

Procedure for Dealing with Complaints against Members of the Senedd Consultation

January 2022.

The Standards of Conduct Committee (the Committee) are consulting on proposed revisions to the procedure for dealing with complaints against Members of the Senedd.

The Committee is responsible for establishing and laying before the Senedd procedures for the investigation of complaints under Standing Order 22.2(i). The Committee agreed to consider the existing procedure and consider whether it remained fit for purpose as its first substantive piece of work in the Sixth Senedd.

This consultation sets out the Committee's consideration of the existing procedure and proposals for change. The Committee has formulated a redrafted procedure in light of the experiences of the fifth Senedd. The redrafted procedure is aimed at providing an idea of how the procedure may look rather than being definitive.

The Committee would welcome your views on the points raised in this document. Please submit your response by 21 February 2022 to SeneddStandards@Senedd.wales.



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How to Respond

The Committee welcomes responses in English or Welsh.

Submissions should be no longer than five sides of A4, with numbered paragraphs, and should focus on matters set out in the document.

If you wish to submit evidence, please submit a single document (preferably as a Word document) with any tables, spreadsheets and annexes incorporated into the paper of your submission to [**SeneddStandards@senedd.wales**](mailto:SeneddStandards@senedd.wales).

Further guidance on preparing written evidence can be found on the [**Senedd website**](#).

At present, Senedd staff are primarily working from home. Therefore, any correspondence received other than by electronic means may not be attended to in a timely manner..

The deadline for submissions is 5pm on **Monday 21 February 2022**.

Disclosure of Information

Before submitting information to the Committee, please ensure that you have considered the [**Senedd's policy on disclosure of information**](#). Alternatively, a hard copy of this policy can be requested by contacting the Committee Clerk (0300 200 6565) or [**SeneddStandards@senedd.wales**](mailto:SeneddStandards@senedd.wales).

1. Introduction

- 1.** The Standards of Conduct Committee is responsible for considering matters relating to the behaviour of Members of the Senedd ("Members").
- 2.** The Committee's functions include recommending to the Senedd for approval a Code of Conduct for Members of the Senedd ("the Code") and the accompanying procedure for regulating the process of making, investigating and determining complaints against Members that they have breached the Code ("the Procedure").
- 3.** The Code sets out the standards of behaviour and conduct expected of Members. It has statutory authority under the legislation which established the independent Commissioner for Standards ("the Commissioner").¹ Complaints that Members have breached the Code are made to the Commissioner who decides when and how to conduct an investigation and report the outcome, subject to any procedural rules laid down by the Senedd.²
- 4.** The Procedure sets out how the Commissioner will receive and consider such complaints, and report to the Standards of Conduct Committee if a complaint is considered to be admissible and has breached the Code. The Procedure also sets out how the Committee will then deal with such complaints.
- 5.** During the fifth Senedd, a comprehensive review of the Code was undertaken and a new Code was approved to come in to force from the start of the sixth Senedd.³
- 6.** To complement this, the Committee agreed its first piece of work would be to review the Procedure as recommended in the legacy report of the fifth Senedd Standards of Conduct Committee.
- 7.** The Committee has considered the experiences of how the procedure operated in the previous Senedd, which had an unprecedented volume of cases⁴. The Committee also considered developments in other legislatures to identify areas of the procedure which may need to be changed.

¹ The National Assembly for Wales Commissioner for Standards Measure 2009

² See section 10(2) of the Measure

³ [Add hyperlink]

⁴ Link to legacy report

8. The existing procedure has its origins in the non-statutory arrangements for regulating the behavior of Members, which preceded the passing of the National Assembly for Wales Commissioner for Standards Measure in 2009. It is a mixture of specific rules along with elements of commentary and guidance. The proposals that the Committee are now consulting on would see the adoption of a set of procedural rules, which would regulate the complaints procedure. If the revised Procedure is adopted, then a separate guide would be issued jointly by the Committee and the Commissioner for Standards. This would then provide the public and Members with a single source of explanation and guidance on how the process operates, including how a complaint can be made and how it will be dealt with.

9. The Committee has now agreed to issue a revised procedure for consultation and would welcome your views on it. There are a number of areas the Committee are seeking a view on prior to reaching a final decision including whether the current timeframe for making a complaints and the appeal mechanism in the procedure. For ease of reference the existing procedure can be found online. We would welcome views on the specific areas highlighted in this document, and any other areas which may need to be amended in the procedure. We have sought to highlight the changes to the existing procedure via a comparative table at Annex A.

2. The design and content of the Procedure

10. There are a number of technical and legal requirements the Committee has to include in the procedure. To address this the Committee is proposing a set of formal procedural rules along with a separate explanatory guide to the complaints process. This guide will be drafted once the procedure has been finalised.

Do you consider this to be the best approach? Is there any information you would like contained in the guide?

11. The draft new Procedure contains an interpretation section to make it more user friendly.

Are there any additional terms used in the draft that you think could be usefully explained in this section?

Do you have any general comments on the form and content of the Procedure? Are there other provisions you would like to see included?

3. The admissibility criteria for complaints

12. The draft new Procedure specifies the following criteria which need to be fulfilled in order for a complaint to be considered by the Commissioner.:

- be in writing;
- identify the person complaining;
- be about the conduct of an identified Member;
- be made within a specified period from the date when the complainant became aware of the conduct; and
- have 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 Order 22.2(i)).

13. The Committee is seeking views on all these criteria, but in particular:

The timescale for complaints admissibility.

14. The current procedure requires complaints to be made within a year of when a complainant could reasonably have known of the event being complained about.

15. The Commissioner has expressed the view that the interests of fairness require complaints to be made and investigated while the recollection of events is still fresh, and evidence is readily available. To achieve this, the Committee could for example reduce the timescale for making complaints to six months unless there was good cause to admit a complaint after this period. If this approach is adopted, the Committee will ensure that the guide to the Procedure gives further information as to the circumstances which might constitute “good cause”, along the following lines:

Complaints should be made as soon as possible whilst the complainant and Member's memories of the events are still clear.

If you make a complaint more than six months after the date when you could reasonably have made it you will have to have “good reason” for the delay, otherwise it will not be considered by the Commissioner.

'Good reason' covers a wide range of circumstances where a complaint could not reasonably have been made earlier, for example:

- *because of illness,*
- *a reaction to the circumstances of the complaint prevented engagement with the complaints process any earlier (it is recognised that this consideration may be particularly relevant in complaints that give rise to matters covered by the Senedd's dignity and respect policies), or*
- *pressing family or work issues.*

These examples are not exhaustive and if you think that there was a good reason for not making your complaint in time, you should give full details of it to the Commissioner when making your complaint.

16. Alternatively a number of other UK legislatures have removed a time limit completely for making complaints in light of concerns arising from dignity and respect considerations.

17. The Committee is therefore seeking views on the timeframe for complaints.

What time limit, if any, do you think would be fair and appropriate to safeguard both the rights of the complainant and the Member complained of?

If a time limit is retained, do you have any views on the guidance included above to help explain what might constitute a good cause for the delay for complaints being made outside of the specified time?

