

Individual Member Accountability Recall

January 2025

The Welsh Parliament is the democratically elected body that represents the interests of Wales and its people. Commonly known as the Senedd, it makes laws for Wales, agrees Welsh taxes and holds the Welsh Government to account.

An electronic copy of this document can be found on the Welsh Parliament website: **www.senedd.wales/SeneddStandards**

Copies of this document can also be obtained in accessible formats including Braille, large print, audio or hard copy from:

Standards of Conduct Committee
Welsh Parliament
Cardiff Bay
CF99 1SN

Tel: **0300 200 6565**
Email: **SeneddStandards@senedd.wales**

© **Senedd Commission Copyright 2025**

The text of this document may be reproduced free of charge in any format or medium providing that it is reproduced accurately and not used in a misleading or derogatory context. The material must be acknowledged as copyright of the Senedd Commission and the title of the document specified.

Individual Member Accountability Recall

January 2025

About the Committee

The Committee was established on 23 June 2021. Its remit can be found at:
www.senedd.wales/SeneddStandards

Current Committee membership:



**Committee Chair:
Hannah Blythyn MS**
Welsh Labour



Mick Antoniw MS
Welsh Labour



Peredur Owen Griffiths MS
Plaid Cymru



Samuel Kurtz MS
Welsh Conservatives

The following Members were also members of the Committee during this inquiry.



Natasha Asghar MS
Welsh Conservatives



Mark Drakeford MS
Welsh Labour



Vikki Howells MS
Welsh Labour

Contents

Chair's foreword	5
Recommendations	6
1. Introduction	8
Initial consideration	9
Welsh Government position.....	10
Terminology	11
2. What is recall?	12
House of Commons model	13
When can a recall petition be opened?.....	14
What is the process for a petition?.....	14
Who can sign the petition?	15
When is a petition successful?.....	15
When have these petitions been held?.....	15
Scottish Parliament	16
3. The Case for the Introduction of a System of Recall	18
Committee's view	20
4. An approach for Wales	22
Options for Wales	24
Option 3: A two-stage process.....	26
Committee view	26
5. Triggers for Recall.....	29
Triggers for a recall system	29
Voting on Recall in the Senedd.....	33
Committee view	34

6. Mechanics of the recall process.....37

Length of time for a recall process.....37

Funding and Campaigning for Recall..... 39

Other considerations40

Committee view41

**Annex A – Sanctions applied by the Standards of Conduct Committee
to date 43**

List of oral evidence sessions.....48

List of written evidence50

Chair's foreword

Working to ensure that the Senedd has the processes in place to maintain both individual and institutional integrity is central to the Standards of Conduct Committee's work on Individual Member Accountability and a cornerstone of our devolved democracy. This recall inquiry and the findings from it are part of an ongoing package of reform that the committee is committed to and that is aimed at building trust and transparency – in our processes, in our politicians and in our politics. We recognise that change is needed to create confidence in the political system and proper processes are pivotal to this.

Concerns around the lack of a sanction and power to remove Members of the Senedd were raised during the work of the Reform Bill Committee and were heard by this committee too.

Having looked at this matter in more detail, the Committee is in full agreement that a system of recall should be introduced in time for the seventh Senedd, and that this should be tailored for Wales. We see this power as a key part of the Standards regime, allowing the people of Wales a say on whether an individual who has acted in a particularly egregious manner should be allowed to carry on representing them.

As the Committee moves towards reviewing how the Standards regime operates more widely, with a specific focus on strengthening our approach to matters of dignity and respect, we hope that this provision will be rarely used. However, it is a necessary tool to ensure the Senedd does not allow those who have acted in ways that are unacceptable and that serve to undermine the trust of the public or colleagues to remain as sitting Members.

I would like to put on record my thanks to all those that responded to the Committee and took time to engage with us. The evidence received has been invaluable in helping the Committee's thinking on this matter and the recommendations we have been able to make.

Hannah Blythyn MS

Chair of the Standards of Conduct Committee

Recommendations

Recommendation 1. The Committee recommends the Welsh Government bring forward legislation to introduce a system of recall by 2026 in time for the Seventh Senedd..... Page 20

Recommendation 2. The Committee recommends that the system of recall introduced for the Senedd has one stage which puts to electorate a question based around the principle of retain the Member or remove and replace them with the next candidate on their party list at the last Senedd election.
..... Page 28

Recommendation 3. The Committee recommends the Welsh Government works with the Electoral Commission to develop a voting paper which presents the information in a clear and easy to understand manner. Page 28

Recommendation 4. The Committee recommends, given the process set out by the Committee, that it is referred to as a ‘remove and replace ballot’ rather than recall..... Page 28

Recommendation 5. The Committee recommends that legislation is drafted to give the Senedd the ability to recall a Member as a standalone sanction.
..... Page 36

Recommendation 6. The Committee recommends that the legislation should require, in Standing Orders, the responsible committee to produce guidelines on the application of recall, including matters which may result in automatic recall (if not included on the face of the bill). This guidance should be subject to a vote by the Senedd..... Page 36

Recommendation 7. The Committee recommends the recall process is held on one day in a process akin to a by-election, with sufficient coverage of polling stations and no threshold with regards to turnout. Postal and proxy voting should be available as part of this process.....Page 42

Recommendation 8. The Committee recommends that the Welsh Government should consult with electoral administrators and other interested stakeholders on the practical implications of holding a recall vote on a single day across multiple polling places in a consistency.....Page 42

Recommendation 9. The Committee recommends that the Welsh Government works with electoral community to make sure that the information sent out

relating to recall clearly informs voters of the reason for the recall and the options available to them.....Page 42

1. Introduction

- 1.** The Standards of Conduct Committee (the Committee) agreed to consider the introduction of a system of recall, following the recommendation in the Reform Bill Committee's Stage One report on the Senedd Cymru (Members and Elections) Bill.
- 2.** The Reform Bill Committee recommended that the Committee should develop options for strengthening individual Members' accountability, including consideration of a recall mechanism, disqualification arrangements and the sanctions available to the Committee when a complaint about a Member is upheld. The Reform Bill Committee recommended that public consultation on potential options should be completed before the end of the Sixth Senedd in 2026.
- 3.** At stage 2 and stage 3 of the Bill, amendments were brought forward in relation to the introduction of a recall system (Stage 2 Amendments 124 and 125, Stage 3 Amendments 40 and 42). There was broad cross party support for the amendments but a recognition that this was an area which needed further consideration.
- 4.** The Former Counsel General wrote to the Standards of Conduct Committee following Stage 2 highlighting that he was:

"... supportive of the general principle underpinning these amendments, and of the increased accountability of Members they would bring. My decision not to support the amendments was because such complex and continually important issues require a fuller consideration than the amending stages of this Bill can provide, and mindful of the related recommendation to, and proposed review by your Committee¹."
- 5.** In May 2024, the former First Minister, Vaughan Gething MS, confirmed that the Welsh Government would "work constructively with all parties" on recall and that it is committed to have this issue resolved before the next Senedd election.
- 6.** In addition to consideration of recall during the scrutiny of the Senedd Cymru (Members and Election) Bill, a petition calling for a recall system to be introduced for the Senedd was received. In response to the petition, the former

¹ Letter from Council General - 13 March 2024

First Minister, Mark Drakeford MS, said that because of the new electoral system being introduced for the 2026 Senedd elections, it is important to consider what the consequences would be for a recall system. He said that if a recall system was introduced where 10% of the electors in a constituency could remove a Member, it would mean that:

- A Member subject to such a petition would immediately lose their seat.
- There would be no opportunity for the recalled Member to “defend” their recall in a by-election. Instead, the seat would either be filled by the next candidate on a party’s list or would remain vacant.
- A Member could irrevocably lose their seat based on the expressed will of only 10% of registered voters within a constituency (if the threshold in the UK Parliament process was adopted).

