.

## **Annex B**

### **Aelodaeth y Pwyllgor – Gorffennaf 2010**

**Jeff Cuthbert (Cadeirydd)**

Caerffili, Llafur

**Chris Franks**

Canol De Cymru, Plaid Cymru

**Jenny Randerson**

Canol Caerdydd, Democratiaid Rhyddfrydol Cymru

**Brynle Williams**

Gogledd Cymru, Plaid Geidwadol Cymru

## **Complaint against Alun Davies AM**

### **Annex C**

(i) letter dated 28 June from Mr Richard Penn to Jeff Cuthbert plus attachment

(ii) letter dated 2 February 2010 from Trish Law AM to Mr Richard Penn plus attachment

Our Ref: C088-10

Comisynydd Safonau

Commissioner for Standards

Jeff Cuthbert, AM  
Chair, Committee on Standards of Conduct  
National Assembly for Wales  
Cardiff Bay  
CF99 1NA

28 June 2010

Dear Jeff

In line with the 'Procedure for Dealing with Complaints against Assembly Members' approved by the Committee on Standards of Conduct on 3 June 2008, I have been conducted a Formal Investigation into the complaint by Trish Law that Alun Davies AM has breached the Code on Different Roles and Responsibilities of Constituency Members and Regional Members made in accordance with Standing Order 1.13.

I enclose a copy of my final Report for the Committee's attention. As set out in the Complaints Procedure, when a formal investigation into a complaint has been completed, the Commissioner makes a report to the Committee on Standards of Conduct. In accordance with the Procedure, the report includes:

- i. details of the complaint;
- ii. details of the investigation I have carried out;
- iii. the facts I have found in relation to whether the Member concerned has committed the conduct complained about;
- iv. the conclusion I have reached as to whether that Member has, as a result of that conduct, breached one of the matters encompassed within Standing Order 16.1(i); but
- v. my report does not express any view upon what sanction would be appropriate for any breach.

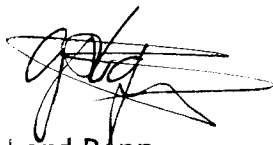
In line with the Procedure for Dealing with Complaints against Assembly Members, both Trish Law and Alun Davies were given an opportunity to consider my draft report, and comment on its factual accuracy. Trish Law confirmed that



she was content that the Report was accurate however I received no response from Alun Davies. I have today provided a copy of my final report to Trish Law and Alun Davies. I have also informed Alun Davies that he will have the right to make written representations to the Committee (within a specified time) and to make oral representations at an oral hearing of the Committee.

I have now completed the Formal Investigation Stage of the complaint. The Committee will now wish to begin its consideration of the complaint, as set out in the procedure.

Yours sincerely



**RP** Richard Penn  
National Assembly Commissioner for Standards

## STRICTLY PRIVATE AND CONFIDENTIAL

Reference: CO88-10

Report to the Committee on Standards of Conduct from the Commissioner for Standards on his Formal Investigation of an admissible complaint against Alun Davies AM.

### 1. Background to the complaint

- 1.1 Mrs Law, Assembly Member for the Constituency of Blaenau Gwent, has written to me on three separate occasions to complain about the actions of Alun Davies AM. Mrs Law has provided evidence with her letters that, she alleges, demonstrate a breach by Alun Davies of the Code on Different Roles and Responsibilities of Constituency Members and Regional Members (Code for Constituency / Regional Members) (**Annex A**).
- 1.2 In accordance with Standing Order 16.1(i)(e), the Code for Constituency / Regional Members falls under the remit of the Committee on Standards of Conduct. A potential breach of this Code is, therefore, a matter that can be investigated under the Assembly's Procedure for Dealing with Complaints against Assembly Members.
- 1.3 Mrs Law also makes specific reference in the complaint to the 'Advice for Assembly Members considering standing for election' issued to all Assembly Members by the Chief Executive and Clerk on 24 June 2009 (**Annex B**).
- 1.4 The complaint centres on Alun Davies' activity in the Blaenau Gwent constituency. Alun Davies is a Regional Member for the Mid and West Wales electoral region. Blaenau Gwent is situated in the South Wales East region, and is therefore outside Alun Davies' regional boundary.

## 2. Preliminary Investigation Stage – Admissibility

- 2.1 In line with the 'Procedure for dealing with Complaints against Assembly Members' (the Complaints Procedure) approved by the Committee on Standards of Conduct on 3 June 2008, I have conducted a Preliminary Investigation into this complaint in order to determine whether it was 'admissible'.
- 2.2 The Complaints Procedure sets out a series of six 'tests' to determine whether a complaint is 'admissible':
- i) *'It is in writing'.*
  - ii) *'It is about the conduct of an Assembly Member'*
  - iii) *'It is not anonymous and clearly identifies the complainant in a way which provides for further communication with him/her'*
  - iv) *'It clearly identifies the Assembly Member complained of'*
  - v) *'It is made within one year from the date when the complainant could reasonably have become aware of the conduct complained about'*
- 2.3 The complaint against Alun Davies clearly met the first five requirements for 'admissibility'. The sixth and final test of admissibility is that:
- vi) *'it appears that there is enough substance to justify further investigation (i.e. there is enough evidence to suggest that the conduct complained about **may** have taken place, and if proved **might** amount to a breach of any of the matters encompassed within Standing Orders 16.1(i)'*

### Evidence provided in support of the complaint

- 2.4 Mrs Law initially contacted me on 2 February 2010. In her letter, Mrs Law attached an extract from Alun Davies' Facebook page which indicated that he had spent a significant amount of time in the Blaenau Gwent constituency on Friday 29 January 2010 (**Annex C**). Mrs Law asserts (in her letter) that it has become practice in the Assembly that Fridays are 'constituency days' and alleges that Alun Davies has abused his position as a regional Assembly Member by neglecting the interests of his region.
- 2.5 On 9 February, Mrs Law sent a further letter (**Annex D**) highlighting examples of where Alun Davies has (she alleges) breached the Code for Constituency / Regional Members. In this letter Mrs Law states that:

*'It is the policy of the present administration of Blaenau Gwent County Borough Council that each political group on the council should receive a briefing from the authority's Corporate Director for Resources in advance of the council's budget for the coming year being finalised.*

*So as part of his duties, the Council's Director of Resources went to address the Labour group, and included in that gathering was Mr Alun Davies AM. Further to that, on Thursday afternoon, February 4<sup>th</sup> 2010, Mr Davies received a personal, i.e. one-to-one briefing from the Director.'*

2.6 Standing Order 1.13 provides that:

*'no Member should deal with a constituency case or constituency issue that is not within his or her constituency or region (as the case may be), unless by prior agreement'.*

This provision is reiterated in paragraph 1.4 of the Code for Regional / Constituency Members. Standing Order 1.13 is shown in full at **Annex E**.

2.7 Mrs Law goes on to state that:

*'Setting the budget for Blaenau Gwent is clearly a constituency issue. I was not notified of Mr Davies' involvement in this and I certainly did not give my prior agreement.*

*Also attached is a posting on Mr Davies' Facebook page yesterday [8 February] which refers to a meeting concerning another constituency issue, a film and media project. I contend that this too is in breach of Standing Order 1.13.'*

2.8 Mrs Law wrote to me again on 6 April 2010 attaching correspondence she had obtained under the Freedom of Information Act (**Annex F**). This correspondence was an exchange of letters between Alun Davies and Leighton Andrews AM, the Minister for Children, Education and Lifelong Learning, regarding the proposed closure of Nantyglo Comprehensive School. Mrs Law again contends that this is a constituency issue which has nothing at all to do with the Mid and West Wales region.



## **Response from Alun Davies AM**

- 2.9 I met with Alun Davies on 29 April 2010 to outline the allegations made by Mrs Law, and to highlight the relevant provisions of Standing Order 1.13(v) and paragraph 1.4 of the Code for Constituency / Regional Members. I also provided Alun Davies with an opportunity to respond to the allegations made.
- 2.10 In response, Alun Davies acknowledged that he has taken up issues in Blaenau Gwent. He also acknowledges that that he has done so without first obtaining agreement from Mrs Law as the constituency Member for Blaenau Gwent. On this basis Alun Davies concedes that he might have breached the Code for Constituency / Regional Members. Alun Davies however was keen to highlight the potential difficulty he faces as he is intending to stand as a candidate in the Blaenau Gwent constituency in the National Assembly for Wales' elections in 2011. He has asked for this to be considered alongside the complaint.

## **Conclusion on Admissibility**

- 2.11 I conducted the Preliminary Investigation in line with the adopted procedure to establish the admissibility of the complaint that Alun Davies AM had breached the Code on Different Roles and Responsibilities of Constituency Members and Regional Members.
- 2.12 I carefully considered the evidence provided by Mrs Law, together with the representations from Alun Davies. It is clear that there was enough evidence to suggest that the conduct complained about may have taken place, and if proved might amount to a breach of the Code for Constituency / Regional Members. I therefore concluded that the complaint was '*admissible*' and proceeded to the Formal Investigation stage of the Complaints Procedure.
- 2.13 The Committee on Standards of Conduct, Mrs Law AM and Alun Davies AM were informed of the outcome of my Preliminary Investigation on 11 June 2010.

### 3. Formal Investigation Stage

- 3.1 The purpose of the Formal Investigation stage is for the Commissioner for Standards to investigate an 'admissible' complaint with a view to:
- i) establishing the facts in relation to whether the Member concerned has committed the conduct complained about; and
  - ii) reaching a conclusion as to whether that Member **has**, as a result of that conduct, breached one of the matters encompassed within Standing Order 16.1(i).
- 3.2 Paragraphs 2.4 to 2.10 of this report outline the evidence / representations that have been provided in this complaint. Mrs Law has provided documentary evidence to show that Alun Davies has taken up issues within Blaenau Gwent. Alun Davies has himself acknowledged during our meeting on 29 April 2010 that he has taken up such issues and has done so without seeking the prior agreement of Mrs Law as the constituency Assembly Member for Blaenau Gwent.
- 3.3 The facts on whether the conduct complained about was committed by Alun Davies are therefore not in dispute. The focus of the Formal Investigation was therefore to enable me to reach a conclusion as to whether the actions of Alun Davies constituted a breach of the Code for Constituency / Regional Members.

#### **Purpose of the 'Code for Constituency / Regional Members' and 'Advice for Assembly members considering Standing for election'**

- 3.4 Section 36(6) of the Government of Wales Act 2006 states that the Assembly's Standing Orders must make provision about (or for the making of a code or protocol about) the different roles and responsibilities of constituency and regional Assembly Members. The relevant provisions are set out in Standing Order 1.13 (**Annex E**).
- 3.5 Standing Order 1.13 includes provision for the Assembly to make a code or protocol for constituency / regional Members, and also provides for that code to be drafted by the Committee on Standards of Conduct. The Code for Constituency / Regional Members was drafted by the Standards Committee and was made by resolution of the Assembly on 15 July 2009.
- 3.6 The 'Advice for Assembly members considering standing for election', was issued by the Chief Executive and Clerk on 24 June 2009 (prior to the Code being approved by the Assembly). On issuing the advice the Chief Executive and Clerk informed Members that:

*'Now that we are into the second half of the term of the Third Assembly, practical issues are likely to arise in relation to the use of Assembly resources for activities which could be interpreted as promoting the re-election of an Assembly Member to represent either that Member's current constituency or region or a different area. The attached guidance provides a summary of the current rules that may be relevant and that Assembly Members will wish to take into account.'*

- 3.7 It is important to note that this advice has no formal status. It is clear that the advice was intended simply as a guide to remind Members of rules in place and to help them apply those rules. The advice relates mainly to the use of Assembly resources during election campaigns, but the advice does contain clear guidance relating specifically to the principles set out in Standing Order 1.13 and to the Code for Constituency / Regional Members to be issued by the Standards Committee.