The information contained within a complaint:

18. The Committee is proposing that the new Procedure makes it clearer what information a complaint should contain by requiring the complainant to state how the conduct complained of is thought to breach the Code.

19. The purpose of this provision is not to introduce a legalistic requirement for a person making the complaint to precisely identify the correct principles or rules in the Code that they think have been breached. Rather it is intended to ensure that persons making complaints show they have considered the terms of the Code in drawing up their complaint. It is intended that the guidance will confirm that it will be for the Commissioner to determine, in the light of the evidence, which provisions may have been breached in fact, and that a person making the

complaint will not be prejudiced by initially referring to a “wrong” provision in the Code. The guidance will also set out arrangements for the provision of support to anyone considering making a complaint to help identify potential breaches of the Code.

Do you agree with this approach, or have any comments or concerns about it?

4. The Complainant

20. The Committee is proposing to include in the new Procedure provisions to ensure the complainant is better informed throughout the process.

21. At present, the Commissioner is responsible for keeping complainants informed during an investigation, but there is no provision for the Complainant to be notified once a report has been received by the Committee from the Commissioner and while the Committee is considering a complaint. There are several potential milestones which we have identified where a complainant may want to be informed including:

- when the Committee receives the report, and an indication of the next steps,
- when the Committee has completed its proceedings, and
- prior to report publication and the plenary debate.

Do you think the complainant needs to be informed more?

If so, do you agree with the milestones identified?

Do you have any specific concerns about the proposal?

We would especially like to hear from you if you have had experience as a complainant.

22. On occasion the Commissioner receives a large number of complaints relating to the same matter. The Commissioner is currently required to keep all complainants involved at all stages. The Committee would welcome views on the suggestion that such complaints should be dealt with on a group basis. If this practice were to be adopted, a 'lead' complaint would be taken forward and all other similar complaints being effectively suspended with the complainants kept informed of the progress if they so request. Complaints on the same matter, but which are based on different potential breaches of the Code, would still be progressed. This proposal would allow complaints of this nature to potentially be dealt with in a more timely fashion.

Do you think this is a reasonable provision? Do you have any concerns with this proposal?

5. Bringing a complaint to the end and the right to request a review

23. The Committee is proposing including in the new Procedure provisions that would enable the Commissioner to bring a complaint to an end before reaching a final conclusion. This could be for one of number of reasons, as follows:

- it no longer meets the requirements under sub-paragraph 4.2 (the admissibility criteria) for the complaint to proceed;
- the complaint repeats substantially an allegation that has already been considered by the Commissioner and no significant additional evidence has been provided;
- the complainant no longer insists upon the complaint proceeding;
- the victim of the alleged conduct, who did not make the complaint, does not wish the complaint to proceed;
- the alleged conduct is not sufficiently serious to justify further consideration, the Member being complained about has admitted and apologised and, in so far as practicable, rectified the breach (section 11 (para x-x) sets out further detailed requirements in this regard);
- the complainant has, without reasonable excuse, failed to co-operate with the Commissioner; or
- having due regard to value for money considerations and the nature of the complaint, it is not in the public interest to proceed further with the consideration of the complaint.

24. Where this occurs, the Commissioner will be required to inform complainants the complaint has been dismissed. The Complainant would then have the right, within a specified timeframe, to give notice to the Commissioner that they are dissatisfied with the decision. The Commissioner will then be required to refer the matter to the Committee, which can decide whether it agrees and upholds the dismissal, or disagrees and requests the Commissioner to proceed with an investigation.

Do you agree the Commissioner should have this discretion, and do you agree with the grounds specified under which a complaint can be brought to an end?

Are there any additional grounds which should be included, and if so what are the reasons for suggesting the additional grounds?

Do you agree that there should be a right of review by the Standards Committee of a decision of the Commissioner to dismiss a complaint on any of these grounds?

25. The Committee is also proposing to restate the early rectification procedure more clearly, enabling Members to make an apology, which will be published on the Committee's webpages and resolve a complaint at an early stage of the process.

Do you agree with the way in which the early rectification procedure has been restated?

6. The appeal process

26. The current procedure contains an appeal process. This was part of the procedure that was in place before the passing of the Commissioner for Standards Measure, and so pre-dates the creation of an independent Commissioner for Standards.

27. The appeal process allows for Members to appeal the decision of the Committee to an independent legally qualified person (nominated by the Presiding Judge of the Wales Circuit). Appeals can only be made on narrow procedural grounds and the appeal is conducted entirely on the written representation of the Member and the existing papers relating to the complaint (the Commissioner's report and the Committee's report) with no in person representations.

28. The appeal process was utilised for the first time since the passing of the Measure during the fifth Senedd and an independent legally qualified person was appointed on three occasions to review six appeals in total. None of the appeals were upheld. There have been some concerns expressed that the appeal process is very costly, and has the potential to be abused by Members seeking to delay the outcome of the process. For example the most recent appeal took 11 weeks from the Member having received the Committee's report to the receipt of the decision of the independent legally-qualified person to be received.

29. As the right of appeal is unqualified and there is no sanction for making an appeal that is without merit, the current process can potentially be used by a Member to their advantage to delay a final decision, for example in the case of a complaint arising towards the end of a Senedd term.

30. Accordingly, as part of this review, the Committee has considered the history and operation of the appeal mechanism in the complaints process. We have concluded that the investigative remit of the Commissioner (including the agreeing of facts in the report with the Member), and the subsequent consideration by the Committee of these independent findings, together with the right of a Members to address the Committee in person, creates number of stages for input and challenge by the Member who is subject to a finding of a breach by the Commissioner. All findings of a breach of the Code must also be debated in plenary, which allows the Member a further opportunity to state their case and is an avenue of further challenge. In addition, given the statutory basis of the Welsh Parliament, Members also have recourse to the Courts by way of judicial review of a decision made on a complaint under the Measure.

31. The Committee is also proposing reform at the Committee oral hearing stage to make it clearer this is the opportunity for the Member to raise with the Committee issues of factual dispute or procedural concern arising from the Commissioner's investigation and report. It is also an opportunity for the Committee to consider whether to refer any matter raised back to the Commissioner for further consideration. The strengthening of this review stage and the option for reference back at the oral hearing stage will ensure fair due process is available and observed throughout.

32. Our provisional decision therefore is that the appeal mechanism should be removed in the procedure and so consequentially there is no reference to appeals in the draft Procedure.

Do you agree that the present appeal process should be removed? If you do not agree, what form do you consider an appeal process should take?

Do you agree that the rules for the oral hearing stage should include a provision for a reference back to the Commissioner? If you do not agree, what other arrangements for the Standards Committee's consideration of reports from the Commissioner should be adopted in the procedure?

7. Redacting the Commissioner's report

33. The new Procedure will contain explicit provisions allowing the Committee to publish a Commissioner's report finding a breach in either summary or redacted form where it considers that there are safeguarding or confidentiality reasons for doing so. The Committee may do this either of its own motion or as a result of a recommendation by the Commissioner accompanying his report.

Do you agree that the Committee should have discretion to redact or summarise the reports of the Commissioner for safeguarding or confidentiality reasons?