7. The Committee noted these concerns in agreeing its terms of reference.

8. The Committee agreed in June 2024 to consider proposals for recall, with a view to report in time for legislation to be introduced by 2026.

Initial consideration

9. In the first instance, the Standards of Conduct Committee took evidence on the potential introduction of a recall mechanism for Members of the Senedd. These evidence sessions were aimed at developing a workable proposition for consultation.

10. The Committee took evidence from:

- The Institute of Welsh Affairs
- The Commissioner for Standards
- Graham Simpson MSP (in private)
- Professor Jonathan Tonge, University of Liverpool
- Professor Alistair Clark, University of Newcastle; and
- Jane Dodds MS.

11. The Committee also held an oral evidence session with the then Counsel General and Minister for the Constitution, Mick Antoniw MS.

12. The Committee focused on the overall need for a recall mechanism to be introduced, as well as some of the details around what kind of circumstances should trigger a recall petition, the process for how a petition could be held and the ways in which a Member would be replaced in the event that a petition was successful.

13. These evidence sessions informed the Committee's consultation, held between July and September 2024, which included questions on specific elements of how a recall system would operate for the Senedd, as well as presenting two options to consultees.

14. The Committee received 33 responses to the consultation, although some of these related solely to deception. There were a mix of individuals and organisations who responded.

15. Following the consultation, the Committee took further evidence from:

- Graham Simpson MSP;
- Electoral Reform Society (ERS) Cymru;
- a number of bodies associated with electoral administration; and
- the Deputy First Minister.

Welsh Government position

16. Given the clear commitment from the Welsh Government to act in this area, the Committee took evidence from the former Counsel General prior to consultation.

17. In his evidence, the former Counsel General stated that:

- He broadly agreed with the areas that trigger a recall petition in the UK Parliament should be replicated in a Senedd system;
- It would probably be “a step too far” to introduce recall for a Member changing political parties;
- There should be an appeals process for Members found to have breached the Code of Conduct;
- The Senedd vote to approve the recommendation of the Standards of Conduct Committee to open a recall petition should be subject to a simple majority;

- A Senedd recall system could be more like a ‘referendum’ where voters are asked to choose whether or not they want them to remain as a Member, subject to a threshold;
- The same rules should apply to postal and proxy voting as in regular elections;
- A single-stage recall system is preferable, where the Senedd accepts a recommendation from the Standards Committee and it moves to a single public vote;
- There would need to be information provided to the public about a petition being triggered and what the question is that is being put to them; and
- A recall system is “a matter that’s in the ultimate ownership of the Senedd” but the Welsh Government would like to see legislation in place by 2026.

18. The Committee considered these parameters set out by the Welsh Government in its work but was not constrained by them. The Committee also took evidence from the Deputy First Minister at the end of the inquiry, to confirm the position of the Welsh Government had not changed.

Terminology

19. There is a range of terminology associated with the Westminster system of recall which has been used in this report. This is because it is the terminology in common parlance relating to the process of recall.

20. The Committee is of the view that many of these terms lack meaning in terms of the process that is undertaken. It is proposed that the system introduced in Wales is called a ‘remove and replace’ ballot.

21. The report also refers to the term ‘petition’ which is the stage where voters can sign a petition during a six week period. The process the Committee is proposing would not involve a petition and would instead have a ballot.

2. What is recall?

Recall is a term used to describe the process which allows voters to remove an elected representative between elections.

22. Recall is not a particularly common mechanism. Around 20 countries worldwide have some form of recall mechanism which can be applied either to individuals or to particular offices. The House of Commons Political and Constitution Reform Committee, which considered the 2015 Recall Act, found:

“Recall mechanisms are comparatively unusual throughout the world, and particularly rare at national level.”²

23. Recall is often identified as a method of “direct democracy”, differentiating it from other mechanisms for removing elected officials from office, such as impeachment, where voters are not involved in the process.

The International IDEA states that there are two main models of recall:

- a. the partially participatory “mixed recall” where citizens are involved either in initiating a request that a recall take place, which is then approved by an authoritative body (as in Uganda), or in making a decision by voting on a resolution reached by an authoritative body (as in Austria, Iceland and Taiwan); and
- b. the fully participatory “full recall” where both the initiative for and approval of a recall require the involvement of voters (as in ... Ecuador and Venezuela).³

24. Professor Alistair Clark set out that the Westminster model has taken the two approaches of either a recall being done by an institution or via the public initiating a recall petition and

“... merged those two things in an overall process. So, the first step of their recall process is that institutional check, if you like: prison sentence, suspension for 10 or more days, or a violation