## **4. Summary and Conclusion**

4.1 I have conducted a Formal Investigation in line with the Procedure for Dealing with Complaints against Assembly Members into the complaint by Mrs Law AM that Alun Davies AM has breached the Code on Different Roles and Responsibilities of Constituency Members and Regional Members.

4.2 The facts on whether the conduct complained about was committed by Alun Davies are not in dispute. As highlighted in this report, the focus of the Formal Investigation was therefore for me to reach a conclusion as to whether the actions of Alun Davies constituted a breach of the Constituency / Regional Code.

### **Members' Awareness**

4.3 The basis on which the Code for Constituency / Regional Members is made is clearly set out in the Assembly's Standing Orders. Standing Order 1.13 provides five key principles that must be included in any code or protocol. The key principle set out in Standing Order 1.13(v) states that:

*'no Member should deal with a constituency case or constituency issue that is not within his or her constituency or region (as the case may be), unless by prior agreement.'*

4.4 The Code on Different Roles and Responsibilities of Constituency Members and Regional Members, is written on the basis of Standing Order 1.13, and paragraph 1.4 of the Code states that the Code must be read in the light of the five key principles set out in Standing Order 1.13, and the Code restates principle (v).

4.5 Members have also been provided with the 'Advice for Assembly members considering standing for election' which, while it has no formal basis, acts as a further reminder to Members on the rules in place, and the principles that underpin those rules.

### **Conclusion**

4.6 Mrs Law has provided clear documented evidence that Alun Davies has taken up issues within the Blaenau Gwent Constituency. Alun Davies has acknowledged that he has taken up such issues. It is clear that Mrs Law has not given her prior agreement for Alun Davies to take up those issues within her constituency.

4.7 It is therefore my conclusion that Alun Davies has dealt with constituency issues that are not within his electoral region without the prior agreement of the constituency Member. In doing so, Alun Davies' actions **have breached** one of the matters encompassed within Standing Order 16.1(i) – namely, the Code on Different Roles and Responsibilities of Constituency Members and Regional Members made in accordance with Standing Order 1.13.

## **5. Other Considerations**

- 5.1 As highlighted in his response to the complaint (paragraph 2.10) Alun Davies has raised a potential difficulty that stems from the provisions of Standing Order 1.13(v) and the Code for Constituency / Regional Members. This relates specifically to how the provision relating to the taking up of issues in another constituency impacts on a Member(s) standing for election in a constituency that they do not currently represent.
- 5.2 This is of particular concern to Alun Davies as he is currently intending to stand for election in the Blaenau Gwent constituency. Alun Davies represents the Mid and West Wales electoral region and Blaenau Gwent is outside his regional boundary. Alun Davies is concerned therefore that this may have the potential to restrict his campaigning in the forthcoming election.
- 5.3 In investigating this complaint, I have considered the specific provisions of the Standing Order 1.13 and the Code for Constituency / Regional Members. In considering this matter, I do have some reservations about a number of the provisions contained in the Code (including the provision that has been breached by Alun Davies on this occasion). In my general role as Commissioner for Standards I will be writing to the Committee on Standards of Conduct separately to highlight these concerns.
- 5.4 The Committee may wish to give consideration to the concerns expressed by Alun Davies as part of its consideration of this complaint. However, I do need to underline that, as it stands, Members are bound by the provisions of the current Code as approved by resolution of the Assembly. Any consideration of the potential flaws in the Code should, in my view, be considered in isolation of this specific complaint.

**Richard Penn**  
**Commissioner for Standards**

**24 June 2010**

## National Assembly for Wales

### Code on Different Roles and Responsibilities of Constituency Members and Regional Members

#### **1. Introduction and Statutory Framework**

- 1.1 This code has been drafted by the Committee on Standards of Conduct, in accordance with section 36(6) of the Government of Wales Act 2006 and Standing Order 1.13.
- 1.2 Section 36(6) provides that standing orders must include provision about (or for the making of a code or protocol about) the different roles and responsibilities of Assembly constituency members and Assembly regional members and that –
  - (a) Assembly constituency members must not describe themselves in a manner which suggests that they are Assembly regional members, and
  - (b) Assembly regional members must not describe themselves in a manner which suggests that they are Assembly constituency members.
- 1.3 Accordingly Standing Order 1.13 provides that the Committee on Standards of Conduct must draft, and the Assembly must make, a code or protocol, in accordance with section 36(6) of the Act, about the different roles and responsibilities of constituency Members and regional Members. The code or protocol must include provision in line with five specified key principles (SO1.13 (i)-(v)) and which must include provision for nine matters set out in the Annex to Standing Order 1.
- 1.4 The Code must therefore be read in the light of the following five key principles:
  - (i) all Members have a duty to be accessible to the people of the areas for which they have been elected to serve and to represent their interests conscientiously;
  - (ii) in approaching the Member of their choice, the wishes of constituents and/or the interests of a constituency or locality are of paramount importance;
  - (iii) all Members have equal status;
  - (iv) Members should not misrepresent the basis on which they are elected nor the area they serve; and
  - (v) no Member should deal with a constituency case or constituency issue that is not within his or her constituency or region (as the case may be), unless by prior agreement.

2. **In accordance with the Annex to Standing Order 1 the Code makes provision in nine areas:**

2.1 **Describing Members**

***“Provision for regional and constituency Members to describe themselves accurately and for requirements regarding the use of Assembly resources, for example, stationery.”***

2.1.1 Members should not misrepresent the basis on which they are elected or the area they serve.

2.1.2 Regional Members and constituency Members must describe themselves accurately so as not to confuse those with whom they deal.

2.1.3 Constituency Members should always describe themselves as:

“[Name], Member of the National Assembly for Wales for [x] constituency”  
or  
[Name], A.M. for [x] constituency.”

2.1.4 Regional Members should always describe themselves as:

“[Name], Member of the National Assembly for Wales for [y] region”  
or  
“[Name], A.M. for [y] region.”

2.1.5 Regional Members must not describe themselves as a “local” Member for or having a particular interest in) only part of the region for which they were elected.

2.1.6 Constituency Members should not describe themselves as the sole AM for a particular area or constituency.

2.1.7 Members should take note of guidance issued by the Presiding Officer regarding the use of Assembly resources, for example, stationery, including guidance issued as appropriate in the context of a period prior to an election.

2.2 **Dealing with Constituency/Regional Issues**

***“Provision for Members to be able to take up a matter affecting the constituency or region for which they were elected whilst ensuring that courtesy is shown on matters affecting more than one constituency.”***

2.2.1 Any Assembly Member is entitled to take an interest in or take up a matter affecting the constituency or region for which that Member was elected. AMs may wish to contact one another, as a matter of courtesy, where they are involved or planning to become involved in a major local issue, which affects more than one constituency area or region.



## 2.3 Individual Constituents' Cases

***“Provision to protect the right of a constituent to approach his or her constituency Member, and/or any of the four regional Members elected in his or her region.”***

- 2.3.1 The basic principle is that the wishes of the constituent are paramount. Every constituent is represented by one constituency Member and four regional Members. It is for each constituent to decide whether to approach his or her constituency Member or any of the regional Members elected in his or her region and request that Member to take on a case. Constituents can approach any of the Assembly Members (constituency or regional) elected to represent them as all AMs have equal formal and legal status. Having agreed to take on a case, each AM must then take into account the wishes of the constituent in deciding how best to progress a case.
- 2.3.2 It is expected that each Member will take on a case when approached although it is recognised that there may be legitimate reasons for a Member to decline a constituent's case e.g. if that case seeks action which would represent a conflict of interest with existing casework or is contrary to the Member's political beliefs. If so, the Member would ordinarily be expected to inform the constituent that the Member is not taking up the case.
- 2.3.3 In very exceptional circumstances it may be appropriate for an AM to pursue an issue on behalf of a person who does not reside in that AM's constituency or region. Before doing so, an AM must be satisfied that there are circumstances which make it genuinely impractical or inappropriate for the issue to be taken up by one of the AMs who represent the person in question. Where such circumstances arise, an AM who proposes to take up the matter on behalf of such a person must, notify the AMs who represent that person, must provide an explanation and must seek the agreement of those AMs. Since such a course of action will only be appropriate in very exceptional circumstances it is possible that the information which it will be appropriate to provide by way of explanation in such a case may be limited. An AM may not take such a matter up without the agreement of the AMs who represent the person in question. AMs should not withhold agreement unreasonably.

## 2.4 Raising Matters with a Member of the Government

***“Provision to ensure that any Member is entitled to raise with the relevant member of the government a matter on behalf of a constituent in the area (constituency or region) for which they were elected.”***

- 2.4.1 Any Member is entitled to raise with the relevant Minister in the Welsh Assembly Government a matter on behalf of a constituent in the area for which that AM was elected.

2.4.2 AMs are reminded of the requirements of the Data Protection Act 1998 when processing personal data<sup>1</sup> and sensitive personal data<sup>2</sup>. (Particularly strict rules apply to the processing of sensitive personal data.) Members should not provide personal data or sensitive personal data about a constituent without the agreement of the constituent. In corresponding with Ministers or other agencies, AMs must ensure that any initial written or oral communication makes clear the basis upon which any personal data or sensitive personal data about a constituent is being provided<sup>3</sup>.

## 2.5 Members Operating in their Areas

***“Provision reflecting the expectation that Members will work throughout the area (constituency or region) for which they were elected.”***

2.5.1 It is expected that Members will work throughout the area (constituency or region) for which they were elected.

## 2.6 School Visits

***“Provision for notifying Members about official school visits to the Assembly organised by the Commission.”***

2.6.1 When schools and colleges are invited to visit the Assembly by the External Communications Service that service will notify the relevant Members (constituency and region). The level of participation in visits is at the Member's own discretion.

NB: These provisions do not cover visits arranged by individual Members.

## 2.7 Telephone Enquiries

***“Provision to guide the way in which telephone enquiries from members of the public to the Assembly's switchboard, seeking to contact a Member, are dealt with.”***

2.7.1 Members of the public calling the switchboard for a particular Member (constituency or regional) will be put through only to the Member concerned. If the Member is unavailable the person calling will be given the option of leaving a message. In approaching the Member of their choice, the wishes of constituents are of paramount importance. Members

---

<sup>1</sup> Personal data means data which relates to a living individual who can be identified from the data or other information e.g. a person's name along with their home address is personal data.

<sup>2</sup> Sensitive personal data is data which describes racial or ethnic origin of the individual who is subject to the data, their political opinions, religious beliefs or other beliefs of a similar nature, trade union membership, physical or mental health or condition, sexual life, commission or alleged commission of any offence or proceedings for any offence committed or alleged to be committed.

<sup>3</sup> For example, whether the constituent has agreed that their personal or sensitive information can be shared by the Minister or agencies, with others.

of the public who do not know the name of the Assembly Member they wish to speak to will be put through to the Assembly Information Line. The Information Line enters the caller's post code onto the constituency locator and information is given on the names of their constituency and regional Members. The member of the public will then decide which Member to be put through to.

