

PWYLLGOR SAFONAU YMDDYGIAD

Dyddiad: Dydd Mercher, 8 Mai 2002

Amser: 9:30am

Lleoliad: Ystafell Bwyllgora 2, Adeilad y Cynulliad Cenedlaethol

Teitl: Buddiannau'r Aelodau - Y Seiri Rhyddion

Yn ei gyfarfod diwethaf cytunodd y Pwyllgor bod y gofyniad cyfredol i gofrestru aelodaeth o'r Seiri Rhyddion yn denu her gyfreithiol lwyddiannus a dylid ei ailosod gan ofyniad mwy cadarn yn gyfreithiol.

Cytunodd y Pwyllgor y dylid cadw gofyniad i gofrestru neu gofnodi aelodaeth o'r Seiri Rhyddion ond dylid ehangu'r gofyniad fel na allent honni eu bod yn cael eu hynysu yn annheg.

Gofynnodd y Pwyllgor am adroddiad drafft, yn deillio o'r sylwadau a wneir gan Aelodau, i'r Pwyllgor ei ystyried. Os yw'r Pwyllgor yn fodlon, bydd y Cynulliad yn cael ei wahodd i ystyried yr adroddiad ac unrhyw argymhellion am newidiadau canlynol i'r Rheolau Sefydlog sy'n deillio ohono mewn Cyfarfod Llawn.

Yng ngoleuni hyn, mae adroddiad drafft hunan-esboniadol ynghlwm, i'r Pwyllgor ei ystyried.

Yr Ysgrifenyddiaeth

REGISTRATION OF MEMBERSHIP OF THE FREEMASONS

Report of the Committee on Standards of Conduct

1. This report contains the conclusions of a review, by the Committee on Standards of Conduct, of the requirement for Assembly Members to register membership of the Freemasons.

Recommendation

2. The Assembly is invited to:
 - i. note the Committee's conclusions in paragraphs 8-11 below;
 - ii. agree the proposed changes to Standing Order 4 Annex, Standing Order 16 and the creation of a new Standing Order requiring Members to record membership of the Freemasons and a range of other defined organisations; and
 - iii. agree the proposed changes to the guidance on Registration and Declaration of Members' Interests and approve new guidance on Recording Membership of organisations and societies.

Background

3. Section 72 of the Government of Wales Act requires the Assembly's Standing Orders to provide for a register of Members' interests and allows the Assembly to define in Standing Orders the interests that must be registered. A Member, who takes part in any proceedings of the Assembly (including Committees and sub committees) without having complied with the relevant provisions of the Act or Standing Orders is guilty of a criminal offence. Membership of the Freemasons is one of the interests that the Assembly has defined in Standing Orders.
4. The requirement to register Membership of the Freemasons was included in the Assembly's first Standing Orders made by the then Secretary of State for Wales under Section 50 of the Government of Wales Act. In doing so, he followed the advice of the National Assembly Advisory Group (NAAG) who were responding to widespread expressions of public concern made to them about Freemasonry.
5. In September 2000 the South Wales Eastern Province of the Freemasons asked the Presiding Officer to consider the implications of the Human Rights Act, which came into force in October 2000, on the registration requirement and, in particular, whether the Assembly's requirements breached Articles 8 and 11 of the European Convention on Human Rights. The Presiding Officer referred the matter to the Standards of Conduct Committee for advice.

Standards Committee Consideration

6. The Committee has considered the matter on 4 occasions and has twice taken evidence directly from representatives of the Freemasons. The Committee has also received advice from the Presiding Office's legal adviser, David Lambert.
7. The Committee considered the following questions in making their recommendations on this issue:
 - i. whether the Freemasons are a secret society, who do not make public their membership;
 - ii. whether the Freemasons show improper favour to other Freemasons;
 - iii. whether, through the oaths they take, Freemasons owe greater loyalty to Freemasonry than to other institutions or the state;
 - iv. whether, if these allegations are true, they are unique to the Freemasons;
 - v. whether Assembly guidance to Local Authorities creates a precedent for the National Assembly's procedures; and
 - vi. the legal position.

Committee's Conclusions

8. The Committee concluded that despite widespread public misgivings about the activities of the Freemasons, misgivings that are shared by a number of Members of the Committee, there is no conclusive evidence of misconduct against the Freemasons as an organisation.
9. The European Court of Human Rights has concluded that the Freemasons is not a secret society. Freemasons give an undertaking to uphold the law and authoritative inquiries by the Home Affairs Select Committee have concluded that most allegations involving Freemasons are groundless. No other legislature in the UK has a similar requirement to the Assembly's. It is also difficult to establish that the Freemasons are a unique organisation, which might then justify treating them differently to all others.
10. The Assembly's own treatment of Freemasons also appears inconsistent. The "Conduct of Members (Model Code of Conduct) (Wales) Order 2001", which came into force on 28 July last year for members of local authorities in Wales, makes it clear that membership of the Freemasons is only one among any number of organisations which Councillors must declare.
11. The overall conclusion of the Presiding Office's legal adviser was that the current requirement ran the risk of a successful legal challenge and should be replaced by a more legally robust requirement. The Committee felt that it has no option but to concur with this view and recommend to the Assembly that the current requirements should be amended.