Annex A. New Procedure for Dealing with Complaints against Members of the Senedd

1. Status of the Procedure

1.1 This Procedure for Dealing with Complaints against Members of the Senedd has been adopted by the Senedd Standards of Conduct Committee and was laid before the Senedd in accordance with Standing Order 22.2(iv) on [date] and it applies from [date].

1.2 This Procedure relates to the consideration of complaints against Members of the Senedd for the purpose of section 10(1)(b) of the National Assembly for Wales Commissioner for Standards Measure 2009, which requires the Senedd Commissioner for Standards to investigate complaints in accordance with this Procedure.

1.3 This Procedure also applies to:

- a. persons making complaints;
- b. Members of the Senedd who are subject to a complaint;
- c. witnesses in relation to a complaint;
- d. any other person asked to provide information or assistance in relation to an investigation by the Senedd Commissioner for Standards, and
- e. the Senedd Standards of Conduct Committee when considering and reporting to the Senedd on a report from the Senedd Commissioner for Standards.

1.4 The Senedd Standards of Conduct Committee may from time to time issue guidance on the operation and application of this Procedure. Such guidance does not form part of the Procedure but is issued to assist the understanding of the Procedure by members of the public and the Members of the Senedd. The Senedd Commissioner for Standards may have regard to such guidance in the investigation and consideration of a complaint.

2. Interpretation

2.1. In this Procedure:

“Act” means the Government of Wales Act 2006 (as amended);

“Clerk” means the Chief Executive and Clerk of the Senedd;

“clerk to the Committee” means the committee clerk to the committee with responsibility for the matters set out in Standing Order 22;

“Code” means the Code of Conduct for Members of the Senedd;

“the Commissioner” means the Senedd Commissioner for Standards established by section 1 of the Measure;

“the Committee” means the Standards of Conduct Committee or any other Committee with responsibilities for the standards of conduct of Members set out under Standing Order 22;

“complaint” means a complaint to the Commissioner that, at a relevant time, a breach of a relevant provision within the meaning of section 6(3) of the Measure has occurred or a referral by the Clerk under section 9 of the Measure . Where there is more than one breach alleged in a single document each breach alleged will be treated as a separate complaint or, as the case may be, referral;

“complainant” means a person who submits a complaint or makes a referral to the Commissioner;

“day” means a calendar day;

“Election period” for the purposes of this Procedure is the period between the dissolution of the Senedd and the date upon which the Senedd first appoints a Standards of Conduct Committee following a general election to the Senedd;

“the Measure” means the National Assembly for Wales Commissioner for Standards Measure 2009;

“Member” means a Member of the Senedd, and unless the context otherwise requires, includes a former Member;

“Record of Proceedings” includes any report published pursuant to Standing Order 31;

“the Procedure” means this Procedure for Dealing with Complaints against Members of the Senedd;

“relevant provision” has the same meaning as in section 6(3) of the Measure;

“relevant time” has the same meaning as in section 6(2)) of the Measure;

The singular includes the plural.

3. General provisions about the Commissioner

3.1. The Commissioner must at all times act in accordance with the principles of natural justice and fairness.

3.2. The Commissioner must reply to any correspondence in the language used in the original communication.

3.3. The Commissioner must make reasonable adjustments to facilitate any person who reasonably requires them.

3.4. if at any stage in the consideration of a complaint the Commissioner becomes aware of conduct which could involve the commission of:

- a. an offence under section 36(7) of the Government of Wales Act 2006, or
- b. any other offence

the Commissioner must inform the Clerk immediately in respect of any potential offence under (a) above, and in respect of both (a) and (b) above inform such other investigatory authority or the Police as appropriate

3.5. Where a complaint has been dealt with in accordance with paragraph 3.4, the Commissioner must suspend the consideration of the complaint until the risk of prejudice to any criminal investigation or proceedings has passed.

3.6. If at any stage in the consideration of a complaint, the Commissioner becomes aware of an investigation or criminal proceedings which may be prejudiced by such consideration, the Commissioner:

- a. must suspend the consideration of the complaint in the case of criminal proceedings or a criminal investigation, and
- b. may suspend consideration of the complaint in any other case,

until such time as the Commissioner is satisfied that the risk of prejudice has passed.

3.7. Where the Commissioner receives a referral from the Clerk in relation to an alleged breach of those requirements of Standing Order 2 relating to the registration of Members' interests, it must be dealt with in accordance with the provisions of the Protocol between the Commissioner, the Senedd and the Director of Public Prosecutions, and any other applicable protocols or requirements.

3.8. The Commissioner must, when communicating for the first time with any person regarding a complaint, draw attention to the manner in which confidential information, personal data and special category data will be processed during the complaints process.

3.9 During an election period the Commissioner may continue to investigate and consider a complaint but the Commissioner must not during such period:

- a. require any person (including any former Member who is a candidate) to attend before the Commissioner to give evidence or to produce documents;
- b. dismiss a complaint which does not comply with the requirements for complaint to proceed;
- c. issue any draft report on a complaint for comment; or
- d. issue a final report in respect of any complaint then before the Commissioner.

3.10 The Commissioner must keep full and accurate records in respect of the consideration of complaints.

4. Complaints – Initial Consideration

4.1. Subject to sub-paragraph xx, on receipt of a complaint the Commissioner must, as soon as reasonably practicable, provide the Member being complained about with a copy of it and any supporting documentation.

4.2. The Commissioner may investigate a complaint only where the complaint:-

- a. is made in writing;
- b. states the name of the complainant;
- c. states the postal or email address of the complainant except where the complainant is a current Member;
- d. is about the alleged conduct of a named Member;
- e. states the acts or omissions of the Member being complained about that are alleged to have breached a relevant provision in the Code or other relevant documents;
- f. in relation to each act or omission complained of, is supported by sufficient evidence to satisfy the Commissioner that (i) the conduct complained of may have taken place and (ii) if proved might amount to a breach of a relevant provision; and

- g. is made within [a specified timeframe] from the date when a complaint about the alleged conduct could reasonably have been made, unless the Commissioner is satisfied there is good cause for the delay.

4.3. The Commissioner may conduct a preliminary investigation in order to determine whether a complaint meets the requirements set out in the preceding paragraph.

4.4. If the Commissioner receives a complaint which does not satisfy one or more of the requirements set out at sub-paragraph 4.2 notice must be given to the complainant in writing—

- a. identifying the criteria which the complaint has failed to satisfy;
- b. specifying the additional information necessary to satisfy the criteria; and
- c. informing the complainant that if all the information specified is not provided by a date set by the Commissioner (such date to be not less than 14 days from the date of the notice), the complaint will not be admissible and will be dismissed.

4.5. Where it is alleged that sufficient evidence for a complaint is set out in the Record of Proceedings, it will be sufficient for the complainant to submit the reference to the relevant passage.

4.6. A complaint based on a media report is not substantiated within the meaning of sub-paragraph 4.2(f), except where the Commissioner decides that the media report itself provides sufficient evidence that a breach of a relevant provision may have occurred.