## **2.8 Members' Staff**

***"Provision that Members should ensure that staff working for them, both within the Assembly and locally, including others working on their behalf with constituents, are aware of and act in accordance with Standing Order 1.13 and any code or protocol drawn up as a result of it."***

- 2.8.1 Members should ensure that staff working for them, both within the Assembly and locally, including others working on their behalf with constituents, are aware of and act in accordance with Standing Order 1.13 and this Code.

## **2.9 Enforcement**

***"Provision for any complaint against a Member in respect of the code or protocol to be referred to the Committee on Standards of Conduct."***

- 2.9.1 Any complaint against a Member in respect of the Code should be made to the Commissioner for Standards in accordance with the National Assembly for Wales' procedure for dealing with complaints against Assembly Members (the Complaints Procedure). The complaint will be handled in accordance with the Complaints Procedure. If the Commissioner considers that the complaint is admissible, the Commissioner will proceed to a Formal Investigation into the complaint and will make a report to the Committee on Standards of Conduct.

## Advice for Assembly Members considering standing for election

### 1.0 Purpose

- 1.1 Now that we are into the second half of the term of the Third Assembly, practical issues are likely to arise in relation to the use of Assembly resources for activities which could be interpreted as promoting the re-election of an Assembly Member to represent either that Member's current constituency or region or a different area. This guidance is intended to remind Members of the current rules and to help them to apply them.

### 2.0 Relevant legislation and guidance

- 2.1 Assembly Members hold a public office. The functions of that office include participation in the legislative and scrutinising business of the Assembly and also representation of the interests of those whom they were elected to represent, the residents of their constituency or region. Assembly Members may only use Assembly resources where this is necessary in order to enable them to discharge their duties as Assembly Members (see the current Salaries and Allowances Determination and Guidance on the Use of Assembly Resources).
- 2.2 In judging whether Assembly Members are acting within the scope of their office, regard must be given to the rules laid down in the Government of Wales Act 2006, in the Standing Orders made by the Secretary of State under the Act (as amended from time to time by the Assembly itself) and in any code or protocol made under Standing Orders.
- 2.3 An Assembly Member's salary is paid to a person who holds the office of Assembly Member. How a Member uses his or her time is not prescribed by the Act or any instrument made under it. If a Member chooses not to devote time to the office to which he or she was elected and to devote it instead to some other activity then that does not affect entitlement to the salary. It is up to Members how they use their time and their performance is judged at the ballot box.
- 2.4 If anyone wished to argue that a Member had not complied with the Code of Conduct or the code on regional/constituency Members to be issued by the Standards Committee, their route of complaint would be to the Standards Commissioner.
- 2.5 If an Assembly Member announces an intention to seek election for a constituency or region which that Member does not currently represent, and then begins to take up issues on behalf of individuals and bodies within that area then (subject to the qualifications in 2.6 and 2.7 below) this activity must not be supported by the use of Assembly resources. The Member would not have been elected to the Assembly to represent those individuals and bodies, so the activity would not be for the purposes of the Member's work as a Member.

- 2.6 Where an Assembly Member is seeking election for a constituency within the region which that Member currently represents the position is different because that Member must be free to represent everyone within the region in question. Members should however bear in mind the principle set out in paragraph 5 of the Annex to Standing Order 1, namely that there is the expectation that Members will work *throughout* the area (constituency or region) for which they were elected. It would be an abuse of a Member's position as a regional representative to neglect the interests of the region as a whole and in order to maximise the chance of being elected for an individual constituency within that region.
- 2.7 There may be exceptional circumstances under which it may be proper for an Assembly Member to take up an issue on behalf of individuals or bodies which that Member does not represent. This is recognised in Standing Order 1.13 which sets out key principles which must apply to the relationship between constituency and regional Members. Principle (v) provides that "no Member should deal with a constituency case or constituency issue that is not within his or her constituency or region (as the case may be) *unless by prior agreement.*" So if a constituency Member agrees that another Member may deal with a case or issue arising within the former's constituency then this *would* be within the latter's functions as a Member. This permits a Member (with prior agreement) to take up cases linked with ones which he or she is already pursuing or to pursue an issue where the constituency or regional Members could not do so because of a conflict of interest.
- 2.8 These rules do not in any way prevent or restrict any Member from campaigning for election as Member for a constituency or region which that Member does not currently represent. They only prevent public funds made available to a Member to support that Member's work as representative of his or her current constituency or region from being used to fund a campaign to be elected as Member for a different constituency or region which he or she does not currently represent.

### **3.0 Standards Committee**

- 3.1 The Standards Committee has agreed a draft code on the Roles and Responsibilities of Constituency Members and Regional Members. The next step will be for the draft to be put before the Assembly for approval.
- 3.2 The draft code contains provisions which are relevant to the issue addressed by this guidance. It prohibits a Member from taking up an issue on behalf of someone other than those who reside in that Member's constituency or region. It does *not* prohibit Members from attending events outside their areas or require them to consult the local Members before doing so.
- 3.3 A Member may, as a matter of courtesy, notify the local Members of a proposed event which he or she intends to attend, depending on the nature of the event and the circumstances. But as things stand that is a matter within the discretion of the Member in question.

## 4.0 Legal Rights

- 4.1 All Assembly Members have the right to freedom of expression, including the freedom to hold opinions and to receive and impart information and ideas without interference by public authority, under Article 10 of the Human Rights Act 1998. In addition, the United Kingdom is under a duty under that Act (Article 3 of the First Protocol) to hold free elections under conditions which ensure the free expression of the opinion of the people in the choice of the legislature. So any Member has the legal right to campaign for election as Assembly Member for any constituency or region, but has no legal right to use Assembly resources when doing so.
- 4.2 While Standing Order 1.13(v) prohibits Members from dealing with constituency cases arising outside their areas (unless by prior agreement), our advice is that this should only be interpreted as applying to Members *when acting as such*. An individual who is an Assembly Member cannot be prevented from doing something which a person who is not an Assembly Member can do. That would be an interference with the right of free expression. But in order to ensure that they do not breach Standing Order 1.13(v), Members must avoid dealing with such cases *as an Assembly Member*. If a Member wishes to take up issues as a prospective candidate, using their own resources and not those of the Assembly, and without taking advantage of their status as an Assembly Member in any way, then SO 1.13 would not prevent them from doing so.

## 5.0 Use of Assembly Resources

- 5.1 The guidance on use of Assembly resources says that Assembly resources should not be used for "supporting the return of candidates for public office". Assembly Members should not therefore use their Assembly telephone number, email address, letter headed paper, or the Assembly's logo other than in discharge of their duties as a Member. Use of these would be in breach of this guidance if the purpose is an election campaign.
- 5.2 Earlier this year we circulated our standard election guidance to Members (in the run-up to the European elections) which contains information about use of Assembly resources for electoral purposes and which are equally applicable in relation to Assembly elections. The relevant parts are:

"Campaigning for the return of a candidate to the European elections is not part of the duties of a Member of the Assembly and therefore may not be supported by the use of any resources or funds provided by the Assembly."

"The cost of any materials that may be of an election campaigning nature may not be funded from a Member's Office Costs Allowance nor may the postage of such items be funded from this source."

Assembly stationery may not be used nor can the material be photocopied using Assembly stationery nor sent for franking through the Assembly postal system. Assembly IT equipment and the Assembly's telephone system must not be used for election campaigning purposes. This includes the use of Assembly financed websites"

"...centrally funded resources must not be used to support any election campaigning activity"

- 5.3 Existing guidance on the Use of Assembly Resources is explicit that Members:

"Must ensure that they use Assembly resources (that is anything provided by the Assembly from public funds, including allowances, staff and facilities) *for the purposes of the Assembly ...*," and

"Assembly resources should not be used for the following purposes...*supporting the return of candidates for public office...*".

- 5.4 Similarly, the National Assembly for Wales (Assembly Members and Officers) Salaries & Allowances Determination 2009 states that "Allowances are only payable in respect of expenditure necessarily incurred *for Assembly business*." The general principle is clear - Assembly resources must only be used to support the work of an Assembly Member and this does not include campaigning for election or re-election.
- 5.5 Assembly Members should not use the Members' Research Service (MRS) for campaigning purposes. If a Member were to lodge enquiries about specific regions or constituencies which they do not represent but in which they are campaigning, or about relevant local issues, such enquiries would presumably be for campaigning purposes and, therefore, not something that MRS should answer.
- 5.6 Travel expenses are paid from Assembly resources so Members would be unable to claim them in relation to travel in the constituency or region in which they are campaigning.
- 5.7 The title "Assembly Member" is personal to each Assembly Member, until dissolution of the Assembly (when all Members will be unable to use it). We know of no reason why it should not be used right up until that point. If, however, a Member is campaigning for an area they do not currently represent, they must take care not to give the impression that they are the Assembly Member for the area in which they are campaigning; SO 1.13 (iv) "Members should not misrepresent the basis on which they are elected nor the area they serve."

## 6.0 Previous relevant guidance

- 6.1 There have been previous cases in which regional Assembly Members have stood for constituencies within the regions they represented. It was perfectly legitimate in those instances for the Members in question to take up cases on behalf of those living in the constituency as part of their existing Assembly duties as the constituencies were within the regions they represented as Assembly Members.
- 6.2 The issue that a regional Assembly Member might use his or her position unfairly to campaign for election for a constituency within the region was reflected in the requirement for standing orders to make provision for defining the respective roles of regional and constituency Members and in paragraph 5 of the Annex to Standing Order 1 which requires there to be a code or protocol incorporating provision "reflecting the expectation that Members will *work throughout* the area (constituency or region) for which they were elected".

18 June 2009



From Alun Davies AM's Facebook page. He spent all Friday, January 29th, 2010, in the Blaenau Gwent constituency:

**12:07 pm Having a coffee in Sidoli's in Ebbw Vale whilst sheltering from the rain!**

**1:45 pm Alun is eating a cheese sandwich in Nantyglo.**

**2:38pm It's snowing in Ebbw Vale!**

**4:13pm Great day's campaigning in Blaenau Gwent. Huge disillusionment and disappointment with Peoples Voice.....**



Bae Caerdydd  
Caerdydd  
CF99 1NA

Cardiff Bay  
Cardiff  
CF99 1NA

Cynulliad National  
Cenedlaethol Assembly for  
Cymru Wales

**TRISH LAW**  
**National Assembly Member for Blaenau Gwent**  
**Aelod Cynulliad Cenedlaethol Blaenau Gwent**

February 9<sup>th</sup>, 2010

Mr Richard Penn  
Commissioner for Standards  
National Assembly for Wales  
Cardiff Bay  
CF99 1NA

Dear Mr Penn

**Further complaint against Alun Davies AM**

Further to my letter to you of February 2<sup>nd</sup>, 2010, it has since been brought to my attention that Mr Alun Davies AM might have further contravened rules governing Assembly Members who are considering standing for election.

It is the policy of the present administration of Blaenau Gwent County Borough Council that each political group on the council should receive a briefing from the authority's Corporate Director for Resources in advance of the council's budget for the coming year being finalised.

So as part of his duties the director, Mr David Waggett, went to address the Labour group, and included in that gathering was Mr Alun Davies AM. Further to that, on Thursday afternoon, February 4<sup>th</sup>, 2010, Mr Davies received a personal, i.e. one-to-one briefing from Mr Waggett.

Standing Order 1.13 provides that "*no Member should deal with a constituency case or constituency issue that is not within his or her constituency or region (as the case may be) unless by prior agreement*".