² House of Commons - Recall of MPs - Political and Constitutional Reform

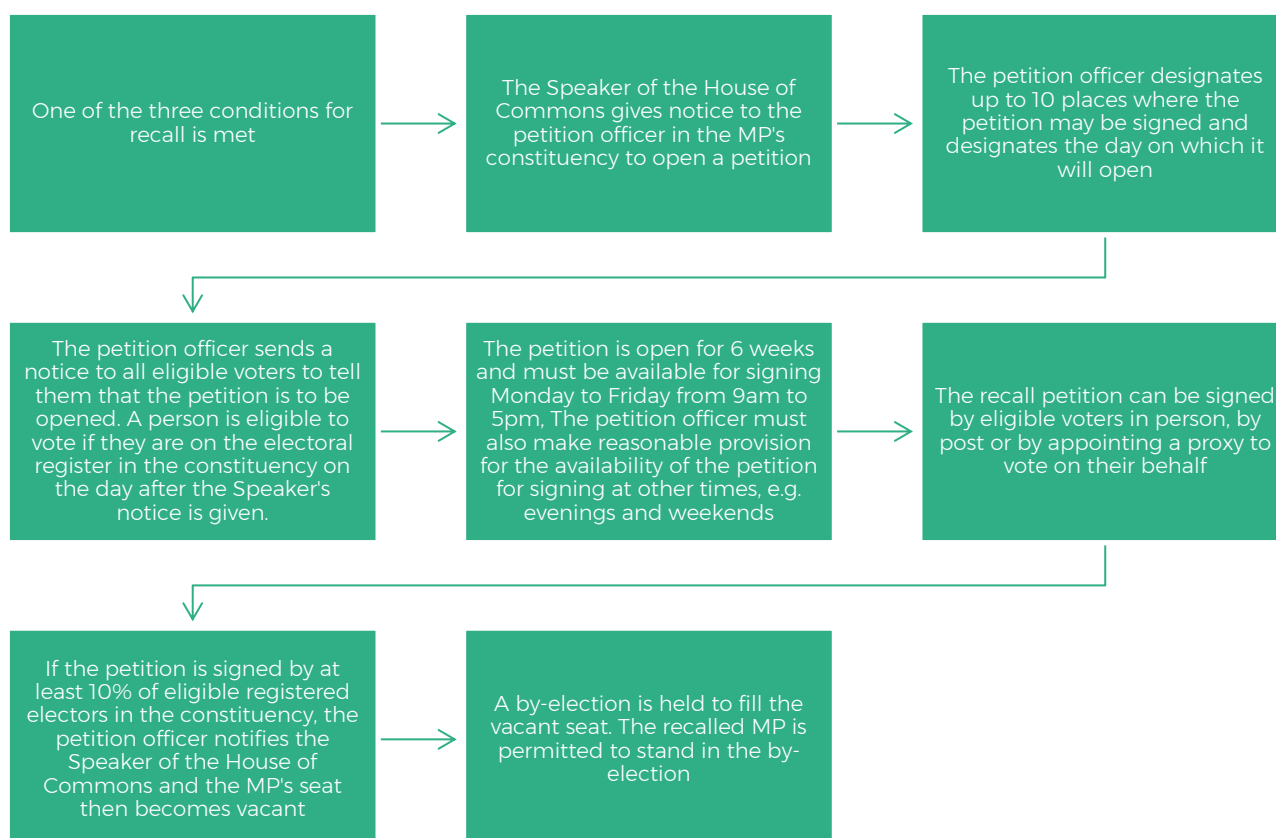
³ Direct Democracy - The International Idea Handbook

of the expenses Act. That, I think, removes the problem of things being raised that, to be honest, are just political issues, for instance. It removes, to some degree, the politicisation of the standards process, because I think there is a danger here of that potentially happening. Where Westminster then goes is it puts this out to a recall petition.”⁴

House of Commons model

25. The Recall of MPs Act 2015 provided a system of recall for Members of the House of Commons.

26. The flow chart below sets out the key steps in the process:



⁴ Standards of Conduct Committee, Record of Proceedings, 17 June 2024, paragraphs 5-6

When can a recall petition be opened?

27. A recall petition against a sitting MP can only be opened in a constituency if one of three conditions are met:

- the MP has, after becoming an MP, been convicted in the United Kingdom of an offence and sentenced or ordered to be imprisoned or detained, and any appeal period has passed without the conviction being overturned;
- Following on from a report from the Committee on Standards in relation to an MP, the House of Commons orders the suspension of the MP from the service of the House for a specified period (at least 10 sitting days, or at least 14 days if sitting days are not specified); or
- The MP has, after becoming an MP, been convicted of an offence under section 10 of the Parliamentary Standards Act 2009 (if they provide information which they know to be false or misleading in a material respect in support of a claim for allowances).

28. A custodial sentence will trigger recall under the first condition if the sentence is any period up to a year (even if the sentence is suspended). If a sitting MP convicted of an offence receives a custodial sentence of more than a year and is detained, they would already automatically lose their seat and recall does not apply.

29. If one of the conditions is met, the Speaker of the House of Commons must give notice to the returning officer (known as the petition officer) in the MP's constituency as soon as reasonably practicable.

What is the process for a petition?

30. Once a notice has been received from the Speaker that a condition has been met, the petition officer must "as soon as reasonably practicable," designate up to ten places where a petition may be signed once it has been opened. The petition officer must also designate the day on which the petition will open. This is the 10th working day after the receipt of the notice.

31. As soon as practicable after designation of the signing places and designated day for opening the petition, the petition officer is required to send a notice to all eligible voters telling them that a petition is to be opened in their constituency.

32. A petition remains open for signing for six weeks. The petition must be available for signing Monday to Friday from 9am to 5pm, except bank holidays. The petition officer must also make reasonable provision for the availability of the petition for signing at other times.

Who can sign the petition?

33. A person is eligible to sign the petition if they are registered and eligible to vote in a parliamentary election in the constituency on the day after the Speaker's notice is given. People registering to vote while the petition is open will not be able to sign the petition.

34. Eligible voters wishing to sign in person will go to the designated signing place. If there is more than one signing place, the petition officer will assign voters to a signing place, in a similar way to voters being assigned a designated polling station in an election.

35. As with voting in an election, eligible voters may sign the petition either by post or by appointing a proxy.

When is a petition successful?

36. For a petition to succeed, it must be signed by 10% of eligible registered electors on the parliamentary register on the day the petition officer receives the petition notice.

37. If the petition is successful, the petition officer notifies the Speaker of the House of Commons. The MP's seat becomes vacant on the giving of that notice.

38. Once the seat has been vacated, the normal conventions for calling a by-election apply.

39. Being removed by a recall petition does not disqualify the outgoing MP from seeking to stand in the subsequent by-election.

When have these petitions been held?

40. To date there have been six recall petitions held, with four of these reaching the required threshold of signatures. The petitions which met the 10% threshold were held in Peterborough, Brecon and Radnorshire, Rutherglen and Hamilton West and Wellingborough. The petition in North Antrim fell just short of the required number of signatures and in Blackpool South the MP resigned during the petition period.

41. There have been other circumstances where MPs who met the threshold for a recall petition to be initiated have chosen to resign their seats before any such petition could be opened, or an election was called.

Scottish Parliament

42. In December 2024 Graham Simpson MSP introduced a private Members bill in the Scottish Parliament which is aimed at introducing new measures to remove an MSP from office.⁵ This includes making new grounds for automatic removal for MSPs who do not participate in proceedings for six months without good reason, and for those sentenced to prison for a period of 6-12 months. This would bring the Scottish Parliament more in line with local authorities in Scotland.

43. In the consultation document published alongside his original proposal, Mr Simpson notes that a workable model for a recall system for the Scottish Parliament has not been identified before, despite it being “deliberated on by academics and politicians”.⁶

44. The proposed system of recall in the Bill will be triggered if a Member of the Scottish Parliament is excluded from proceedings for 10 sitting days or more as a result of a breach of the code of conduct, or while holding office as an MSP, is convicted of an offence anywhere in the United Kingdom and is, as a result, sentenced or ordered to be imprisoned or detained for a period of less than 6 months.

45. The proposals in the Bill mirror many of the elements of the UK Parliament’s recall scheme for Members of the House of Commons. However, a significant barrier identified to introducing a recall scheme is the system used to elect regional Members of the Scottish Parliament. This is the same as that used to elect regional Members of the Senedd, and these same challenges would apply to the system proposed in the Senedd Cymru (Members and Elections) Bill.