5. Complaints - bringing consideration to an end before final report

5.1. The Commissioner may bring consideration of an admissible complaint to an end at any time if satisfied that—

- a. it is no longer meets the requirements under sub-paragraph 4.2 for the complaint to proceed;
- b. the complaint repeats substantially an allegation that has already been considered by the Commissioner and no significant additional evidence has been provided;
- c. the complainant no longer insists upon the complaint proceeding;
- d. the victim of the alleged conduct, who did not make the complaint, does not wish the complaint to proceed;

- e. the alleged conduct is not sufficiently serious to justify further consideration, the Member being complained about has admitted and apologised and, in so far as practicable, rectified the breach (section 11 (para x-x) sets out further detailed requirements in this regard);
- f. the complainant has, without reasonable excuse, failed to co-operate with the Commissioner; or
- g. having due regard to value for money considerations and the nature of the complaint, it is not in the public interest to proceed further with the consideration of the complaint.

5.2. Where the Commissioner decides for any reason to dismiss a complaint on one of the grounds in paragraph 5.1, the Commissioner must give written notice of that decision and the reasons for it to the complainant and the Member being complained about.

5.3. Notice sent to the complainant under sub-paragraph 5.2 must also specify a date (such date to be not less than 14 days from the date of the notice) by which the complainant may give to the Commissioner notice in writing that the complainant is dissatisfied with the decision of the Commissioner.

5.4. Where a complainant gives notice to the Commissioner under sub-paragraph 5.3 the Commissioner must refer the complaint and the relevant documents to the Committee for further consideration.

5.5. Where the Committee believes that consideration of a complaint referred by the Commissioner under sub-paragraph 5.4 should not have been ended, the Committee will refer the complaint back to the Commissioner, who must then proceed to investigate it in accordance with the Procedure.

6. Complaints - Formal Investigations

6.1. Where the Commissioner begins the formal investigation of a complaint, he or she must give notice to the complainant, and the Member being complained about advising that a formal investigation of the complaint has commenced.

6.2. The Commissioner must undertake a full and thorough investigation with a view to—

- a. establishing all the relevant facts in relation to the alleged breach of a relevant provision; and

- b. forming a view whether or not a breach of that provision has occurred.

but the Commissioner is not required to investigate any part of a complaint which has been accepted by the Member being complained about.

6.3 The Commissioner may form a view that a breach of a relevant provision has occurred only if satisfied on the balance of probabilities that such a breach has occurred.

6.4. When interviewing a person under the powers conferred by section 11 of the Measure, the Commissioner—

- a. must ensure that an audio recording of the interview is made;
- b. must provide that person with a copy of that recording;
- c. provide that person with a copy of any transcript of the interview that is prepared and allow that person not less than 7 days to suggest any revisions to that transcript; and
- d. may accept or reject any revision of the transcript proposed by that person.

7. Report of investigation of a Complaint

7.1. Before finalising the report on an investigation, the Commissioner must give the complainant and the Member being complained about not less than seven days to submit written corrections or representations regarding any finding of fact made by the Commissioner.

7.2 Any such representations must set out why it is considered that the finding is inaccurate and be supported by any available documentary evidence.

7.3. If no representations are made, then the facts in the report are deemed accepted.

7.4 The report by the Commissioner of the investigation must set out:

- a. an outline of the investigation carried out by the Commissioner;
- b. the facts established by the Commissioner in the investigation, with references to evidence as appropriate;
- c. any representations made under sub-paragraph 7.1 that were not accepted by the Commissioner and the reason why they were not accepted;

- d. the Commissioner’s reasoned decision on whether or not a breach of a relevant provision has occurred;
- e. the complaint and all evidence (other than the audio recording of any interview of which a transcript was prepared) which has been obtained as part of the Commissioner’s investigation and which was relied upon in reaching a decision;
- f. details of any failure by the Member being complained about or any other Member to co-operate with the investigation;
- g. any recommendation of the Commissioner regarding material to be redacted from any published version of the report for one of the reasons set out in sub-paragraph 7.5; and
- h. information on any matter of general principle identified during the investigation.

7.5. The Commissioner may omit evidence from a report where—

- a. that omission is necessary to prevent the disclosure of data which is in the reasonable view of the Commissioner confidential or private data; and
- b. the confidential or private data omitted was not relied on by the Commissioner in order to reach a decision; or
- c. the evidence may unnecessarily cause harm or distress to any of the parties involved.

If a breach is rectified and no further action recommended

7.6 Where, at any stage of an investigation, the facts are not disputed and the Member promptly rectifies and/or apologises to the satisfaction of the Commissioner for a failure of a minor nature, the Commissioner may recommend to the responsible Committee that the investigation should not be continued. If the Committee agrees, the Commissioner must inform the Member and the complainant that, although a breach has been found, no further action will be taken against the Member.

7.7 In these circumstances, the Commissioner need not report formally to the Committee except to recommend any action that may be needed in relation to matters of general principle or practice. Where the Commissioner does choose to report in this way, the report must be anonymised to avoid identification of the Member and complainant.

8. Complaints - Consideration by the Standards of Conduct Committee

Notification of Commissioner's report

8.1. Following the receipt of a report from the Commissioner, the Committee clerk will notify the complainant either directly or via the Commissioner's office of its intention to consider the complaint and the process involved in this consideration.

8.2 The Committee clerk will notify the Member being complained about that a report has been received by the Committee and, where the Commissioner has made a finding of breach, of its intention to consider the complaint and the process involved in this consideration.

8.3 The Member being complained about will be informed of their right to:

- a. make written representations to the Committee within a time specified by the Committee; and
- b. to make representations to the Committee in person.

Initial Consideration stage

8.4 If a Member who sits on the Committee is the subject to or otherwise directly connected with the complaint under consideration, they must not take any part in the proceedings of the Committee relating the complaint and a substitute Member must be appointed in accordance with Standing Order 22.5.

8.5 The Committee may seek further clarification from the Commissioner on the report at the initial consideration stage, which may be in writing or by the Commissioner attending the Committee in person.

The Commissioner will only attend the Committee by invitation of the Committee.

8.6 The presumption will be that the Committee will meet in private to consider the Commissioner's report unless the Committee is of the view it is in the public interest to consider the matter in public.

8.7 Notwithstanding any representations the Member being complained about may make, the Committee may request that they attend a meeting of the Committee in person.

8.8 If the Committee agrees unanimously that it does not wish to seek any clarification or explanation, either in writing or orally, and the Member being complained about has confirmed

they do not wish to provide any further representations, the Committee can move directly to the decision stage (8.18-8.20) omitting the representation stage set out below

Representation stage

8.9 A Member attending Committee to make representations may choose to be accompanied by another person.

8.10 The Committee must be notified in advance of such a person, and their status.

8.11 The person accompanying the Member may make representations with the permission of the Committee. In such instances, the rules in the Procedure (and accompanying guidance) applying to Member representations will apply also to that person.

8.12 Unless otherwise provided to the contrary in the Procedure, the normal rules of conduct as set in Standing Orders apply.