Contact: Brian Walters  
Room A.2.10 National Assembly for Wales, Cardiff Bay, CF99 1NA  
Tel: Cardiff 029 20898562 Fax: 029 20898532  
e-mail: [Brian.Walters@wales.gov.uk](mailto:Brian.Walters@wales.gov.uk)

Setting the budget for Blaenau Gwent is clearly a constituency issue. I was not notified of Mr Davies's involvement in this and I certainly did not give my prior agreement.

Also, attached is a posting on Mr Davies's Facebook page yesterday (February 8<sup>th</sup>, 2010) which refers to a meeting concerning another constituency issue, a film and media project. I contend that this too is in contravention of Standing Order 1.13.

I would be grateful for your observations on the above in due course.

Yours sincerely



**Trish Law**

# Alun Davies

Add as Friend

Wall Info Photos Boxes



**Alun Davies** Heading to Ebbw Vale for a meeting on the Corus Site and to talk through the film and digital media project in Blaenau Gwent.  
19 seconds ago via Twitter



**Alun Davies** Busy busy Monday.... Back in the office and writing an article for Wales Home.  
39 minutes ago via Twitter



**Alun Davies** Back in Cardiff and heading to a seminar on language policy and taking part in a debate on the legislation that will be published very soon.  
4 hours ago via Twitter



**Alun Davies** Am receiving great help and comfort from Rev James.  
Sat at 7:15pm via Twitter



**Nicola Williams** Alun ur sooooo funny! ive just relived the whole game again readin ur status'....u doooo need help!!!  
pms!  
Sat at 7:25pm



**Christopher Apperley** Yeah that's a nice glass of beer!!  
Sat at 7:42pm



**Alun Davies** I am not happy.  
Sat at 6:49pm via Twitter



**Alun Davies** What a bloody disaster.  
Sat at 6:41pm via Twitter



**Alun Davies** Brilliant!!  
Sat at 6:38pm via Twitter



**Alun Davies** Right. Let's have a 2nd half like '08!  
Sat at 6:04pm via Twitter



**Alun Davies** What an idiot.  
Sat at 5:45pm via Twitter



**Alun Davies** At last.  
Sat at 5:37pm via Twitter



**Alun Davies** Why are we forced to watch the dreadful Guscott on BBC Wales?  
Sat at 4:39pm via Twitter

2 people like this.

**Standing Order 1.13: Different Roles and Responsibilities of Constituency Members and Regional Members**

1.13 The Assembly must make a code or protocol, to be drafted by the Committee on Standards of Conduct, in accordance with section 36(6) of the Act, about the different roles and responsibilities of constituency Members and regional Members. The code or protocol must include provision in line with the following five key principles and the Annex to Standing Order 1:

- (i) all Members have a duty to be accessible to the people of the areas for which they have been elected to serve and to represent their interests conscientiously;
- (ii) in approaching the Member of their choice, the wishes of constituents and/or the interests of a constituency or locality are of paramount importance;
- (iii) all Members have equal status;
- (iv) Members should not misrepresent the basis on which they are elected nor the area they serve; and
- (v) no Member should deal with a constituency case or constituency issue that is not within his or her constituency or region (as the case may be), unless by prior agreement.



April 6th, 2010

Mr Richard Penn  
Commissioner for Standards  
National Assembly for Wales  
Cardiff Bay  
CF99 1NA

Dear Mr Penn

**Complaint against Alun Davies AM**

Further to my letters to you of February 2nd and 9th, 2010, I now attach correspondence, obtained under the Freedom of Information Act, which verifies two of my earlier allegations:  
1/ that Alun Davies AM has been dealing with a constituency issue that is not within his region, contrary to Standing Order 1.13  
2/ that in pursuance of 1/ Alun Davies AM has used Assembly resources to further his election campaign, contrary to guidance contained in the recently published '*Advice for Assembly Members considering standing for election*'.

You will see that there are no fewer than eight separate pieces of correspondence between Alun Davies AM and Leighton Andrews AM, in his capacity as Minister for Children, Education and Lifelong Learning, on the issue of the proposed closure of Nantyglo Comprehensive School. I contend that this is a constituency issue which has nothing at all to do with his Mid and West Wales region.

Standing Order 1.13 provides that "*no Member should deal with a constituency issue that is not within his or her constituency or region (as the case may be) unless by prior agreement*". Certainly there was no prior agreement.

The guidance to AMs considering standing for election stipulates that Members should not use their Assembly telephone number, email address, letter headed paper, or the Assembly logo other than in discharge of their duties as a Member. It says: "Use of these would be in breach of this guidance if the purpose is an election campaign".

Alun Davies has used all these resources in pursuit of his election campaign:-  
I attached to my correspondence of February 2nd, 2010, an article in the *Gwent Gazette* in which Mr Davies invited people interested in visiting the Assembly to contact him by ringing his Assembly telephone number, contrary to the guidance.  
You will see from the attached correspondence that Mr Davies has used letter headed paper on four occasions in correspondence concerning a constituency issue, i.e. the proposed closure of Nantyglo School.  
You will also note that Mr Davies used his Assembly email account on February 1st, 2010, for correspondence on the same constituency issue.  
The letter headed paper includes, of course, the Assembly logo.

It has been pointed out to me that this is a unique case. It therefore sets a precedent, and other similar cases may follow. I therefore maintain that this unique complaint warrants the consideration and determination of the full Standards Committee.

Furthermore, I understand that you have made it clear to Mr Davies that he should not involve himself in constituency issues outside his Mid and West region. At a parents' meeting held on Monday, March 29th, following Leighton Andrews' decision to close Nantyglo School Alun Davies AM got up to deprecate that decision and he promised parents he would challenge figures

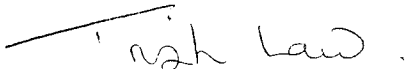
produced by the local authority to justify closure.

It seems, therefore, that Mr Davies has paid no heed to the warning not to meddle in constituency matters outside his own patch.

And I have had reports of others matters concerning my constituency in which he has interfered. That, I believe, adds weight to the argument that there should be a ruling on my complaint by the full Standards Committee.

I look forward to hearing from you.

Yours sincerely

A handwritten signature in cursive script that reads "Trish Law". The signature is written in dark ink and is positioned above the printed name.

**Trish Law**

**Doc 1A: List of Information released in response to FOI request: 4056**

Doc Ref	Subject	Date	To	From
1B	Closure of Nantyglo Comprehensive School	08.01.2010	Leighton Andrews AM	Alun Davies AM
2	Closure of Nantyglo Comprehensive School	11.01.2010	Leighton Andrews AM	Alun Davies AM
3	Closure of Nantyglo Comprehensive School	19.01.2010	Alun Davies AM	Leighton An Alun Davies AM drews AM
4	Closure of Nantyglo Comprehensive School	26.01.2010	Leighton Andrews AM	Alun Davies AM
5	Closure of Nantyglo Comprehensive School	03.02.2010	Alun Davies AM	Leighton Andrews AM
6	Closure of Nantyglo Comprehensive School	01.02.2010	Alun Davies AM	Leighton Andrews AM
7	Closure of Nantyglo Comprehensive School	04.02.2010	Alun Davies AM	Leighton Andrews AM
8	Closure of Nantyglo Comprehensive School	04.02.2010	Leighton Andrews AM	Alun Davies AM
9	Closure of Nantyglo Comprehensive School	10.02.2010	Alun Davies AM	Leighton Andrews AM



Leighton Andrews AC/AM

Y Gweinidog dros Blant, Addysg & Dysgu Gydol Oes  
Minister for Children, Education & Lifelong Learning



Llywodraeth Cynulliad Cymru  
Welsh Assembly Government

Eich cyf/Your ref  
Ein cyf/Our ref LA/00374/10

Alun Davies AM  
National Assembly for Wales  
Cardiff Bay  
Cardiff  
CF99 1NA

4 February 2010

Thank you for your letter of 4 February 2010 about the proposed closure of Nantyglo Comprehensive School.

I note the points you have raised in relation to transition and transport arrangements. These are matters that will be dealt with as part of my consideration of the proposed closure and it would not be appropriate for me to comment on any assessment of them in advance of my decision.

On the question of the structure of secondary education more generally in Blaenau Gwent, as you know, the planning and provision of school places is the responsibility of the local authority. I am aware that, in accordance with its responsibility, the local authority is currently considering a number of possible changes to secondary schools, but I am unaware of any reason why it would be appropriate for the Welsh Assembly Government to directly intervene in this process. As you already know, I must retain an impartial role so as not to prejudice any future decisions on school reorganisation proposals that I might be required to make in due course.

**Leighton Andrews AM**  
Minister for Children, Education & Lifelong Learning  
Y Gweinidog dros Blant, Addysg & Dysgu Gydol Oes

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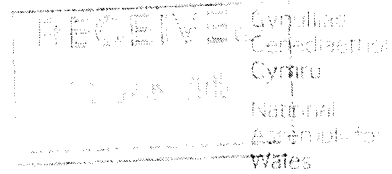
*Wedi'i argraffu ar bapur wedi'i ailgylchu (100%)*

English Enquiry Line 0845 010 3300  
Llinell Ymholiadau Cymraeg 0845 010 4400  
Ffacs \* Fax 029 2089 8129  
Correspondence: [Leighton.Andrews@wales.gsi.gov.uk](mailto:Leighton.Andrews@wales.gsi.gov.uk)  
*Printed on 100% recycled paper*

# Alun Davies AM

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08 January 2010

Leighton Andrews AM  
Minister for Children, Education and Lifelong Learning  
Welsh Assembly Government  
Cardiff Bay  
CF99 1NA

A handwritten signature in black ink, appearing to read 'Leighton Andrews'. The signature is fluid and cursive, written in a professional style.

**Re: Closure of Nantyglo Comprehensive School**

Can I firstly take this opportunity to congratulate you on your appointment and also to wish you and your family a very happy new year.

I write today to ask you to support objections to the proposal to close Nantyglo Comprehensive School.

In my opinion the processes that have been followed by Blaenau Gwent County Borough Council have been flawed and as a result the decision to close the school is the wrong decision.

I believe that there has been insufficient and inadequate consultation with major stakeholders in the area and, secondly, that there has been insufficient consideration given by the authority to the future pattern of secondary and tertiary education within the borough.

A number of stakeholders in the Ebbw Fach Valley have approached me with some real concerns about the structure of the consultation process put in place by the borough council. I have been told that people in the communities feel that their views were neither sought nor were their views taken seriously by the authority. The communities feel that the borough council had, in effect, taken the decision to close the school prior to undertaking this flawed process and that the process had been regarded as the bare minimum necessary to reach a pre-agreed conclusion.

Examples of this failure to properly consult are the borough council's refusal to listen to alternative proposals or to consider any further options for the future of secondary education in the Ebbw Fach Valley. I believe that this is entirely contrary to the Welsh Assembly Government's policy and desire for local authorities to actively seek to involve the local community in any decision and also to actively consider any alternative proposals put forward as a result of this process. For instance a number of well-worked alternatives to closure, such as federation and closer cooperation with schools in the area were proposed to the authority but these were not considered and no further consultation was undertaken on these proposals.

At the same time the failure to adequately involve community councils in the valley demonstrates a clear desire on the part of the authority to keep public debate to a minimum and not to involve all stakeholders in an informed and positive and active debate. This is directly contrary to the stated policy of the Welsh Assembly Government as I understand it and also directly at odds with the views that you have expressed on a number of occasions.