46. The proposal in the Bill for recalling a regional Member is for a single ballot paper to include two questions: the first asks whether the Member in question should be recalled with a threshold set for required support; the second question offers a choice between the current MSP who is the subject of the recall and the name of the next candidate on that party’s regional list submitted at the last

⁵ [Proposed Removal from Office and Recall \(Members of the Scottish Parliament\) Bill – Graham Simpson MSP. Summary of Consultation Responses](#)

⁶ [Proposed Removal from Office and Recall \(Members of the Scottish Parliament\) Bill – Graham Simpson MSP. Consultation document](#)

election. Graham Simpson recognised when setting out the proposal that this would only offer the electorate the choice between candidates from the same political party.

47. In its response to the consultation on the proposal, the Electoral Management Board for Scotland highlighted the challenges involved in introducing a recall system given the electoral system used for the Scottish Parliament:

For Regional members however vacancies are not filled by by-election and the approach to recall is far from clear. A successful recall petition might create a vacancy, but the consequence would not be a byelection. Proportionality from the original poll would need to be preserved. Assuming the recalled member still had the endorsement of their party then they would remain in the seat. If the party removed their endorsement, then the seat would go to their next candidate on their list.⁷

48. Dr Alistair Clark, Professor of Political Science at Newcastle University, commented on the operation of the recall system for the regional list:

I am sanguine about the fact that the recall of a regional list MSP would not necessarily lead to a by-election. This is how the casual vacancy system for the lists works, and I see no reason why it shouldn't continue to work that way if an MSP is recalled. The voters will have a new MSP, who, given what happened to their predecessor, is likely to take their role seriously, which seems to me to be the whole point of the exercise.⁸

⁷ Proposed Removal from Office and Recall (Members of the Scottish Parliament) Bill – Graham Simpson MSP. Summary of Consultation Responses

⁸ Proposed Removal from Office and Recall (Members of the Scottish Parliament) Bill – Graham Simpson MSP. Summary of Consultation Responses

3. The Case for the Introduction of a System of Recall

The Committee considered whether there was need for introducing a system of recall for the Senedd.

49. At present there are a number of ways in which an individual Member of the Senedd is held to account:

- Once elected, a Member is accountable to their constituents and ultimately, a Member who stands for re-election is held to account by the public at each election.
- Members can be disqualified and removed during a Senedd term for specified reasons, including if convicted of a criminal offence and sentenced to a custodial sentence of 12 months or more.
- Members are also expected to meet the standards of behaviour and rules set out in the Senedd's Code of Conduct, and may face sanctions for breaches of these rules.
- However, there is no provision for the Senedd itself to recommend the removal of a Member during the Senedd term.

50. The evidence received by the Committee was strongly in favour of introducing a system of recall in the Senedd.

51. The Committee noted petition P-06-1386 'Introduce a way for constituents to vote out their MS before the end of their term'. This petition called for:

... the Senedd to adopt a recall procedure (detailed below), or something similar, so that constituents can call for an MS to vacate their seat. The conditions to trigger a recall would be an online petition of at least 100 signatures of eligible registered voters.

52. This petition was submitted in February 2024 and received 2012 signatures.

53. Twenty seven respondents to the consultation answered yes to the question "should there be a power to remove a Member of the Senedd during a Senedd

term when a complaint of misconduct has been upheld?”. Only two respondents did not have a view, and nobody disagreed with the question.

54. Some of the reasons for answering yes to this included:

If they have not behaved in a professional, honest manner they should be removed immediately

The public have the right to expect that Members of the Senedd behave in a professional manner. If a Member behaves improperly then that Member should not be able to hide behind their badge of office - if they are found to be guilty of misconduct then they should be removed.

There needs to be consequences for misconduct. If a MS has been found and proven to be behaving inappropriately then they certainly should not be allowed to continue as a representative for their seat.

55. Joe Rossiter, from the Institute of Welsh Affairs, told the Committee that Senedd reform was an opportunity to introduce recall which should not be missed. He told the Committee this was ‘a moment to reinvigorate our democratic systems’ and that there ‘should be more robust and transparent mechanisms for ensuring that the upholding of high standards of integrity from Senedd Members’. He went on to suggest this was an opportune time to introduce such a change as there will be an enlarged Senedd and it would be prudent to future proof the Senedd.⁹

56. Douglas Bain, the Commissioner for Standards told the Committee that he welcomed ‘anything that will strengthen the ability of the public to call to account Members of the Senedd.’ He did however raise concerns about how this may be achieved under the new electoral system.¹⁰

57. Jessica Blair, from the Electoral Reform Society stressed this was ‘a really important conversation that the Senedd’s having.’ She set out that this conversation was feeding into accountability, which is vital in politics. She emphasised that:

“... there’s an important part for it to play in terms of having accountability mechanisms that are very clear and transparent

⁹ Standards of Conduct Committee, Record of Proceedings, 3 June 2024, paragraphs 3-4

¹⁰ Standards of Conduct Committee, Record of Proceedings, 3 June 2024, paragraph 65

*to the public, so that voters can understand the mechanisms, if there is bad behaviour, what happens then, and that there are consequences. But I think what we would say is that recall shouldn't be a replacement for any kind of further disqualification. It should be a real balance in terms of the extent of misconduct, in terms of what kind of appropriate mechanism is used."*¹¹

Committee's view

58. As the Committee with responsibility for upholding and promoting standards of conduct in the Senedd, we firmly support any provision which improves individual Member accountability.

59. The Committee noted that the introduction of the recall system in Westminster has been well received and effectively used in allowing the public to hold to account those Members who had acted in ways that fell significantly short of the standards expected of parliamentarians.

60. The Committee has committed to considering the entire standards framework and ensuring that the Senedd has the systems and powers to empower people to come forward with concerns about matters like sexual harassment. To do this, the Committee believes it is important to be able to have sufficient powers to deal with serious misconduct, and the sanction of recall is an important factor in that.

61. The Committee therefore fully agrees with the principle of recall being introduced for the Senedd.

62. The introduction of a system of recall will serve as an important part of the Standards regime, and to ensure clarity and understanding around the measures which may be used to hold Members to account. We believe this should be introduced in time for the Seventh Senedd. This means that all Members elected to the next Senedd will be held to a consistent standard from the outset.

Recommendation 1. The Committee recommends the Welsh Government bring forward legislation to introduce a system of recall by 2026 in time for the Seventh Senedd

¹¹ Standards of Conduct Committee, Record of Proceedings, 19 November 2024, paragraph 114.

63. The following chapters set out the consideration of how this system may work for the Senedd.

4. An approach for Wales

64. Several representations pointed to the benefit of the Senedd mirroring the Westminster system as much as possible, however the ability to do this will be restricted by the differences in electoral systems between UK and Welsh parliaments.

65. At the 2026 Senedd election all Members will be elected via a closed list proportional representation system. This means voters will place one vote for a party and seats will be allocated to candidates listed by the party via the D'hondt formula. Each party will be able to nominate up to eight names for a list. This is a significant variation from the first past the post system used in Westminster.