8.13 Unless the Committee decides otherwise, at the meeting, the order of proceedings will be:

- a. the Member's representations to the Committee on the Commissioner's report;
- b. questions by the Committee arising from the Commissioner's report and/or the Member's representations;
- c. the Member's closing representations (if any) in the light of the Committee's questions.
- d. the Member (and representative) withdraw to allow the Committee to deliberate in private.

8.14 The Committee may refer any of the matters arising from the Member's representations back to the Commissioner for further consideration or comment.

8.15 A verbatim transcript of any oral hearing will be provided to the Member concerned. This transcript will only be published if the meeting is conducted in public. A Member can request the audio file of the meeting within 14 days of the transcript being produced.

Decision stage

8.16 Where a report from the Commissioner is received by the Committee, the decision to accept a finding of the Commissioner on whether or not there has been a breach of the Code, or any other matter mentioned in Standing Order 22.2(i), rests solely with the Committee.

8.17 There must be a clear majority within the Committee in favour for a recommendation to be made to the Senedd.

Report to Senedd – no breach of Code found

8.18 Where the Committee is of the opinion that there has been no breach either of the Code or any other matter mentioned in Standing Order 22.2(i), the Committee must publish its report and lay it before the Senedd along with the Commissioner's report on the complaint.

8.19 The Report of the Committee and the Commissioner's must be anonymised for publication unless the Member concerned requests otherwise.

8.20 The complainant and the Member being complained about are to be provided with a copy of the Committee's report. The report must be kept confidential by all parties until published by laying before the Senedd.

8.21 The Committee will take all reasonably practicable steps to give all individuals named in the report advance notification of its publication.

Report to Senedd – breach of the Code found

8.22 Where the Committee adopts a recommendation that a breach has been found, the Committee must either;

- a. recommend a sanction in accordance with Standing Order 22.10, or
- b. recommend that, notwithstanding that a breach has been found, no further action should be taken.

8.23 As soon as may be following the Committee's decision to recommend a finding of a breach of the Code or any other matter mentioned in Standing Order 22.2, the complainant and the Member being complained about must be provided with a copy of the Committee's report. The report must be treated in confidence by all parties until published by laying before the Senedd.

8.24 The Committee will take all reasonably practicable steps to give all individuals named in the report advance notification of its publication.

8.25 The Committee must publish its report, including its recommendations, by laying it before the Senedd along with the Commissioner's report to the Committee. The Committee may redact or withhold all or part of the Commissioner's report, or publish a summary if considered necessary. The reason for doing so must be consistent with the provisions in the Committee

privacy notice, or for other reasons where the Committee considers there is a substantial risk of harm or significant distress to any of those involved. A decision to redact, and the general reason for it, must be noted in the Committee report.

8.26 Where the Committee finds a breach, the Chair of the Committee must table a motion calling on the Senedd to endorse the Committee's recommendations.

9. Arrangements applying in specific situations

Temporary Chair

9.1 The Committee must at all times have a Member designated to act as the temporary Chair whenever the Chair is unable to act or is disqualified from acting.

Handling of complaints already before the Standards Committee when a Senedd election period begins

9.2 If the Committee is considering a report on a complaint from the Commissioner at the start of a Senedd election period, consideration will be suspended and referred to the next Committee.

9.3 Where a Member being complained about is re-elected, consideration of the complaint will resume once a Committee with responsibility for matters under Standing Order 22 is formed and will be concluded in accordance with the Procedure.

9.4 Paragraph 9.5 below applies where the Committee formed after an election period:

- a. has before it a report from the Commissioner that was already before the Committee prior to the start of an election period, or
- b. a report from the Commissioner is received in respect of an investigation that had been resumed by the Commissioner after the election period.

9.5 Where paragraph 9.4 applies, the Committee must decide whether to proceed with consideration of the complaint, having regard to:

- a. the nature of the complaint;
- b. whether the complainant(s) still wishes to continue;
- c. whether, given the nature of the complaint, it would be a prudent use of resources to continue, and

- d. whether it is in the public interest to continue.

9.6 If the Committee decides to continue with consideration of the complaint relating to a former Member:

- a. the former Member must be allowed the opportunity to make representations on the Commissioner's report in accordance with the Procedure, which the Committee must take into account in preparing its report;
- b. where the complaint is found by the Committee not to be a breach of the Code, or any other matter mentioned in Standing Order 22.2(i), or the Committee would have recommended no further action had the person complained of still been a Member, then the Committee must arrange for its report and that of the Commissioner to be anonymised before publication, and
- c. the Committee's report on a complaint against the former Member must be published and laid before the Senedd but is not to be subject to debate in Plenary.

9.7 If the Committee decides to discontinue consideration of a complaint against a former Member, the complainant(s) and the former Member must be notified in writing as soon as practicable.

Complaints against a former Member made after they cease to be a Member

9.8. A complaint about a former Member cannot be made once they have ceased to be a Member unless, in addition to meeting the requirements in sub-paragraph 4.3 above,;

- a. it is made within eight weeks of the former Member having ceased to be a Member, and
- b. the Commissioner, having due regard to the prudent use of resources and the nature of the complaint, believes that it is in the public interest for it to be investigated.

9.9 The report of the Commissioner on an investigation carried out under sub-paragraph 9.8 above must be considered by the Committee in accordance with the procedure set out in sub-paragraphs 9.3, 9.4 and 9.5 but subject to any modifications the Committee considers necessary in the interests of fairness.

10. Transitional

10.1. The time limit specified in sub-paragraph 4.2(g) is to be extended by 6 months for any complaint made in the 6 month period following the coming into effect of this Procedure .

Annex B. Existing Procedure for Dealing with Complaints Against Members of the Senedd

NATIONAL ASSEMBLY FOR WALES PROCEDURE FOR DEALING WITH COMPLAINTS AGAINST ASSEMBLY MEMBERS

Approved by the Committee on Standards of Conduct on 9 July 2013

Enquiries: Clerk to the Committee on Standards of Conduct

1. GENERAL PROVISIONS

Administrative Arrangements

Complaints should be made to the Commissioner for Standards ("the Commissioner"), who is an independent statutory officer appointed under the National Assembly for Wales Commissioner for Standards Measure 2009 ("the Measure"). The Commissioner's Office will log the correspondence and send a letter to acknowledge receipt to the complainant. The letter will explain that this does not necessarily mean that the complaint is admissible and that the complaint can only be considered formally if the complainant is prepared for the details to be released to the Committee and the Member complained of.

Investigations

Investigations under this procedure must be conducted by the Commissioner in accordance with the Measure.

When the office of the Commissioner is vacant or the Commissioner is, for any reason, unable to act, the Assembly may appoint a person as an Acting Commissioner to discharge the functions of that office. Further provisions on the appointment of an Acting Commissioner are set out in Section 4 of the Measure.

Stages

There are two possible stages to any investigation by the Commissioner into a complaint:

Preliminary Investigation Stage which consists of investigating and determining whether a complaint is admissible; and

if the complaint be admissible, Formal Investigation stage which consists of further investigation of the complaint, and reporting upon it to the Committee on Standards of Conduct.

Conduct of Investigations

Subject to the provisions of the procedure, it is for the Commissioner to decide when and how to carry out any investigation at each stage.