The authority appears to be taking this decision at a time of profound and exhilarating change for education throughout Blaenau Gwent. We have already discussed the huge investment that the Welsh Assembly Government is making in the borough and the impact that this will have on the learning opportunities for people throughout the whole of Blaenau Gwent. I have some concerns that this investment may be endangered by the policy which is currently being pursued by the authority. My main concern is that this decision will pre-empt other decisions and may impact the business case for the learning campus in Ebbw Vale.

The Welsh Assembly Government will be investing £46m in developing this exciting venture which will transform the learning and educational opportunities for the people of Blaenau Gwent. To make this investment a real success and to ensure that the opportunities for learning within the borough are maximised then the authority must ensure that all its policies and all its decisions dovetail into the overall policy approach and vision for education when the learning campus opens its doors. The decision not to include post-16 education and the Learning Campus within the secondary education review so that their impact could be assessed was flawed.

I am very concerned that the authority appears to be taking a piecemeal approach which is neither strategic nor intelligent. It would appear that decisions are driven by considerations which are at odds with the overall vision and the overall policy approach. There is a real danger that this approach from the authority could endanger the whole learning campus investment.

I would therefore request that you ask Blaenau Gwent to reconsider its proposals for reorganising secondary education in the Ebbw Fach Valley and to refer back the proposed closure of Nantyglo Comprehensive School for reconsideration by the authority. I would also ask you to ensure that any further consultation carried out by the authority is on a borough-wide basis and looks at all options for reorganising secondary education throughout the borough – and over a longer period of time – that will both deliver high quality learning and educational experience both today and for the future. The ability of Blaenau Gwent to deliver such opportunities will be critical to its ability to support people both in times of recession and also to maximise the opportunities as we move back towards economic growth.

Whilst I appreciate that you will not be able to discuss this individual case at present, I do believe that it would be useful for you to look at the overall provision for secondary education in Blaenau Gwent and how the proposed plans will fit into the Learning Campus vision that has been funded and led by the Welsh Assembly Government. At present I am concerned that the full potential of the new Learning Campus will not be realised because of poor decision-making and poor planning and coordination of secondary education in the borough.

Yours sincerely,

*Give the best*

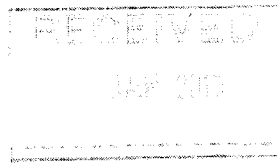
*Alun*

ALUN DAVIES AM

*[Handwritten signature line]*

Alun Davies AM

National Assembly for Wales  
Cardiff Bay  
Cardiff  
CF99 1NA  
Tel • Ffôn : 02920898300 Fax • Ffacs: 02920898302  
Email • Ebost: Alun.Davies@wales.gov.uk  
<http://www.alundavies.co.uk>



Cynulliad  
Cenedlaethol  
Cymru  
National  
Assembly for  
Wales



11 January 2010

Leighton Andrews AM  
Minister for Children, Education and Lifelong learning  
Welsh Assembly Government  
Cardiff Bay  
Cardiff  
CF99 1NA

Re: Nantyglo Comprehensive School

You will be aware that I have written to you regarding the closure of Nantyglo Comprehensive School.

I now attach an estate agent's advertisement for the caretaker's bungalow at the school which has been passed to me by residents in Nantyglo.

I was astonished to see this advertisement at a time when you are still considering the case. In my view this reinforces the statement that Blaenau Gwent County Borough Council has not followed the proper processes that I made to you in my correspondence urging you not to accept the case for closure. It would appear that Blaenau Gwent County Borough Council continue to assume that your role in this process is a formality and that decisions taken by the authority will not be either challenged or subject to rigorous examination.

This confirms a pattern of behaviour where the authority have taken the decisions and have not followed due process or have undertaken any serious consultation with the local community or seriously considered alternatives to closure. This is directly contrary to the policy and guidelines published by the Welsh Assembly Government.

I would urge you to direct Blaenau Gwent County Borough Council to restart this whole process immediately and to follow all the guidelines and processes set out by the Welsh Assembly Government.

Yours sincerely,

All the best,

ALUN DAVIES AM

Leighton Andrews AC/AM  
Y Gweinidog dros Blant, Addysg & Dysgu Gydol Oes  
Minister for Children, Education & Lifelong Learning



Llywodraeth Cynulliad Cymru  
Welsh Assembly Government

Eich cyf/Your ref  
Ein cyf/Our ref LA/00079/10 & LA/00080/10

Alun Davies AM  
National Assembly for Wales  
Cardiff Bay  
Cardiff  
CF99 1NA

15 January 2010

Thank you for your letters of 8<sup>th</sup> and 11<sup>th</sup> January 2010 about the proposed closure of Nantyglo Comprehensive School.

I note the points you have made in your letters but given my statutory role in determining the local authority's proposal, it would be inappropriate for me to make any comment at this stage. Nevertheless, let me assure you that a thorough examination of all the issues relating to this proposal will be made before a final decision is taken.

**Leighton Andrews AM**  
Y Gweinidog dros Blant, Addysg & Dysgu Gydol Oes  
Minister for Children, Education & Lifelong Learning

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1NA

*Wedi'i argraffu ar bapur wedi'i ailgylchu (100%)*

English Enquiry Line 0845 010 3300  
Llinell Ymholiadau Cymraeg 0845 010 4400  
Facs \* Fax 029 2089 8129  
Correspondence: Leighton.Andrews@wales.gsi.gov.uk  
*Printed on 100% recycled paper*

Alun Davies AM

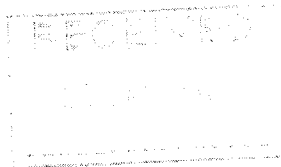
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Cyfrinfaeth  
Cymru

National  
Assembly for  
Wales



26 January 2010

Leighton Andrews AM  
Minister for Children, Education and Lifelong learning  
Welsh Assembly Government  
Cardiff Bay  
CF99 1NA

Re: Closure of Nantyglo Comprehensive School

I write again on the above subject following a meeting that the local campaign group of parents and governors held with Blaenau Gwent Councillors.

Earlier in the month campaigners met with Nantyglo's two local councillors – Cllr Des Hillman and Cllr John Mason, respectively Leader and Deputy Leader of Blaenau Gwent Council. I attach a report of the meeting which was posted on the campaign's Facebook site and which will give you a flavour of the tone of the meeting. Taken as a whole, this is a shocking report. I am sure that you will agree with the conclusions reached in the report.

Clearly the failure of both the Leader and Deputy Leader of the council to make the argument undermines the case made by the council for the school's closure. It also demonstrates a critical uncertainty within the council with its current proposals for secondary reorganisation.

The situation facing secondary education in Blaenau Gwent is now critical. There is confusion and uncertainty, no local leadership, with little strategic thought and planning.

I would ask you to step into this situation immediately. In my view this process now has little credibility and if the leadership of Blaenau Gwent CBC are unable to explain their decision-making to a group of parents then it is difficult to see how the Welsh Assembly Government could have any confidence in the process either.

In my view there needs to be an urgent, robust and intelligent review not only of the initial decision to close Nantyglo Comprehensive School but also of other decisions on the future provision of secondary education in the borough which are being taken at present. Without such a review there is a clear danger that the potential of the investment in the Learning Campus will not be realised but also that there will be little positive results of this investment.

I recognise that you are unable to meet to discuss the immediate issue of Nantyglo Comprehensive School but I would be delighted to meet you at the earliest possibility to discuss the wider strategic issues facing secondary education in Blaenau Gwent.

Yours sincerely,

All the best

ALUN DAVIES AM

Leighton Andrews AC/AM  
Y Gweinidog dros Blant, Addysg & Dysgu Gydol Oes  
Minister for Children, Education & Lifelong Learning



Llywodraeth Cynulliad Cymru  
Welsh Assembly Government

Eich cyf/Your ref  
Ein cyf/Our ref LA/00268/10

Alun Davies AM  
National Assembly for Wales  
Cardiff Bay  
Cardiff  
CF99 1NA

3 February 2010

*Dear Alun,*

Thank you for your letter of 26<sup>th</sup> January 2010 about the proposed closure of Nantyglo Comprehensive School.

As I explained to you in my letter to you of 19<sup>th</sup> January 2010, my statutory role in determining the proposal prevents me from commenting on it at this time, but I will consider the points you raise before reaching my decision.

With regard to your request for a meeting to discuss the wider strategic issues facing secondary education in Blaenau Gwent, I am of course aware that there are considerable implications for secondary education in the authority's area arising from the proposed redevelopment of the former steelworks site in Ebbw Vale. However, if the suggested Learning Campus and proposed replacement secondary school are taken forward, they will also require school organisation proposals. As a consequence, and once again in order to preserve my impartiality in the determination of disputed proposals, it would not be appropriate for me to meet with you to discuss these matters.

*Yours ever*

**Leighton Andrews AM**  
Y Gweinidog dros Blant, Addysg & Dysgu Gydol Oes  
Minister for Children, Education & Lifelong Learning

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1NA

Wedi'i argraffu ar bapur wedi'i ailgylchu (100%)

English Enquiry Line 0845 010 3300  
Llinell Ymholiadau Cymraeg 0845 010 4400  
Ffacs • Fax 029 2089 8129  
Correspondence: Leighton.Andrews@wales.gsi.gov.uk  
Printed on 100% recycled paper

From: Davies, Alun (Assembly Member)  
Sent: 01 February 2010 11:46  
To: PS Minister for Children, Education, Lifelong Learning & Skills  
Subject: Urgent request for information

I have been contacted this morning by Nantyglo and Blaina Town Council who are seeking urgent clarification on the future of Nantyglo Comprehensive School. School Governors at the school have today been contacted by Blaenau Gwent County

Borough Council to discuss their redundancy. This was communicated to them as being "following the Minister's decision". There has been no correspondence that the Town Council is aware of on the matter

of the school or any decision by the Minister that has been communicated to the School Governors. I am therefore urgent seeking clarification whether the Minister has reached a decision on the future of the school.

I would be grateful for a timely response to this email.

My mobile number is

Please acknowledge receipt of this email and state when you will be rising this with the Minister.

Thanks

Alun

Alun Davies AC / AM

Llafur - Labour

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Derbyniwyd y neges e-bost hon o'r RHYNGRWYD a chafodd ei sganio gan wasanaeth gwrthfeirysau Mewnwyd Ddiogel y Llywodraeth (GSI) a ddarparwyd gan Cable&Wireless mewn partneriaeth â MessageLabs. (Rhif Tystysgrif CCTM 2006/04/0007). Os oes gennych unrhyw broblemau, cysylltwch â Lline11 Gymorth TG eich sefydliad.

Mae'n ddigon posibl y bydd unrhyw ohebiaeth drwy'r GSI yn cael ei logio, ei monitro a/neu ei chofnodi yn awtomatig am resymau cyfreithiol.



Leighton Andrews AC/AM  
Y Gweinidog dros Blant, Addysg & Dysgu Gydol Oes  
Minister for Children, Education & Lifelong Learning

Oddiwrth yr Ysgrifennydd Preifat  
From the Private Secretary



Llywodraeth Cynulliad Cymru  
Welsh Assembly Government

Eich cyf/Your ref  
Ein cyf/Our ref LA/00303/10

Alun Davies AM  
1st Floor  
32 Blue Street  
Carmarthen  
Carmarthenshire  
SA31 3LE

*H* February 2010

Dear Alun Davies AM,

Thank you for your e-mail enquiry of 1<sup>st</sup> February 2010 to Leighton Andrews AM, Minister for Children, Education and Lifelong Learning, about the proposal to close Nantyglo Comprehensive School. The Minister is yet to reach a decision in relation to this matter but has ensured that you will be informed as soon as he does.