66. One of the impacts of the new electoral system will be the removal of by-elections. A different voting system would need to be introduced if by-elections were to be held as part of a recall system.

67. The lack of by-elections in Wales would mean that there would potentially be vacant seats if an independent Member was subject to recall, or a party list had been exhausted. Colin Everett highlighted that:

"... regardless of the voters' preference or political views, they know they have the comfort, under the new system, of having multiple representations. So, democratic representation wouldn't be hugely compromised by the loss of one Member should we not be able to fill that position due to, for example, an exhausted list, other than people having a preference for which MS they would go to for their constituency issues."¹²

68. Professor Jonathan Tonge told the Committee that the most straightforward approach would be to allocate a vacant position to the next person on the party list. He set out a number of options available for operating a recall system for the Senedd:

"You could just have the 10-per-cent-of-the-electorate threshold to sign the petition and then that triggers automatic removal..."

¹² Standards of Conduct Committee, Record of Proceedings, 19 November 2024, paragraph 56

You could have a straightforward, if you like, mini-referendum, on whether the person stays or goes. You could put it to the electorate and, over a specified period...

Another option would be to have by-elections. It's not impossible to have PR-STV by-elections. Ireland's managed it for more than 100 years. A hundred and thirty-four—I'll just double-check the figures—sorry, 138 by-elections since 1923, when they were introduced in Ireland under PR-STV. And another alternative, which I'm sure you won't go for, but I'll just raise it, you could—it would probably confuse the electorate as well—have a first-past-the-post by-election.”¹³

69. He also highlighted consideration should be given to setting a higher threshold than 10% as the system would result in an outright removal rather than a by-election.

70. Despite representations for parity between any systems in Westminster and the Senedd, Claire Sim highlighted that:

“... it would be wrong to introduce a system in Wales that has got flaws currently in the UK parliamentary system that the Electoral Commission's reports have flagged”¹⁴

71. Jonathan Tonge highlighted the opportunity available to the Senedd to:

“... correct the details that Westminster got wrong, whilst retaining the 80 per cent plus that Westminster got right here. I do think it's a wonderful opportunity to have. You cannot create a 100 per cent perfect recall system, there'll always be anomalies, and I think what you're moving towards probably is a removal system. Would you call it a recall system or removal? It depends. The phraseology can be important here, but, if you're co-opting a party replacement, I think people will see the logic of it, it just needs explaining that it's the miscreant that's being punished, it's not the party. Why should the political party be punished?”¹⁵

¹³ Standards of Conduct Committee, Record of Proceedings, 10 June 2024, paragraphs 23-27

¹⁴ Standards of Conduct Committee, Record of Proceedings, 19 November 2024, paragraph 16

¹⁵ Standards of Conduct Committee, Record of Proceedings, 10 June 2024, paragraph 59

72. Under the Westminster system, there is currently only an option to sign that you wish to recall a member, the ballot does not allow for voters to register their disagreement with the recall or support for the Member. This has led to some concerns that attending a petition signing makes clear your intention. The Electoral Commission report on the North Antrim recall petition found that ‘Concerns were raised at an early stage of the recall petition by some campaigners about a ‘lack of secrecy’ which may have stopped some electors from signing the petition’¹⁶. The Committee heard a similar message from Clare Sim who said:

“... there are concerns with some recall petitions over the current signing, because it’s obvious why you’re attending a polling place to sign a petition to remove that person.”¹⁷

Options for Wales

73. Having considered the evidence received and the potential options with the new electoral system, the Committee identified the following potential recall processes that could operate in the Senedd:

- Option 1: A recall petition is run asking whether the Member should be recalled. In the event a Member is recalled, the next candidate from the party’s list on which the removed Member was elected would fill the vacant seat. This approach means that signing the petition would remove the Member, rather than result in a by-election in that constituency. The proportionality of the last election result would be maintained, and vacancies could be filled quickly. Independent Members would not be replaced.
- Option 2: A remove and replace ballot is run, which would give an option to either keep the incumbent Member or remove them and replace with the next candidate on the party’s list. This would be subject to a campaign period and allow the Member subject to the ‘recall’ process an opportunity to defend their position with the electorate. The proportionality of the Senedd would be maintained. Independent Members would not be replaced.

74. The Committee consulted on these two potential options. There was no clear consensus on the options presented other than Quakers in Wales. In its view, if the

¹⁶ Report: 2018 recall petition in North Antrim | Electoral Commission

¹⁷ Standards of Conduct Committee, Record of Proceedings, 19 November 2024, paragraph 45

offence is serious then Option 1 (a recall petition asking only whether a Member should be recalled) should be implemented.

75. Many of the individuals who responded to the consultation reflected on the need for some form of by-election. This was a view echoed by the professional organisations who responded as well.

76. The Association of Electoral Administrators, ERS Cymru and Transparency International UK raised issues about the lack of a by-election as part of either option, with ERS Cymru suggesting that consideration should be given to how a by-election using the Supplementary Vote or the Alternative Vote could be used. Transparency International UK suggested that the Committee examine how by-elections are undertaken in Scottish local government (using an STV system) as this would show how Members can be replaced in a multi-member ward.

77. ERS Cymru also says that neither option presented has a mechanism for replacing a recalled Member if the party list in that constituency is exhausted and that by simply going to the next Member on the party's list, there may be a perception that a party is being "rewarded" for a previous Member's bad behaviour. It notes that the four by-elections held after a recall petition in the previous UK Parliament all resulted in a different party winning that seat than the one represented by the recalled MP. It adds that this could also be seen as "a rejection of the party" as well as the Member involved.

78. Transparency International UK makes similar remarks regarding replacing a Member with the next candidate from the same party, noting that this could be seen by the public as justice not being done. It considers that both the party and the individual should be required to respond to failures of integrity.

79. Colin Everett suggested a one stage process would be 'a very feasible alternative', which would be of interest as it would reduce the administrative burden. He stressed that:

*"... the principle at stake here is there is accountability and that the elector has a voice in some way. ... the first priority is to protect the interests, the rights and the accessibility of the elector to participate."*¹⁸

80. In terms of whether both candidates should be named on the ballot paper or a question more akin to a referendum, that says, 'Do you wish this person to

¹⁸ Standards of Conduct Committee, Record of Proceedings, 19 November 2024, paragraph 29

continue—yes or no?’. Michela Palese said while the Electoral Commission did not have a view on the best option, it was important to ensure that:

“... [the] ballot paper is intelligible and understandable and does not cause confusion to the voters. So, one option and possible consideration around that is conducting perhaps some user research with voters to understand whether or not that ballot paper and the options that are presented are intelligible to them”¹⁹

Option 3: A two-stage process

81. Following the evidence session with Graham Simpson MSP, the Committee discussed whether a recall process could be implemented that combined both of these elements, by first asking electors to sign a petition to recall a Member, and then (subject to the threshold for recall being met) asking whether that Member should be stay in post or be replaced.