Each stage of an investigation into a complaint must be conducted in private. However the Commissioner may at any time make a report to the Committee as to the progress of an investigation into a complaint and must do so if the formal investigation has not been completed within six months of the Commissioner finding that the complaint is admissible.

If investigation of a complaint is on-going at the start of an Assembly election period, it will be suspended and will re-commence at the end of that election period. Consideration of a complaint against a Member who is re-elected will be concluded in accordance with this procedure. In the case of a Member who is not re-elected the sanctions which can be applied in the case of a finding of a breach are restricted and the Committee may take that into account when considering what action to take in relation to any report by the Commissioner on the complaint.

2. PRELIMINARY INVESTIGATION STAGE

At this stage, the Commissioner must investigate and determine whether a complaint is admissible within the terms of paragraph 3 below. The Commissioner may contact the complainant to elicit more details and to ascertain whether or not he or she is willing for his or her name to be released to the Member complained of and the Committee. The Commissioner may also, at his/her discretion, contact the Member complained of if the Commissioner believes that it is necessary to do so in order to decide whether the complaint is admissible.

If the Commissioner considers that the complaint is admissible, the Commissioner must proceed to a Formal Investigation into the complaint.

If the Commissioner considers that the complaint is inadmissible, the Commissioner must dismiss the complaint and must inform the complainant together with the reasons for that view.

3. ADMISSIBILITY OF COMPLAINTS

A complaint is admissible under this procedure if:

- it is in writing*,
- it is about the conduct of an Assembly Member;

- it is not anonymous and clearly identifies the complainant in a way which provides for further communication with him/her;
- it clearly identifies the Assembly Member complained of;
- it is made within one year from the date when the complainant could reasonably have become aware of the conduct complained about; and
- 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 Order 22.2(i).

4. FORMAL INVESTIGATION STAGE

At this stage, the Commissioner must investigate an admissible complaint with a view to:

- establishing the facts in relation to whether the Member concerned has committed the conduct complained about; and
- reaching a conclusion as to whether that Member has, as a result of that conduct, breached one of the matters encompassed within Standing Order 22.2(i).

When a formal investigation into a complaint has been completed, the Commissioner must make a report to the Committee on Standards of Conduct. The report must include:

- details of the complaint;
- details of the investigation carried out by the Commissioner;
- the facts found by the Commissioner in relation to whether the Member concerned has committed the conduct complained about, and any facts provided by the Police, Crown Prosecution Service or the Courts in the case of evidence having been referred (see section on Criminal Offences);
- the conclusion reached by the Commissioner as to whether that Member has, as a result of that conduct, breached one of the matters encompassed within Standing Order 22.2(i); but may not include any comment or recommendation as to what sanction, if any, should be imposed on the Member in question.
- whether, in the Commissioner's view, the complaint raises any issues of general principle.

If, in the course of carrying out an investigation, the Commissioner becomes aware of any circumstances which give rise to issues of general principle or of general practice relevant to the Clerk's functions under Section 138 of the Act as principal accounting officer, or could, upon further consideration by the Clerk give rise to a duty on the Clerk under Section 9, the Commissioner must also separately communicate those circumstances in writing to the Clerk.

No report, concluding that a Member has breached one of the matters within Standing Order 22.2(i) may be made to the Committee unless the Member and the complainant have been given a copy of the draft report and an opportunity to comment on factual accuracy. If there is any comment that is not accepted by the Commissioner the report to the Committee must include details of those disputed facts.

Copies of the Commissioner's final report to the Committee of a formal investigation must be made available to the complainant and the Member complained of at the same time that it is provided to the Committee.

The Member complained of will be informed by the Committee that he or she has 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.

The Commissioner's report remains confidential until the Committee has concluded its consideration of the complaint. Those sent copies of the report will be asked to respect this confidentiality.

5. CO-OPERATION OF MEMBERS

This procedure is based on the principle that Assembly Members will co-operate fully with any investigation into a complaint. Members are expected at all times to respond in person to any request from the Commissioner. If at any stage in the consideration of a complaint the Commissioner has reason to believe that any Member is not co-operating, the Commissioner may, having first given notice of the intention to do so to the Member complained of, report this view to the Committee on Standards of Conduct who may arrange for the report to be published and laid before the Assembly as soon as may be.

The making of such a report does not prevent the Commissioner or the Committee from continuing to consider the complaint in line with this procedure.

6. CRIMINAL OFFENCES

If at any stage in the consideration of a complaint;

- evidence arises of conduct which could involve a breach of section 36(7) of the Government of Wales Act 2006 the Commissioner must inform the Clerk immediately. The Clerk must refer the papers concerned to the Police in accordance with the protocol agreed with the Police and Crown Prosecution Service.
- evidence arises of conduct which could involve the commission of any other criminal offence, subject only to the expectation that such evidence will usually be referred to the Police, the Commissioner shall use his/her discretion in determining if, when, and by what mechanism the matter may be referred to the Police.

In such circumstances all consideration of the complaint under this procedure will be suspended until such time as the final outcome of any investigation of the matter by the Police, Crown Prosecution Service or the Courts is known.

7. CONSIDERATION BY THE STANDARDS COMMITTEE

Initial Consideration

The Committee will meet first in private to consider the details of the complaint, but will make no findings of substance on the complaint at this stage. The purpose of the private meeting will be to consider whether, in the light of the Commissioner's report, and any other written evidence that it considers appropriate:

- any witnesses should be invited to give evidence to the Committee at an oral hearing; and
- the Committee should consider the complaint in public or private.

The Committee may also consider how it proposes that the Member or witnesses should be questioned.

The Commissioner for Standards may not attend this initial private meeting unless invited by the Committee.

In accordance with Standing Order 22.5, where a Committee Member is subject to a complaint he or she may take no part in any consideration of the complaint by the Committee. In such circumstances, another Member from the same political group may replace that member in accordance with the arrangements set out in Standing Orders.

Oral Hearing

The Committee will meet in private - unless it has decided, having taking into consideration the circumstances of the case and any advice received from the Commissioner for Standards or on behalf of the Assembly Clerk, that it should meet in public - to consider:

- any oral or written evidence or representations that the Member complained of wishes the Committee to consider; and
- any oral or written evidence from witnesses.

The Commissioner may be invited to give evidence at the meeting at the discretion of the Chair.

At any oral hearing, the Member complained of, or any witnesses who choose to give evidence, may be accompanied by an adviser.

A verbatim transcript of the proceedings of any oral hearing will be provided. The general presumption is that the Committee will only ask questions of the Member or witnesses to clarify matters of fact. The Member or any witnesses would have the right to ask and have answered factual questions about procedural or technical matters; they do not have the right to question the Commissioner or the Committee about other matters.

If the Member or witnesses are accompanied, the chair may give permission for that person to make oral representations and the same rules would apply.

Committee's Consideration of its Decision

Following any oral hearing, the Committee will meet in private to consider whether the Member is in breach of one of the matters encompassed within Standing Order 22.2(i) and what action if any it should advise the Assembly to take if a breach is found.