Yours Sincerely,

**Helen Childs**

Ysgrifenydd Preifat i Leighton Andrews AC/AM  
Private Secretary to Leighton Andrews AM/AC

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1NA

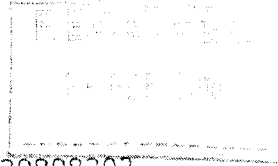
*Wedi'i argraffu ar bapur wedi'i ailgylchu (100%)*

English Enquiry Line 0845 010 3300  
Llinell Ymholiadau Cymraeg 0845 010 4400  
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Alun Davies AM

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Cynulliad  
Lleol Ddiploma  
Cymru

National  
Assembly for  
Wales



04 February 2010

Leighton Andrews AM  
Minister for Children, Education & Lifelong Learning  
Welsh Assembly Government  
Ty Hywel  
Cardiff Bay  
CF99 1NA

Re: Nantyglo Comprehensive School

I attach another update from the campaigns group fighting the closure of Nantyglo Comprehensive School for your information.

As you will see from this correspondence it refers again to the confusion within the political leadership of Blaenau Gwent County Borough Council. There appears to be little appreciation of the implications of the policy that is being proposed and pursued by the authority.

More worryingly perhaps the update also refers to some very serious concerns that have been expressed about the interim arrangements that would be put in place if a decision to close the school were to be taken. These concerns refer to both arrangements for the education provided for pupils and also some profoundly important road safety issues. I would be grateful if you could let me know what work the Assembly Government has undertaken to test the suitability and basic safety of the arrangements as proposed by Blaenau Gwent. It would appear to me that the political leadership of the authority are unable to give parents some basic assurances over the safety of pupils under these arrangements and this would also appear to undermine the overall case made by the authority for the closure of the school.

I have already written to you on my concerns that the confusion within the leadership of the authority may endanger the overall investment that is being made by the Welsh Assembly Government on the Learning Campus. This latest report underlines these concerns and I would repeat my request for an investigation by the Welsh Assembly Government into the structure of secondary education in the borough.

Yours sincerely,


*All the best*

ALUN DAVIES AM

---

Bae Caerdydd  
Caerdydd  
CF99 1NA

Cardiff Bay  
Cardiff  
CF99 1NA



Cynulliad National  
Cenedlaethol Assembly for  
Cymru Wales

**TRISH LAW**  
**National Assembly Member for Blaenau Gwent**  
**Aelod Cynulliad Cenedlaethol Blaenau Gwent**  
*February 2<sup>nd</sup>, 2010*

Mr Richard Penn  
Commissioner for Standards  
National Assembly for Wales  
Cardiff Bay  
CF99 1NA

Dear Mr Penn

**Complaint against Alun Davies AM**

I would like to bring to your attention some electioneering activities involving the above AM which, I submit, fail to comply with the Code of Conduct or the code on regional/constituency Members as issued by the Standards Committee.

The above Member for Mid and West Wales has been selected as prospective Labour Party candidate for the Blaenau Gwent constituency.

You will see from the attached newspaper article (*Gwent Gazette*, Thursday, January 28<sup>th</sup>, 2010) that a group of town council members from Tredegar in my constituency recently visited the Senedd at the invitation of Mr Davies. This inevitably involved the use of Assembly resources but I have to accept that the Senedd is a public building and I make no complaint on that ground.

However, I am reliably informed that a press release concerning the visit was despatched from Mr Davies's Assembly office. Clearly this is contrary to guidance on the use of Assembly resources which states that such resources should not be used for "supporting the return of candidates for public office".

Contact: Brian Walters  
Room A.2.10 National Assembly for Wales, Cardiff Bay, CF99 1NA  
Tel: Cardiff 029 20898562 Fax: 029 20898532  
e-mail: [Brian.Walters@wales.gov.uk](mailto:Brian.Walters@wales.gov.uk)

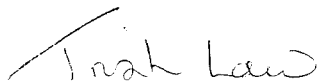
I do not know who is responsible but please note that the caption to the attached photograph refers to 'Tredegar AM Alun Davies'. I have written a letter to the paper correcting this error and I have been assured by the editor that it will be published this week.

Please also note that at the end of the article Mr Davies extends an invitation to "any community group in Blaenau Gwent" to visit the Senedd. He then proceeds to invite interested parties to telephone his Assembly office, i.e. 02920 898300. The recently published 'Advice for Assembly Members considering standing for election' stipulates that AMs should not use their Assembly telephone number, email address, letter headed paper, or the Assembly's logo other than in discharge of their duties as a Member. It adds: "Use of these would be in breach of this guidance if the purpose is an election campaign."

I also attach an extract from Mr Davies's Facebook page which clearly shows he spent quite some time in Blaenau Gwent last Friday. While I acknowledge that the Government of Wales Act 2006 does not prescribe how a Member uses his/her time I would maintain that it is an abuse of a regional AM's position to neglect the interests of his region. Friday has always been designated a 'constituency day' and I have taken that to mean that an AM is expected to spend time in his or her constituency and not somebody else's. However I have to accept that any Member has the legal right to campaign for election as Assembly Member for any constituency or region. It is the fact that an AM has no legal right to use Assembly resources when doing so that I am challenging in the case of Mr Davies. I am also under the distinct impression that Mr Davies is sending material to Facebook from his Assembly office and/or the chamber in the Senedd, i.e. using Assembly resources for electioneering purposes.

I look forward to hearing from you in due course.

Yours sincerely



**Trish Law**

# A trip to the Senedd

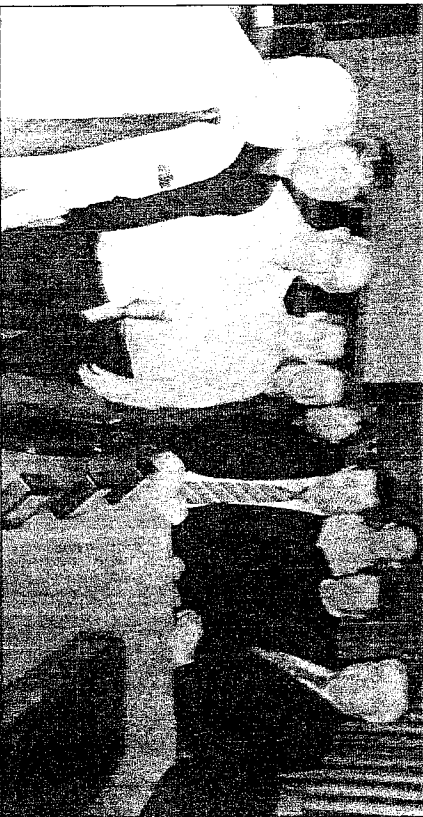
Emma Mackintosh

gwent.gazette@walesonline.co.uk

STREET level politicians got a taste of the big time recently when a group of Tredegar town councillors travelled to Cardiff Bay and the Senedd this week.

First Minister Carwyn Jones interrupted his schedule to show the councillors round the 167m building.

Following an invitation from Tredegar town Assembly member for member for Mid and West Wales Alun Davies, eight



Members of Tredegar Town Council in the Assembly Chamber with First Minister Carwyn Jones and Tredegar AM Alun Davies.

members of Tredegar town council travelled the 28 miles to Cardiff Bay for the tour.

The first Minister took time out of his preparations for first Minister's questions to join the councillors as they looked around the Assembly chamber, giving an insight into his role and how he deals with the challenges of his new post.

Afterwards the councillors stayed to watch First Minister's questions and listen in on a debate on the Government's response to recent Boshch job losses in Afkwm.

Mr Davies admitted feeling nervous be-

ing watched by the councillors from the gallery as he questioned the First Minister.

"It was great to see people from Tredegar visiting the Assembly and seeing what happens for themselves," said Mr Davies who will be standing as the Labour Party candidate for Blaenau Gwent in the next Assembly elections.

"I hope my community group in Blaenau Gwent who'd like to visit the Senedd will get in touch and we can arrange a tour."

To arrange a tour call Mr Davies on 02920 898300.

From Alun Davies AM's Facebook page: He spent all Friday, January 29th, 2010, in the Blaenau Gwent constituency.

12:07 pm Having a coffee in Sidoli's in Ebbw Vale whilst sheltering from the rain!

1:45 pm Alun is eating a cheese sandwich in Nantyglo.

2:38pm It's snowing in Ebbw Vale!

4:13pm Great day's campaigning in Blaenau Gwent. Huge disillusionment and disappointment with Peoples Voice.....

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## **Annex D Written response dated 9 July 2010 from Alun Davies AM**

### **Note to Standards Committee**

#### **Introduction**

I understand a charge that I have breached the code of conduct governing the relationship between regional and constituency Members has been made against me by Mrs Trish Law.

I dispute this and wholly reject the allegations that have been made against me by Mrs Law.

In order to help the Committee in its consideration of this matter I outline below some background notes which I believe will be relevant and will allow the Committee to understand why I reject the complaint and the basis upon which it has been brought.

#### **The code on different roles and responsibilities of constituency and regional members**

My understanding is that this code has been drawn up in order to regulate the relationship between different Members following concerns that were raised during the first and second Assemblies. The code was demanded by the 2006 Government of Wales Act.

The code describes the different roles and the responsibilities of Members. Much of the code is straightforward and common sense. However the code is, in my view, probably deficit because it does not describe where it should be used and in what circumstances. Perhaps more importantly in this case, it does not describe where the code does not apply and where the code should not be used.

At present the code does not set out that its purpose is to regulate the work of Members when they are acting as Members – and not to regulate the political activities of Members when they are fulfilling a different role.

I do not believe that the code was intended to be used either to prevent Members campaigning for election or to regulate their political activities as distinct from their activities as Assembly Members. To use the code in this way – i.e. to prevent Members exercising their rights as UK citizens to stand for, and contest elections to public office – is, in my view, an abuse of the code.

This is crucial point of principle and I believe has been accepted by the Standards Commissioner in his ruling on another complaint by Mrs Law with reference to my use of Assembly resources.

### **Advice for Assembly members considering standing for election**

The additional Guidance for Members seeking election regulates the activities of Members seeking election and clearly differentiates between the roles of Members acting as Members and the role of Members acting as candidates. For instance,

Paragraph 4 of the Guidance states "Allowances are only payable in respect of expenditure necessarily incurred for Assembly business."

Paragraph 2.5 also states "the activity [campaigning for election] would not be for the purposes of the Member's work as a Member."

In my view this makes clear the distinction between my role as a Member and any other role that I may play from time to time.

If a Member is acting as a candidate and not as a Member – and therefore unable to access the benefits of being a Member such as the resources of the Assembly and the status of being a Member – then, in my view, a Member is clearly acting in a personal capacity and as such any activities undertaken in that capacity are also personal and cannot be reasonably regulated by the Assembly in the way that is suggested by this complaint.

If the Assembly were to extend the regulation of Member's activities beyond that which is already regulated as a part of the Member's work as a Member then there would be significant issues where the Assembly could be seen to acting ultra vires and limiting an individual's basic human rights, in this case to stand and campaign for election. In my view this would expose the Assembly to potential legal challenge and to a judicial review of its decisions.