82. The system proposed by Graham Simpson MSP for Scotland would use this process on a single ballot paper to avoid electors having to participate in two separate votes. Using this system in a mixed-Member system (with constituency and regional Members elected on different mandates) is designed to provide consistency with the process that applies to all Members. This would not be necessary given that the Senedd is moving to a system where all Members would be elected in the same way.

Committee view

83. Having considered the options available, the Committee agreed that the system which is implemented in Wales should be a one stage process. While mirroring the UK system may make it easier to understand, the electoral system in Wales will be significantly different, and requires a tailored approach.

84. The Committee does not consider that the current process in Westminster with a petition and then a by-election, if 10 percent of the eligible electorate signs, would work for those elected to the Senedd.

85. Despite evidence that by-elections may be possible, and more desirable to many, under the new electoral system, the Committee noted that the Explanatory Memorandum for the Senedd Cymru (Members and Elections) Act sets out that

¹⁹ Standards of Conduct Committee, Record of Proceedings, 19 November 2024, paragraph 60.

vacancies will be filled through lists rather than by-elections. It sets out that this will help reduce costs and the time between seats becoming vacant and the replacement Member being returned²⁰. The Committee therefore does not consider recommending by-elections for recall matters to be consistent with decisions made elsewhere with regards the electoral system being introduced.

86. To ensure that the process of recall would be as simple as possible for people to understand and engage with, we believe that this is best achieved by holding a single ballot asking whether a member should be removed and replaced with the next person on the list, or retain their position. In adopting this approach, the Committee does not consider the term ‘recall’ to be particularly helpful in explaining what the process means or involves, and the Committee instead proposes that it is known as a ‘remove and replace ballot’.

87. This approach will allow the electorate to be more cognisant of the decision and choice they are making, rather than a simple ‘should Member x be recalled?’ question.

88. While the lack of by-election may not give the electorate a choice to vote for a different party, we believe the power of recall is about improving individual Member accountability, and as such this approach does allow the option to hold Members to account for their actions.

89. The Committee notes that in the case of a ‘remove and replace ballot’ of a Member who has left the party they were elected to the Senedd with, the next person on that Members original party would be the option available to the electorate.

90. The Committee considered the impact of potentially having a vacant seat as the result of an independent Member or a party list being exhausted. The Committee agreed on the balance of risk, that this was a position it was comfortable with, given that it would not expect this power to be widely used within each Senedd. The Committee were also satisfied that a vacancy would not deprive the electorate of representation, given that the electoral system coming into force in 2026 would ensure there were five other Members to represent any given constituency.

91. There are further benefits associated with this approach in terms of only requiring one process to be run. This means voters will only need to attend one

²⁰Senedd Cymru (Members and Elections) Bill Explanatory Memorandum

poll which may allow for better turnout. There will also be reduced costs associated with this process.

Recommendation 2. The Committee recommends that the system of recall introduced for the Senedd has one stage which puts to electorate a question based around the principle of retain the Member or remove and replace them with the next candidate on their party list at the last Senedd election.

Recommendation 3. The Committee recommends the Welsh Government works with the Electoral Commission to develop a voting paper which presents the information in a clear and easy to understand manner.

Recommendation 4. The Committee recommends, given the process set out by the Committee, that it is referred to as a 'remove and replace ballot' rather than recall.

5. Triggers for Recall

The Committee considered what may trigger recall.

92. The Recall of MPs Act 2015 sets out the triggers for a recall petition in Westminster. More detail on how these triggers operate can be found below and in chapter two.

93. In order to ensure as much consistency as possible, the Committee used these as a starting point for consideration on what triggers may work in Wales.

Triggers for a recall system

94. A recall petition against a sitting MP can only be opened in a constituency if one of three conditions are met:

- the MP has, after becoming an MP, been convicted in the United Kingdom of an offence and sentenced or ordered to be imprisoned or detained, and any appeal period has passed without the conviction being overturned;
- Following on from a report from the Committee on Standards in relation to an MP, the House of Commons orders the suspension of the MP from the service of the House for a specified period (at least 10 sitting days, or at least 14 days if sitting days are not specified); or
- The MP has, after becoming an MP, been convicted of an offence under section 10 of the Parliamentary Standards Act 2009 (if they provide information which they know to be false or misleading in a material respect in support of a claim for allowances).

95. A custodial sentence will trigger recall under the first condition if the sentence is any period up to a year (even if the sentence is suspended). If a sitting MP convicted of an offence receives a custodial sentence of more than a year and is detained, they would already automatically lose their seat and recall does not apply.

96. The first and third conditions automatically trigger a recall, while the second condition would be subject to a vote in the House of Commons.

97. If one of the conditions is met, the Speaker of the House of Commons must give notice to the returning officer (known as the petition officer) in the MP's constituency as soon as reasonably practicable.

98. Graham Simpson MSP's Bill to introduce new measures on removing an MSP from office include additional grounds for disqualification and new processes for removal, such as recall. Proposed new grounds for disqualification in the Bill include where an MSP does not participate in parliamentary proceedings for a given period without valid reason, or receives a prison sentence lower than the current threshold for automatic removal.

99. Joe Rossiter told the Committee that he considered the triggers in Westminster as a good starting point as it seems to have embedded well and not lead to a 'huge influx of petitions'. He stressed this was a good baseline, but the Senedd should be "... looking to make our democracy better than what's going on in Westminster."

100. He set out that the third Westminster criteria "speaks to the political moment at which that recall Bill went through Parliament in terms of the expenses scandal being the lens through which this piece of legislation came forward." He emphasised that "...the lens through which we should seek to look at this in Wales is, 'What are the things, the types of behaviour, that we are trying to stop?' It might well be the use of expenses, or it might well be other behaviours that we think are inappropriate from Senedd Members." ²¹

101. Douglas Bain agreed that the Westminster triggers acted as a good starting point, although he highlighted that the third one would not be directly transferable to the Welsh context, as the same mechanism for expenses does not exist, but did suggest '...something similar could be thought out, a breach of the accounting and resource rules'. He also questioned whether a twelve month jail sentence was too long in terms of automatic disqualification, and posed the question:

"Is it acceptable for someone who's been sentenced to six months' imprisonment, particularly if it's served immediately, to remain a Member of the Senedd? I think many would think the answer is 'no'. But fixing the time limits is a fairly arbitrary

²¹ Standards of Conduct Committee, Record of Proceedings, 3 June 2024, paragraphs 6-7

process, and there will always be hard cases that fall just one side or another.”²²

102. Professor Alistair Clark told the Committee that there is a risk of ‘a standards procedure such as this is that it gets overly politicised’. He suggested the triggers such as a prison sentence and expenses were included as

“... these are fairly objective standards, by comparison with—. Well, what do people always complain about politicians doing? Being economical with the truth and things of this sort. That’s much more political, so I’d caution, probably, against going in that direction and broadening this. I think that you want to keep this fairly tight, because it’s quite a serious thing to remove someone who is elected. I don’t think that we want to remove the weight of that decision. So, I think I’d caution against broadening it too much.”²³