In order for the committee to take a decision to make a recommendation, as detailed at 7.11, a clear majority must exist in favour of the recommendation.

Committee's Recommendations

The Committee may take a decision:

- i. that no breach has been found and that the complaint is dismissed;
- ii. that a breach has been found but that it is a failure of such a minor nature that the complaint should be dismissed;

Or the Committee may decide, pending any appeal by the Member concerned, to recommend to the Assembly either:

- iii. that a breach has been found but that no further action should be taken;
- iv. that a breach has been found and that the Member should be “censured” in accordance with Standing Orders;
- v. that a breach has been found and that the Member should be excluded from Assembly proceedings¹ either generally or specifically, for example, proceedings at particular meetings of the Assembly or its committees, for a time to be specified time in the motion for exclusion, and in accordance with Standing Orders¹;
- vi. vi.that a breach has been found and that certain rights and privileges of membership of the Assembly should be withdrawn from the Member concerned; or
- vii. vii. where deemed appropriate, any combination of the above sanctions may be applied.

The rights and privileges of membership of the Assembly that the Committee may recommend should be withdrawn will be as specified in the Committee’s report to the Assembly, and may include:

- withdrawal of a right of access as a member to the Assembly Estate;
- exclusion from other activities which a member might normally have a right to attend; and/or
- removal of representational, ceremonial and related privileges which a member might normally enjoy as a member.

Considerations

In deciding what sanction(s) to recommend to the Assembly, the Committee will make a judgement based on the specific circumstances of the case in question. It will consider the severity of the breach, the extent to which it may have brought the Assembly into disrepute, and whether the case in question is a repeat offence, or shows persistent conduct which may be considered to show contempt for Assembly colleagues, the rules or the institution. The Committee will also take account of intent, i.e. whether a breach is deemed to have been committed intentionally or not, and whether any dishonesty or deceit is deemed to have been involved.

8. REPORTING AND APPEAL PROCEDURE

As soon as may be following the Committee's decision the Member complained of must be provided with a copy of the Committee's report, which must be treated in confidence by all parties. In those cases where the Committee has considered the complaint in private, and where there is no breach or the case is dismissed, the Committee must arrange for the report to be anonymised.

Where a Member has been found in breach by the Committee, and the Committee does not recommend that the complaint be dismissed, the Member complained of may, within 10 working days of being provided with the Committee's report, appeal to the Presiding Officer.

The Committee must publish the report of its considerations and lay it before the Assembly along with the Commissioner's report to the Committee. Where the Presiding Officer informs the Committee that an appeal has been made, the Committee may not publish its report or lay it before the Assembly until consideration of the appeal has concluded.

If a complaint is referred back to the Committee under paragraph 8.6 i. the Committee must, at the conclusion of its further consideration of the complaint, prepare a revised report. Paragraph 8.1 will then apply to the revised report instead of to the original report.

Appointment of a Person to Consider an Appeal

The Presiding Officer must on each occasion appoint an independent legally qualified person to decide the appeal. The person appointed, who may not be an Assembly Member or a member of the Assembly's staff, must have been nominated, at the request of the Presiding Officer, by the senior Presiding Judge of the Wales circuit.

Following nomination and prior to appointment of the legally qualified independent person, the Presiding Officer shall afford the Member complained of an opportunity to make representations in writing as to any ground for the non appointment of such person, within five working days of being informed of the name of the nominee. In the event that the Presiding Officer accepts any such ground as valid and determines not to appoint the nominated person, he/she shall seek another nomination as in paragraph 8.2.

Consideration of Appeals

Appeals will only be considered on the following grounds:

- that the Committee's conclusions are based on significant factual inaccuracies which, had they been known, might have led to the Committee finding differently;

- that there had been procedural irregularities that prejudiced the Member's right to a fair hearing.

The independent legally qualified person appointed to decide the appeal will consider only the reports of the Commissioner and the Committee and any additional written representations made by the appellant. That person will not conduct oral hearings or consider representations from any other source.

The person appointed to decide the appeal must prepare, and provide to the Member and to the Committee, a report of his or her consideration of the appeal and must either:

- if the grounds of appeal are established, uphold the appeal and refer the complaint back to the Committee for further consideration; or
- dismiss the appeal.

The Committee must lay before the Assembly the report of the person appointed to decide the appeal, together with the report of the Commissioner and the report or (if the matter has been referred back to the Committee under paragraph 8.6 i.) revised report of the Committee itself.

In those cases where the Committee has considered the complaint in private, and where the Committee has, after it has been referred back to the Committee by the person appointed to decide the appeal, dismissed the complaint, the Committee must arrange for its revised report and that of the person appointed to decide the appeal, to be anonymised.

9. CONSIDERATION BY THE ASSEMBLY

Where there is no appeal or an appeal is unsuccessful.

Where an appeal is unsuccessful or where no appeal is made to the Presiding Officer and where the Committee does not decide on dismissal, the Chair of the Standards Committee must table a motion calling on the Assembly to endorse the Committee's recommendations. Such motions will not be subject to amendment. Time to debate the motion must be made available as soon as may be.

10. WHERE BREACH RECTIFIED OR COMPLAINT DISMISSED

Where, at any stage of an investigation, the facts are not disputed and the Member immediately rectifies or apologises satisfactorily for a failure of a minor nature the Commissioner may recommend to the Chair of the Standards Committee that the investigation should not be pursued. If the Chair agrees, the Commissioner shall inform the Member and the complainant that although a breach has been found no further action will be taken against the Member.

If the Chair is the subject of such a complaint, the Commissioner may make the recommendation to a member of the Committee on Standards of Conduct who has been nominated by the Committee to act in this respect. The Clerk to the Committee will ensure that a Committee member is so nominated.

In these circumstances, the Commissioner need not report to the Standards Committee except to recommend any action that may be needed to clarify or interpret rules for future reference. Where the Commissioner does choose to report in this way, the name of the Member and complainant need not be identified.

Annex C. Overview of the Proposed New Procedure for Dealing with Complaints Against Members of the Senedd

New Procedure	Commentary
<p>Part 1 - Status of the Procedure</p> <p>This section sets out the provisions under which the Procedure is made and who it applies to.</p>	No equivalent in the existing procedure
<p>Part 2 - Interpretation</p> <p>This sets out definitions of key terms in the procedure to help with understanding</p>	No equivalent in the existing procedure
<p>Part 3- General provisions about the Commissioner</p> <p>This section sets out how the Commissioner must deal with people making a complaint, including things like making reasonable adjustments for those that need them</p>	<p>Some of this is set out in part 1 (Administrative arrangements, Conduct of Investigations) and part 6 (criminal offences) of the current procedure.</p> <p>Elements which are included elsewhere like the Measure, such as the appointment of an Acting Commissioner, have been removed for simplification</p> <p>Part 5 of the current Procedure, which deals with Co-operation of Members, is no longer in the procedure. The Code of Conduct now contains explicit rules in this regard:</p> <p>Rule 17</p> <p><i>Members must co-operate at all times with the Senedd Commissioner for Standards in the conduct of any investigation and any subsequent consideration of the complaint by the Senedd Standards of Conduct Committee.</i></p> <p>Rule 18</p> <p><i>Members must comply with the procedures for the investigation of complaints against Members.</i></p>
<p>Part 4- Complaints – Initial Consideration</p>	This was detailed in Parts 2 and 3 of the current procedure –(preliminary investigation stage and admissibility)