Proposals

12. Although the proposals set out in this paper are something of a compromise, they meet three key principles which the Committee took account of in its consideration of this matter:

- i. that the registration requirements should minimise the risk of successful legal action against the Assembly;
 - ii. that any new requirements should not be overly onerous or complicated and the sanction for not complying should be proportionate to the nature of the "offence"; and
 - iii. that the requirements should encourage the greatest possible degree of openness and inclusivity compatible with the other two principles.
13. In framing its proposals the Committee was also mindful that, whatever the objective evidence, there is a widespread public concern about the activities of the Freemasons. However, the Assembly's own requirements may themselves be contributing to unfair perceptions of the Freemasons. The Committee does not, therefore, believe that it would be appropriate to remove all requirements to declare Membership of the Freemasons. Instead, the Committee believes that there should be a requirement to record Membership of a wider range of organisations including the Freemasons. This would be more in line with the requirement the Assembly has placed on local authorities in Wales.
14. The Committee was also mindful that under Section 72 of the Government of Wales Act, failure to register membership of an organisation could attract criminal sanctions. To avoid the disproportionate consequences of failing to register very innocuous organisations, the Committee agreed that a new Standing Order requirement, requiring Members to inform the Presiding Office of certain interests, should be introduced. This would fall outside the scope of the registration requirements of the Government of Wales Act and would not, therefore, attract criminal sanctions. It would however be enforceable through the Standards Committee and Standing Orders.
15. In the light of the above the Committee proposes that
 - i. Standing Order 4 Annex should be amended to delete the requirements to register membership of the Freemasons.
 - ii. A new Standing Order and Standing Order Annex on "Declaration of Membership of Societies" should be created. This will set out the types of organisations that members need to record.
 - iii. Standing Order 16.1 should be amended to allow the Standards Committee to investigate, report on and recommend action in respect of complaints referred to it about breaches of the new Standing Order.
 - iv. Guidance should be amended to reflect the changes above.
16. A copy of the proposed amendments to Standing Orders is at Annex A. A copy of the revised guidance on Registration and Declaration of Members' Financial and Other Interests is at Annex B. Annex C contains links to other relevant background papers.

Conclusion

17. In considering this issue the Committee was mindful of the considerable public concern which exists about Freemasonry. It also took the view that there is a risk that the current Standing Orders requirement will be challenged in the Courts. Such a challenge could be expensive to defend and there is a risk of losing the case, which might prove embarrassing and costly to the Assembly.
18. The Committee believes that the proposed changes will provide a far more legally robust system of registering membership of the Freemasons and other organisations and meet public concern on this issue.

*Committee on Standards of Conduct
May 2002*

Amendment to Standing Order 4 ANNEX

In Standing Order 4 ANNEX, delete the following:

"11. Membership by the Member of the Freemasons."

NEW STANDING ORDER X - Declaration of Membership of Societies

X.1 The Presiding Officer shall maintain and publish a record of the declarations by members of the matters set out in the Annex to this Standing Order.

X.2 Declarations shall be made by completion of a form prescribed by the Presiding Officer.

X.3 Within eight weeks of a member taking the oath of allegiance or making the corresponding affirmation, he or she shall complete the form prescribed by the Presiding Officer, and shall sign the form and deliver it to the Office of the Presiding Officer.

X.4 Within four weeks of membership or change to membership occurring, a member shall notify the Presiding Officer of this change by completion of the prescribed form; and shall sign the form and deliver it to the Office of the Presiding Officer.

X.4A A member may deliver the form referred to in paragraph X.3 or X.4 by taking it to the table office or arranging for another person to do so by post but the form shall not be regarded as having been delivered until it is received by the table office.

X.4B Members shall be under a continuing duty to ensure, by inspecting the record of declarations from time to time, that it correctly contains the particulars notified by them under paragraphs X.3 or X.4

Standing Order X Annex

The matters which must be recorded by Assembly Members

General

- I. A declaration under this Standing Order shall be made by the Member of the matters set out below.
- II. For the purposes of this declaration, "Entry requirements for membership" does not include the following:
 - (a) The requirement to pay a subscription;
 - (b) The agreement to and signing of terms and conditions of membership of the society

Matters to be declared:

Membership or position of general control or management of any of the following:

- (a) private society which has entry requirements for membership such as the Freemasons[, Rotary or Round Table];
- (b) private club which has entry requirements for membership.

(Addition to Standing Order 16)

Standing Order 16 - Committee on Standards of Conduct

16.1 There shall be a Committee on Standards of Conduct, which shall:

- (i) investigate, report on and, if appropriate, recommend action in respect of any complaint referred to it by the Presiding Officer that a Member has not complied with standing order 4 or any Assembly resolution relating to the financial or other interests of Members, or that an Assembly Secretary has not complied with the requirements of paragraph 2.8;

(ia.) investigate, report on and if appropriate, recommend action in respect of any complaint referred to it by the Presiding Officer that a member has not complied with any requirement to declare matters specified under Standing Order X.

- (ii) investigate, report on and, if appropriate, recommend action in respect of any complaint referred to it by the Presiding Officer that a Member has not complied with any Assembly resolution relating to Members' standards of conduct or with the guidance for Assembly Secretaries which the Assembly has approved in accordance with paragraph 2.7;

(...)

Amended Guidance

Links to Background Papers

Human Rights Act 1998

Government of Wales Act 1998

National assembly for Wales Standing Orders

Plenary Debate of 19 May 1999

Guidance on Member's Interests

Conduct of Members (Model Code of Conduct) (Wales) Order 2001

NF v The Italian State

Grand Masonic Lodge of Italy v the Italian State

Relevant Minutes of Previous Standards Committee Meetings

Standards Committee Papers

STD 02-01(p7)

STD 05-01(02)

STD 01-02(02)