103. The House of Commons Standards of Conduct Committee report “The House of Commons standards landscape: how MPs’ standards and conduct are regulated” noted that:

“Concerns have been raised about whether the number of sitting days’ suspension needed to trigger the recall process is appropriate; it has been suggested this should be increased from 10 to, say, 20 sitting days.”²⁴

104. Professor Jonathan Tonge told the Committee he thought the criteria in Westminster were fine, but suggested that there was potential for:

“... a more tapered area, rather than just this 10-day cliff edge, after which we’re straight into recall petition and by-election territory, which is very, very difficult for the miscreant to survive. Some people may think, ‘Well, that’s fine, the miscreant shouldn’t survive’, but I do wonder, and I don’t want to be facetious, whether a sin bin approach to the Parliament might possibly work, in which you have another level of sanctions that applies if someone’s suspended for, say, between 10 and 30 days, which doesn’t necessarily trigger a recall petition, and

²² Standards of Conduct Committee, Record of Proceedings, 3 June 2024, paragraph 65

²³ Standards of Conduct Committee, Record of Proceedings, 17 June 2024, paragraph 17

²⁴ House of Commons Report – ‘The House of Commons standards landscape: how MPs’ standards and conduct are regulated’

then, perhaps, after 30 days, recall petitions are considered. That's just a thought. I just think you go from one relatively light area of sanctions below 10 days, and then, after a 10 working day suspension, you are deep into difficulty as a Member of Parliament, for sure, at Westminster.”²⁵

105. This echoes the conclusion in the House of Commons report that:

“The Recall of MPs Act 2015 has had a significant impact on the operation of the parliamentary standards system. In making a recommendation on sanction in a Code of Conduct case, we are fully aware that suspension for 10 or more days, if approved by the House, may have a career-changing or career-ending impact on the Member concerned. We have no doubt that the Independent Expert Panel is similarly aware of the consequences of such a recommendation in ICGS cases.”²⁶

106. The Committee noted the views that the third trigger for recall was considered a reflection of the political landscape of the time of passing the Recall Act. Since the passing of such a bill there have been a number of other standards issues which may have been reflected in such a way. The House of Commons report highlighted:

“... the lacuna in the statutory provision for recall of MPs arising from the fact that the Independent Expert Panel did not exist when the Recall of MPs Act 2015 was passed. As a result, a suspension agreed by the House following a recommendation of the IEP cannot trigger a recall petition in the same way that it would if the recommendation were by the Standards Committee (under the so-called “second recall condition” in the Act). The House has attempted to close this lacuna by altering its standing orders to require the Committee to make a report to the House recommending an identical sanction to one recommended by the IEP, within three sitting days of the IEP’s report being published.¹⁷³ The House’s approval of that committee recommendation then triggers the recall procedure.”

²⁵ Standards of Conduct Committee, Record of Proceedings, 10 June 2024, paragraph 5

²⁶ House of Commons Report – ‘The House of Commons standards landscape: how MPs’ standards and conduct are regulated’

107. Evidence from Nerys Evans set out that she considered there were other considerations for the trigger of the recall process:

"There should also be a discussion regarding behaviours such as sexual harassment, but the current complaints system is wholly inadequate and inappropriate to ensure complaints come forward, so that needs to be discussed in addition to the trigger for recall."²⁷

108. The Committee also gave consideration to whether Members who 'cross the floor' - i.e. leave one political party to join another during a Senedd should be subject to a recall process. There were mixed responses on this issue from the witnesses, although most were not in favour.

109. A significant number of responses to the Committee consultation suggested that a Member should be subject to recall if found to have deliberately deceived the Senedd. The Committee has been considering this matter alongside that of recall and intends to report separately on this matter.

Voting on Recall in the Senedd

110. The Committee gave some consideration to what type of vote in the Senedd would be required if, as a result of one of its reports, a recall process is triggered.

111. At present, the Senedd is required to vote on the recommendations from the Committee for them to take force. This vote is via a simple majority. The agreement of a report in the Senedd is an important stage in the process as it gives the Member concerned a further avenue of appeal regarding any finding of the Committee or Commissioner.

112. Joe Rossiter told the Committee he would be in favour of a simple majority, but emphasised the importance of the need for cross party consideration of these matters:

If it were to go to a vote, I would be in favour of a simple majority. However, I think it's not necessary that it goes to a whole-of-Senedd vote, because then I think you do get into that politicisation of—. You know, you'll be voting in party blocks based on someone's behaviour and you don't really want that. You want it to be a cross-party process, of which the committee is, and also, as a committee, you will have had the time to look

²⁷ Written Evidence, Nerys Evans

into the details of the particular case and therefore come to a consensus position²⁸

Committee view

113. The Committee noted the triggers in Westminster and has considered options for how much detail on the specific triggers should be included in the legislation

114. The Committee recognises the benefit of setting out clearly when recall may be triggered. To date, this has been set out in the primary legislation. This allows for the public and politicians to be clear when this sanction will apply and reduces the risk of political interference and a continuous changing of the goalposts.

115. There are a number of areas the Committee believes could warrant a trigger for recall. For example, this Committee is committed to ensuring that the Senedd is an institution which people wish to engage with and work in. This means having the mechanisms in place to tackle inappropriate behaviour and being clear that it will not be tolerated. Having this as a trigger for recall may help communicate this message clearly.

116. However, having considered the evidence received, the Committee has some concerns about triggers for recall being placed in legislation, as it may limit the Senedd's ability to respond to a range of circumstances and situations as they arise.

117. . At present the triggers in the House of Commons system may suggest to the public that being found in breach of a financial penalty could be considered more significant than other breaches of the Code such as sexual harassment. This is not the case, but as the evidence suggests, reflects the political climate at the time the legislation was passed.

118. The experience of the House of Commons shows that matters arise (like the introduction of the independent complaints and grievance scheme) and that it can be difficult to amend the legislation to accommodate them. Being able to react and respond to concerns about standards of conduct in a timely manner is essential for building and maintaining public confidence in elected officials.

²⁸ Standards of Conduct Committee, Record of Proceedings, 3 June 2024, paragraph 28

119. The Committee considers a 12 month or less prison sentence (custodial or suspended) to be an appropriate trigger and would wish to be in line with other parliaments that this would trigger a recall. Given the lack of powers at present for the Commissioner to initiate inquiries, the Committee would expect receipt of a prison sentence to be reported to Commissioner under section 9 of the Commissioner for Standards Measure, (as well as potentially by other complainants). This would allow for the matter to be dealt with through the standards regime.

120. We note that the legislation in Scotland seeks to reduce the sentence length for disqualification from 12 to 6 months. The Committee has not taken specific evidence on this, but the Welsh Government may wish to consider this further.

121. Much of the evidence received by the Committee suggested that the 10 sitting day provision is potentially too low. The Committee agrees that the provision of 10 sitting days seems like a stark cut off point. The lowest suspension given to date by the Committee is seven days and the highest is 42 days. A list of suspensions to date is at annex A. It is difficult to say what impact a recall trigger at 10 sitting days may have had on these penalties.