### **Conclusion**

I strongly believe that how I campaign and the actions that I take in support of an election campaign are regulated not by the Assembly but by UK law.

In my view the political activities that I undertake in a personal capacity, and not when acting as the Member for Mid and West Wales, are not a matter where the Assembly has either legal competence or where the Assembly has the right to intervene –



although I do accept that the Assembly may take action where a Member may be perceived to have acted in such a way as to bring the office or the institution into disrepute.

As a prospective candidate in the next Assembly elections in 2011 I will strongly assert that I have the same right to campaign and to seek office as any other UK citizen. The misuse of this code in this case seeks to place me in a situation where I have significant limitations placed upon my ability to seek election to public office simply because of my membership of the National Assembly. This would have the effect of limiting my fundamental human rights and freedoms in a way which is wholly unacceptable and incompatible with UK law.

Finally it is important to note that this complaint has not been made in order to either uphold the code of conduct for Assembly Members or to protect and safeguard public resources. The complaint has been made in order to try to prevent me from effectively contesting the Blaenau Gwent seat at the next Assembly election in 2011 and to prevent me from campaigning for election in advance of May 2011. It is a profoundly anti-democratic complaint and one which, if accepted by the Standards Committee, could undermine public confidence in the Assembly to regulate the activities of Members.

I therefore invite the Committee to reject this vexatious complaint.

Alun Davies AM  
9 July 2010

## Annex E

### Record of Proceedings of the oral hearing at the Committee on Standards of Conduct on 15 July 2010

**Jeff Cuthbert:** This meeting is being held in accordance with section 7 of the procedure for dealing with complaints against Assembly Members. We agreed on 7 July, in accordance with the procedure, that it should be held in private. There will also be a Record of Proceedings of the oral part of this meeting. Everyone is present, so there are no apologies.

Now, in terms of information that Members already had, you have had the report of the complaint issued by the commissioner for standards; that was issued at our last, or last but one, meeting. We then had the follow-up to complete those papers—the letter dated 2 February from Trish Law to the standards commissioner, which was referred to in the initial report, but was not actually included, so that, for the sake of completion, was added. And then, over the last couple of days, we have had a note from Alun Davies. That was in response to our decision that he could be invited to submit any further written or oral response. So, he has taken up the opportunity to provide a written response and still has the opportunity, of course, to make an oral contribution in a few moments.

In terms of the procedure now, in a few moments, I will, with your agreement, be asking the commissioner for standards, Richard Penn, to say any words that he feels are necessary in terms of explanation of his report and then certainly to take any questions of a factual nature on the report. We have already had the report, of course, and I do not want to go into issues of argument in terms of the report. Alun, you will have the opportunity as well, if you wish, to ask any questions in terms of factual matters of the commissioner. I will then invite Alun to say any additional comments that he may want and then take questions from Members and, indeed, from the commissioner, provided that you have got no objection to that, Alun, in terms of matters of fact. I think that is important, because your paper came to us quite recently, so the commissioner had not seen that paper, for example, so there may well be questions that he may want to ask, purely in relation to that paper. Once we have concluded our questioning, then Alun and Richard will withdraw and we will consider our response on what we have heard. Does that sound fair enough? [ASSEMBLY MEMBERS: ‘Yes’.] Thank you very much.

I wonder if I could turn to you, Richard. Is there anything that you wish to say by way of opening comments? If not, we will go into questions. Commissioner?

**Mr Penn:** Thank you, Chair, and thank you for the opportunity to introduce my report. It is not a long report. It is, I hope, clearly written, with a clear statement of the evidence. At paragraph 4 is my summary and conclusion. I suppose that is encapsulated in paragraph 4.7, where I set out my conclusion and the reason for it. What I would want to do as well, Chair, is to make sure—well, I am sure that Members have read paragraph 5; paragraph 5 isn’t about the complaint per se, it is about the code and some issues that have arisen in my dealing with the complaint, and I will be writing to the committee separately on the code and some concerns I had as a result of my investigation. But, I think, or hope, that my report is clear about the complaint itself and my conclusion in relation to it following my formal investigation.

**Jeff Cuthbert:** Yes, thank you. I can assure you that I did refer to section 5 of your report and Members will have read that. Okay, we will go into questions. Before I turn to the Members, Alun, is there any question that you would like to put to the commissioner at this point?

**Alun Davies:** No.

**Jeff Cuthbert:** Okay. Thank you. I will look to Members, then, for any questions that you may have to put to the commissioner.

**Chris Franks:** To the commissioner?

**Jeff Cuthbert:** To the commissioner, yes.

**Jenny Randerson:** Just one.

**Jeff Cuthbert:** Jenny?

**Jenny Randerson:** For the sake of absolute clarity, the code is, in my recollection, based on the Government of Wales Act 2006, which sets down certain parameters in which we now operate, but were not necessarily the case in the previous Assembly. Am I correct in that?

**Mr Penn:** Yes, Chair. The code is at annex 8 of my report. You are absolutely right, it originated in the last Assembly and saw the light of day through this committee that drafted the code that is now in operation in the third Assembly. It was not the code that was operating in the two previous Assemblies.

**Jenny Randerson:** Thank you.

**Jeff Cuthbert:** Thank you. I should, of course, welcome Keith as well to this meeting, our legal adviser. Do you want to add anything to that point?

**Mr Bush:** No.

**Jeff Cuthbert:** Okay, thanks. Any other Member wishing to raise a question? Right, okay, thank you very much. We will now move on to the next point, which is to invite Alun to say any introductory remarks on his paper or anything, indeed, related to this issue.

**Alun Davies:** Thanks very much, Jeff, I appreciate that. Let me say first of all, I do not have a problem with any of these codes. I understand the issues which arose in the previous Assemblies which led to a call for a code of conduct on the different roles of constituency and regional Members. I felt that the concerns raised by Members at that time were reasonable concerns, and I have no difficulty with them. I think the code is deficient, as I pointed out in the note I have sent you. It is deficient in that it does not describe how the code is to be used.

I will refer to some of the complaints that have been made by Trish Law, but I think, first of all, it is worth saying that these complaints are made with one purpose and one purpose only, and that is to prevent me exercising my democratic rights not only to stand for election to public office in the United Kingdom, but to campaign for election to public office in the United Kingdom. That is absolutely outrageous abuse of the protocols and codes which govern our behaviour and work as Members.

When you look at the nature of the complaints made by Mrs Law, if you look at paragraph 2.4 in the commissioner's paper, she says that I spent a significant amount of time in Blaenau Gwent on Friday 29 January. Well, look, then at the evidence for that. At 12.07 p.m. I was having a cup of coffee; at 1.45 p.m. I was eating a cheese sandwich and, at 2.38 p.m. I pointed out that it was snowing in Ebbw Vale. I have to say, if that is the nature of a complaint made against a Member of this place, it is the poorest complaint I have heard in some time. I point out at 4.30 p.m. that it was a great day's campaigning in Blaenau Gwent. Campaigning is what I am allowed to do as a UK citizen. In fact, I think it would be ultra vires for this Assembly to prevent me from doing so. I think that is absolutely clear.

If you carry on to page 3, the top of page 3, where Mrs Law sends a further letter—she must spend more time complaining about me than she does representing the people she is elected to represent. Anyway, she points out that I attended a meeting of the Labour group in Blaenau Gwent County Borough Council. I am allowed to attend meetings of the Labour Party. I am a member of the Labour Party. It is extraordinary that anybody would see that as a reason to make a complaint. Furthermore, the council's director of resources met me after that meeting. Again, it is difficult to conceive of a code of conduct within the legislative competence of the Assembly that prevents me from speaking to any citizen of this country, anywhere, on any matter. I really do not understand how that can be upheld in law by the Assembly.

She carries on and talks about other things: Nantyglo Comprehensive School is another issue. I was asked by people there to represent them as a candidate standing for election. I did so and I did so to the best of my abilities. At present, I am doing the same again in Brynmawr. Those are the activities which you would anticipate from any candidate standing for election anywhere in the United Kingdom for any political party. Again, I think the issues which have been raised by Trish Law are quite outrageous. Now, the Assembly has issued advice to Members—I think it was you, Keith, who issued that. You look quizzical, was it—

**Jeff Cuthbert:** Which advice are you referring to?

**Alun Davies:** Guidance for Members seeking election.

**Mr Bush:** It is in the bundle of documents. I certainly had an input into it, but I think you will find that it was the Chief Executive who circulated it.

**Alun Davies:** The Chief Executive, I apologise. Now, I think this advice is quite important.

**Mr Penn:** Sorry, it is annex B, Chair; annex B to our report.

**Jeff Cuthbert:** Oh yes, indeed; the advice for Assembly Members considering standing for election. That is the document you are referring to, Alun, I think.

**Alun Davies:** Yes. I am sorry.

**Jeff Cuthbert:** Carry on, please.

**Alun Davies:** Fine. If you go to paragraph 2.5, you will see that it is quite clear there on taking up issues on behalf of individuals and bodies within an area outside the constituency or region they have been elected to represent. The final sentence is quite clear

'The Member would not have been elected to the Assembly to represent those individuals and bodies, so the activity would not be for the purposes of the Member's work as a Member.'

I think that is quite important, because paragraphs 4.0, 4.1 and 4.2 are crystal clear that nothing in the code of conduct for constituency and regional Members should be, or could be, under law read to imply that it can, in any way, be used to prevent me campaigning for public office. That is why I say the complaint is an abuse of the protocols and codes underwritten in this place. I have no legal right to use the resources of the Assembly to campaign for election; I accept that and myself and the commissioner have discussed those issues and they have been resolved. However, what I do outside of my responsibilities as a Member of this place is a matter for me. I fund those activities, I create the time—at evenings, afternoons and weekends—to do those, as we all do as politicians, to undertake activities outside our work as a Member.

The guidance for Assembly Members seeking election is absolutely crystal clear that there are

activities that are supported in our roles as Members, and that is supported by the Assembly and funded by the public purse. Outside of our role as Members, we are able, by law, to take up any issue that we choose. I think that is very, very clear. The activity that I have undertaken in Blaenau Gwent is not undertaken by me as a Member, as the Assembly Member for Mid and West Wales, it is undertaken by me as a prospective candidate for election in Blaenau Gwent in 2011. It is me fulfilling an entirely different role. As such, I do not believe that can be regulated as if I am acting as a Member, which I am not. So, I think I have followed the code, I think the code is clear, I think the legal rights I enjoy as a citizen are absolutely clear, and I think the complaint—I have used the term ‘vexatious’—is there not to uphold the responsibilities of our office, I think the complaint has not been made to protect the resources of this place and of the public purse, I think it has been made in order to prevent me exercising my rights as an United Kingdom citizen. Therefore, I believe it should be dismissed.

**Jeff Cuthbert:** Thank you very much, Alun. I will turn first to the commissioner to see if there are any questions you might want to put to Alun on what he has just said or, indeed, on his written note.

**Mr Penn:** Thank you, Chair. It is difficult to know what is a question and what is a comment. I will try hard to make—

**Jeff Cuthbert:** Begin it with ‘Do you agree that’; that usually works.

**Mr Penn:** In the penultimate paragraph on page 1 of your note, Alun, you make the point very strongly that you have made in your oral comments, that, in doing what you were doing, of which you were complained about, you were acting not as an Assembly Member, but as a UK citizen. I suppose it is just to clarify in my mind and for the committee that, when you were taking up—and I think the complaint is not so much about whether you were having a cup of tea or coffee, but when you sent letters, for example, to the Minister, or a letter to the Minister, were you then acting as a UK citizen—Joe Bloggs, UK citizen—or Alun Davies, Assembly Member. I suppose it is to clarify, particularly in that issue in annex F. The letter that you sent to Leighton Andrews is the particular thing that I am referring to there. What hat were you wearing when you sent that letter, I suppose?