<p>This section sets out how the initial consideration of a complaint should be handled.</p>	<p>There have been some changes to the admissibility criteria. This includes a clear requirement for complainants to state the acts and omissions being complained about, and how they link to the Code. The Commissioner is also suggesting an alteration to the time limit for complaints requiring they be made within six months from the date when a complaint about the alleged conduct could reasonably have been made, unless the Commissioner is satisfied there is good cause for the delay</p>
<p>Part 5- Complaints - bringing consideration to an end before final report</p> <p>This sets out a process for the Commissioner to end complaints before a final report is produced for the Committee for specified reasons.</p>	<p>No equivalent in the current procedure - although the rectification procedure (para 10.1) did in part deal with some of this – this is now included at the end of part 7.</p>
<p>Part 6- Complaints - Formal Investigations</p> <p>This sets out how the formal investigations by the Commissioner will be undertaken.</p>	<p>This is detailed in Part 4 of the current procedure.</p> <p>This section in the proposed procedure sets out more clearly what provisions can be expected in the conduct of investigations.</p>
<p>Part 7- Report of investigation of a Complaint</p> <p>This sets out the requirements for the Commissioner’s report to the Committee.</p>	<p>This is detailed in Part 4 of the current procedure.</p> <p>The new proposed procedure has been separated from the formal investigation part of the current procedure.</p> <p>This sets clearer timescales for considering reports and clarifies the Commissioner’s discretion for redaction where necessary.</p>
<p>Part 8- Complaints - Consideration by the Standards of Conduct Committee</p> <p>This sets out the Committee stage of the process</p>	<p>This is detailed in Part 7, 8 and 9 of the current procedure.</p> <p>The new proposed procedure has combined the three sections to flow more logically.</p> <p>It allows the Committee to notify the complainant of the consideration of the Commissioner’s report.</p>

	<p>The attendance of a Member at Committee is better laid out and it has been made clearer that this is intended to be an opportunity for the Member to make representations on the Commissioner's report rather than a continuation of the investigation. The intention is that this should provide greater focus to this stage of the process and avoid the introduction of inappropriate material or representations.</p> <p>In light of this refinement of the representation stage, and the additional safeguards such as referral back to the Commissioner, the appeal mechanism (part 8) has been removed. The intention is that the reformatted Committee oral hearing stage provides an opportunity for the Member to raise issues of fact or procedural concern, and for the Committee to refer matters back to the Commissioner where concerns have been raised. There is sufficient oversight in the various stages of the proposed procedure to meet the requirements of "natural justice".</p> <p>The finding of "A breach, but of such a minor nature it amounts to a dismissal" has been removed from the procedure to make matters clearer in terms of findings of the Committee.</p> <p>The considerations for the Committee in reaching a decision on sanctions will be moved to the guidance that will accompany this procedure. (part 7.13).</p> <p>This provision now also sets out more clearly the basis for the Committee to be able to redact matters where necessary.</p>
<p>Part 9- Arrangements applying in specific situations</p> <p>This has grouped together aspects of the procedure which do not apply in typical circumstances such as elections and the Chair being subject to a complaint.</p>	<p>This includes part 10 of the current procedure with clearer provisions on how to deal with complaints during election periods.</p>
<p>Part 10 – Transitional Arrangements</p>	<p>No equivalent in the current procedure</p>

Annex D. Standing Order 22

22. STANDING ORDER 22 – Standards of Conduct Committee

22.1 In proposing the remits of committees under Standing Order 16.2 or 16.3, the Business Committee must ensure that there is a committee (referred to within Standing Order 22 as “the responsible committee”) with responsibility for the functions specified in Standing Order 22.

Functions

22.2 The responsible committee must:

- i. investigate, report on and, if appropriate, recommend action in respect of any complaint referred to it by the Commissioner for Standards that a Member has not complied with:
 - a. Standing Order 2;
 - b. any Senedd resolution relating to the financial or other interests of Members;
 - c. Standing Order 5;
 - d. any Senedd resolution relating to Members’ standards of conduct;
 - e. any code or protocol made under Standing Order 1.10 and in accordance with section 36(6) of the Act;
 - f. Standing Order 3; or
 - g. Standing Order 4;
- ii. consider any matters of principle relating to the conduct of Members generally;
- iii. supervise the arrangements for the compilation, maintenance and accessibility of the Register of Members’ Interests, the Record of the Employment of Family Members with the Support of Commission Funds, the Record of Members’ Time Involved in Registrable Activities and the Record of Membership of Societies and the form and content of the Register and the Records; and
- iv. establish and lay before the Senedd procedures for the investigation of complaints under Standing Order 22.2(i).

Membership

22.3 The Presiding Officer must not be a member of the responsible committee, but is entitled to submit papers to it for the purpose of drawing to its attention such considerations as he or she considers appropriate.

22.4 Subject to Standing Order 22.5, Standing Order 17.48 must not apply to the responsible committee.

22.4A The Senedd must elect an alternate member from the same political group for each member of the responsible committee, for the purposes of Standing Order

22.5. Where a member of the responsible committee is subject to, or otherwise directly connected with, a complaint under Standing Order 22.2(i), he or she may take no part in any consideration of the complaint by the responsible committee. In such circumstances and in relation solely to the consideration of the complaint concerned, that member may be replaced by his or her alternate member elected in accordance with Standing Order 22.4A. The alternate member may participate in the meetings of the responsible committee to consider the complaint as if he or she were a member of it.

Meetings

22.6 The responsible committee must meet as soon as possible after a complaint has been referred to it by the Commissioner for Standards; and at other times as convened by the chair.

22.7 The responsible committee may meet in public or in private, but when deliberating upon a complaint, the responsible committee must meet in private unless it resolves otherwise.

22.8 Any Member who is the subject of an investigation by the responsible committee must be permitted to make oral or written representations to it and may be accompanied at oral hearings by another person (who may participate in the proceedings with the permission of the chair, but may not vote).

Reports

22.9 If the responsible committee has investigated a complaint referred to it by the Commissioner for Standards, it must report to the Senedd as soon as possible after completion of the investigation.

22.10 A report under Standing Order 22.9 may include a recommendation to:

- i. censure a Member;

- ii. withdraw any rights and privileges from a Member as set out in the procedures for the investigation of complaints established under Standing Order 22.2(iv);
- iii. exclude a Member from any Senedd proceedings for a specified period;

or any combination of the above, for failing to comply with any of the matters encompassed within Standing Order 22.2(i).

22.10A If a Member is excluded following a recommendation under Standing Order 22.10, the Member is not entitled to receive any salary from the Senedd and is not permitted to attend any Senedd proceedings during the period of his or her exclusion.

22.11 If a motion to consider a report under Standing Order 22.9 is tabled by a member of the responsible committee, time must be made available as soon as possible for the motion to be debated. No amendment may be tabled to such a motion.