**Alun Davies:** We have discussed this, Richard, and you have made a ruling which I accept. I felt that it is reasonable for Members, when communicating with each other, to use headed paper, because we know who each other are. It may be particularly true of Members who happen to be members of the same group. You have told me that it is not acceptable to do that under the guidance, and I have accepted your guidance and your ruling on that and I have not questioned that. The next time that I write to Leighton on another issue, it will be on my own headed notepaper, which I have created, which I do not know if I have shown you, Richard. Certainly, following the discussions we had earlier in the year, I have created my own headed notepaper; I have my own private e-mail account; and I have created, if you like, a shadow—perhaps not a shadow, a differential between Alun Davies AM, and Alun Davies, prospective Assembly candidate. So, at the time, I felt that it was entirely reasonable in correspondence, which I did not expect, obviously, at the time to be published—and which I never sought to publish, by the way; it was published by Trish Law—that it was reasonable to use headed notepaper. At the time, I felt I was acting as a candidate. But, you have made a ruling on that and I accept the ruling.

**Mr Penn:** Just one further question, Chair, if I may. I think, in your oral comments right at the beginning, you said that you accept the codes and that you operate by the codes. I think during our discussions, and certainly in my report, I have pointed to deficiencies in the code in relation to those Assembly Members who are selected or adopted as candidates outside their own region. Is that something that you were going to comment on? It is something that I

have commented on.

**Alun Davies:** It is. I do say that in my written paper. I wanted to make the point—Trish Law has made a series of complaints about me and I believe that it is her intention to create a pattern of behaviour and, in doing so, that I ride roughshod over the codes of conduct and practice that have been established in this place. The point that I wish to make is that I do not. I take the codes very seriously. Having been a Member here for three years, I think I have upheld them, not only the letter of the codes, but the spirit of the codes as well. I think I have been very clear in doing that. I point out a deficiency, because I believe the code, the Standing Order, and the code on different roles and responsibilities of constituency and regional Members, exists in order to regulate our behaviour and our work as Members while we are acting as Members. I think that is quite a crucial final clause.

It does not seek, and I do not believe that it was established to seek, to regulate our work as politicians, as campaigners, as citizens—anything outside our role as individual Members. I think that is a clear deficiency, but I would not wish the committee to believe that, because I think the code is deficient in one aspect, that the code itself is deficient and that I feel able as an individual Member to disregard the whole of the code. I think the code is valuable, it has helped public understanding of the roles of different Members, and I think it has helped clarify the roles of different Members for Members. It is something I find very useful. However, there is a deficiency in it. I refer to it in my note; I think, Richard, you have referred to it in your findings, and I hope that the committee will recognise the deficiency and seek to rectify it.

**Jeff Cuthbert:** Thank you very much. Anything more? Richard? No; therefore I will turn to Members. Does any Member wish to ask a question?

**Chris Franks:** I understand, from what you say, you have created—you used the phrase ‘shadow’—headed notepaper. Do we have sight of that?

**Alun Davies:** I do not have it with me. I am here as a Member. I do not have it with me.

**Jeff Cuthbert:** I am not sure that that is really pertinent for us.

**Chris Franks:** It is not; okay.

**Jeff Cuthbert:** I assume that your campaigning will continue, Alun, and if anything contrary to that occurs, it will come to our attention, or at least to the commissioner’s attention. Jenny?

**Jenny Randerson:** You have acknowledged the use of Assembly headed paper, which is clearly one issue. The other issue in relation to the code is, from the letters we have seen from you, you are taking up issues on behalf of someone else’s constituents, and the code is quite lengthy on the issue of taking up issues on behalf of other people’s constituents, and quite precise. One of the things it says is—and we have to operate on the basis of the code as it is—that, when you are doing that, in exceptional circumstances, you should be asking the permission of the Assembly Member for that area. But, of course, there is more than one Assembly Member for that area. Trish Law makes it absolutely clear that you did not ask her permission; did you talk to any of the other Assembly Members about the work you were doing in Blaenau Gwent?

**Alun Davies:** In a formal matter, no. I have discussed the work in Blaenau Gwent with the regional Members, clearly, because it is something where we overlap. Veronica was attending the same service as me on Sunday at my local church in Tredegar. So, you do see each other at various events and activities, so you do discuss the work on an informal basis. I did have a more formal conversation with two of the regional Members. I did write to Trish Law a year

ago, upon my selection, informing her that I had been selected for the 2011 election in Blaenau Gwent, and that I would be taking up issues and campaigning within the constituency, as I am entitled to do so by law. I do not see myself as taking up constituency issues as a Member. Therefore, I do not accept that the code applies in this case.

**Jenny Randerson:** But your use of Assembly headed paper and of the Assembly e-mail address, which we have got here in the bundle of papers, and your use of the term 'AM' implies, well, states, that you are doing it as an Assembly Member.

**Jeff Cuthbert:** I think I have to say, Jenny, that the issue of the use of Assembly resources was a separate matter and has been resolved. I do not want to reopen that unless you can link it very clearly.

**Jenny Randerson:** It is part of the relevance of whether Alun is—

**Jeff Cuthbert:** I appreciate it is linked.

**Jenny Randerson:** Clearly, anyone can campaign anywhere, all right? I am trying to get to the bottom of whether, as an Assembly Member, campaigning and using the Assembly resources which you say you used. You said you used headed paper, and we have it here.

**Alun Davies:** Do you want me to clarify the situation?

**Jenny Randerson:** Yes. That is apparently resolved and that is fine, but what I am trying to get to is whether you specifically informed or asked the other Assembly Members for that region whether they were content for you to intervene on the issues on which we have got the letters.

**Alun Davies:** Let me try to answer that as best I can. In terms of the use of resources, that issue has been addressed and resolved, which is why I am not addressing it this afternoon. I felt it was reasonable to use an e-mail address for private use, because it involves no cost to the taxpayer and because I think it is—wherever I have worked previously, there has been recognition that, say, 10 per cent of e-mails will be for private or personal use. I have e-mailed my partner already today to say that I will be late home. I am assuming, therefore, that private use is a reasonable and accepted thing. I am sure that each one of the Members here has e-mailed party colleagues, for example, from an e-mail address used in the Assembly. So, I felt that was a reasonable thing. I have been told that it is not, in this case, and so I have created another e-mail address with which to do it. We have just had a general election campaign, and I would be staggered if Assembly Members had not, for example, used their e-mail addresses to talk to party colleagues and say 'I will meet you to go canvassing at 6 p.m., depending on the vote', for argument's sake. I would be staggered were that not to have been the case. So, I think there is recognition here of that.

I used the headed notepaper not on public correspondence, but in correspondence between myself and a colleague in the same group. I felt that was reasonable in the way that I have written notes on headed notepaper to other Assembly Members which are not on, shall we say, formal Assembly Matters—a note in someone's pigeonhole on headed paper. I understand that it is not private, because we all hold public office, but I did not intend for that letter to Leighton to become public. I did not seek to publicise it; it was publicised by Trish Law following a freedom of information request. So, there was no intention there to mislead the general public, or anyone outside of this elected office. In fact, I still have not publicised or made public that correspondence. It has not been done by me, nor have I sought to do so.

So, in those terms, I have operated in a way whereby you have the public face and you have the private face. Now, in terms of me as an individual and in terms of me as a candidate and

me as a Member, my family live in Blaenau Gwent; I am in Blaenau Gwent at least twice a week—to take my mother shopping, go to church, or whatever. I do not inform other people when I go to visit my mother, my brother, or my sister-in-law. I do not think that it would be expected that I do so. I wrote to Trish Law out of courtesy last July to say that I had been selected to stand in the Assembly election in 2011, and would therefore be campaigning and spending time in and around Blaenau Gwent. I did that out of courtesy to her. However, I did not seek her permission to do that and I did not write it in such a way as to be interpreted as seeking her permission to do it, because I do not believe that I have to seek anybody's permission to stand for election and to campaign for election; it is my right to do so.

The case that I make to you, Jenny, this afternoon, is simply based on the differential between my work and our work as Assembly Members. The work that I was doing on Monday morning in Carmarthen, representing people in Mid and West Wales, speaking in the rural economy debate last week, and the work that Brynle and I have done on the Rural Development Sub-Committee has all been to represent the people of Mid and West Wales, as was the stuff I was doing just before coming down here on television reception and broadband. But there is a differential between that and that which I will be doing tomorrow night when I go and see Tredegar band play in St James' Church, Tredegar, as a candidate. It will appear, perhaps, on social networks—social media networks—but it is not a part of my work as the Assembly Member for Mid and West Wales. I think it is that differential here which is causing a problem for this committee, and which Trish Law has chosen to use in order to prevent me exercising my absolute right, which is to travel where I choose, speak to who I choose on the topic of conversation of my choice. This is Wales, it is not China, and I think we have got to be very, very clear that Members have the right to stand—not only to stand for election, but to campaign for election.

**Jeff Cuthbert:** Thank you. Any further questions, Jenny?

**Jenny Randerson:** No, thank you.

**Jeff Cuthbert:** Brynle?

**Brynle Williams:** Just, Chair, as the commissioner said, I am more than happy; we cannot really, although it is relevant to the issue of the headed notepaper has gone; that is dealt with. What we are dealing with here is basically the principle of whether we think that Mr Davies had contravened the code or not. Obviously, we will need to discuss this afterwards. Personally, I think have drawn a conclusion. I will not disclose it now.

**Jeff Cuthbert:** Do you have a question?

**Brynle Williams:** No. As Mr Davies has already said, he has admitted that there has been—or we can argue the point—well, not argue the point, it has been defined—about the use of Assembly resources, that has been resolved.

**Jeff Cuthbert:** Yes, that has been resolved.

**Brynle Williams:** I cannot see any point in us sitting on that any further. There is one issue and I think that most of that is addressed in Mr Davies's letter here, as far as I am concerned. Yes, I would initially have had concerns over the headed notepaper. As the commissioner has resolved that, that is it, end of story.

**Jeff Cuthbert:** And we have accepted that that is resolved. Any other Member? Jenny, any last-minute questions? Commissioner? Any final words that you want to make, Alun?

**Alun Davies:** I would like to thank the committee for the time you are taking in studying and



looking at this issue. Chris has raised the issue of the headed notepaper; I do not have a copy with me, as it happens, but if Members are minded to do so, I would be happy to give Members an undertaking that I will seek to talk to Richard in private about the issues. The resources that I have created, which are defined in the guidance for Members standing for election, shall we say—I would not want to trouble Richard with my paraphernalia and election leaflets; it is bad enough trying to get anybody to read them—certainly, if there are areas of concern, I am more than happy to reassure Members that I have taken already the necessary steps to ensure that not only am I operating within the word of the guidance, but within the spirit of the guidance and that those steps have already been taken.

**Jeff Cuthbert:** Thank you very much. I will now ask Alun Davies and the commissioner to withdraw and then, in a few moments, we will consider our views.

*Daeth y cyfarfod i ben am 4.03 p.m.*  
*The meeting ended at 4.03 p.m.*