122. Previous cases that have come before the Standards of Conduct Committee show that there is a need for flexibility in applying sanctions²⁹ in light of mitigation provided. Operating an effective and fair standards system requires there to be a number of options available which can be applied as appropriate and proportionate.

123. Given the evidence received, the Committee believes that recall should be a standalone sanction, which can be an option available to the Committee with responsibility for matters under Standing Order 22 to utilise.

124. There has been much criticism levelled at the Senedd about it not being able to react with sufficient speed and as such it appears prudent to allow the Senedd to be able to decide what may trigger a recall. This would negate the need to alter primary legislation if an unforeseen matter is considered to fall within the bounds of recall.

125. If the approach of a standalone sanction was taken, the Committee believes a requirement could be placed on the responsible committee to produce guidance on sanctioning, which would take the form of 'sanctioning guidelines' which would be agreed by the Senedd. These guidelines could contain specifics

²⁹ See Report [02-18](#) and Reports [01-21](#) - [04-21](#) from the Fifth Senedd

of when recall would be applied, including an approximate number of days for exclusion, receiving a prison sentence and breaches of specific provisions, such as around dignity and respect and expenses.

126. Such guidelines may also consider deliberate deception as a trigger for recall, if legislation was not brought forward or passed in this area.

127. This approach, which could be considered akin to the production of regulations for legislation, would allow the Senedd to be responsible for matters relating to the parliament rather than relying on time in the Government legislative programme if changes were required.

128. If, in drafting the legislation, a set number of days is required, the Committee would strongly advise this is greater than 10 days, and that consideration is given to setting it at around 21 days, which would equate to a three week suspension.

129. The Committee considers any report recommending recall should be subject to a majority vote in the Senedd.

Recommendation 5. The Committee recommends that legislation is drafted to give the Senedd the ability to recall a Member as a standalone sanction.

Recommendation 6. The Committee recommends that the legislation should require, in Standing Orders, the responsible committee to produce guidelines on the application of recall, including matters which may result in automatic recall (if not included on the face of the bill). This guidance should be subject to a vote by the Senedd.

6. Mechanics of the recall process

130. The Committee took the Westminster model as a starting point for its consideration. The Recall of MPs Act 2015 sets out the following parameters for a recall petition:

- The triggers for a recall petition (dealt with in chapter five);
- The length of time a recall petition is open for (six weeks);
- The threshold for voters signing the petition (10 percent); and
- The maximum number of designated signing stations (up to 10)

131. In addition to the parameters established through the Westminster model the Committee also considered:

- The level of support within the Senedd to initiate recall; and
- The cut off point for a recall system.

Length of time for a recall process

132. Under the Westminster process, a recall petition is open for six weeks with up to ten signing places designated across a constituency. A 10 percent threshold of voters signing the petition is required to trigger a by-election.

133. The Committee heard concerns about the length of time petitions were open for. Clare Sim, Head of Member Support at the Association of Electoral Administrators set out:

“One of the biggest challenges with recall petitions to date has been the length of time that the petition period lasts for. A six-week period is excessive. It’s a massive administrative burden and cost to the public purse. I think evidence has shown, from Brecon and Radnorshire, from Peterborough, from Rutherglen and Hamilton West, that most of the thresholds have been met within the first two weeks of that period and that should be taken into account in terms of the time frame of any recall petition in that sense as well.”³⁰

³⁰ Standards of Conduct Committee, Record of Proceedings, 19 November 2024, paragraph 16

134. She said that lessons should be learnt from the administrative burden this creates.

135. The Electoral Commission has produced a report on the previous recall processes with a number of recommendations on how this process could be improved. These recommendations include reducing the six week signing period.³¹ Clare Sim told the Committee that their view was that:

“... as soon as that threshold is met that’s when the petition should automatically end, rather than accumulating cost and administrative burden when the result is already known.”³²

136. The Committee explored with witnesses’ alternative approaches to holding a multi-week recall process, including holding it on one day. Clare Sim told the Committee that a challenge of having a one-day recall petition process would be the time frame linked to it (i.e. you could not expect it within days as is this case with the recall petitions at present). She said it would be important to ensure that sufficient time is factored in, which can be addressed by putting in place:

“... a stricter timetable as to how long you’ve got before the recall petition is triggered as to when it takes place, to give people the opportunity to do that, and it could then become a one-day poll, but there does need to be sufficient time before that to allow that to happen, if that was the case.”³³

137. In terms of trying to ensure the process is as simple and consistent as possible, Colin Everett set out that consideration to the administrative side and the convenience of the elector. He said it would need to mirror a normal election as possible and that:

“People would expect the same opportunities to participate through postal or proxy, as well. We do have to go back to that fundamental principle: we are protecting the rights of the elector.”³⁴

138. The Committee noted that the proposal under the Graham Simpson MSP Bill for the Scottish Parliament, will require a percentage of votes to be achieved

³¹ [The process to challenge a sitting MP: review of the 2019 recall petitions | Electoral Commission](#)

³² [Standards of Conduct Committee Record of Proceedings, 19 November 2024, paragraph 21](#)

³³ [Standards of Conduct Committee Record of Proceedings, 19 November 2024, paragraph 33](#)

³⁴ [Standards of Conduct Committee Record of Proceedings, 19 November 2024, paragraph 35](#)

in different parts of a region where a regional Member is subject to a recall petition.

139. The Committee considered this option in light of the new multi-member constituencies being introduced for the Senedd. Colin Everett set out that:

“... a constituency is a constituency. So, the fact we might have paired two parliamentary constituencies, they now become one constituency for the purposes of voting. So, if it's 10 per cent, it's 10 per cent in that whole area. I don't see how we can start to drill down. That makes it complicated and questions why that constituency was combined in the first place.”³⁵

Funding and Campaigning for Recall

140. During a recall petition, the regulated period starts the day after the Speaker of the House of Commons notifies the Petition Officer that the conditions for opening a petition have been met.³⁶

141. The regulated period ends on the day that the Petition Officer notifies the Speaker of the House of Commons of the result of the petition. If the recall petition is terminated early, then the regulated period ends on the day the Speaker notifies the petition officer to terminate the recall petition. Anyone can spend £500 or below on campaigning in a recall petition campaign period without registering. Anyone intending to spend over £500 in the regulated period must register with the petition officer before spending over £500. The maximum amount a registered campaigner can spend is £10,000. The recall legislation limits the type of commentary and campaign allowed at the petition stage.

142. Professor Jonathan Tonge told the Committee that he considered the expenditure limits were reasonable in order to ‘get greater public awareness of the petition’. He said that the legislation prevented:

“... full-on campaigning, partly because the parties are limited in what they can do; all they can do is try and raise public awareness that the petition exists. But, as I say, they're not allowed to provide a commentary; you can't get the political-party-style 'x winning here' and lots of bar charts. They're not allowed to do that under the legislation, which I think is quite

³⁵ Standards of Conduct Committee, Record of Proceedings, 19 November 2024, paragraph 80

³⁶ House of Commons research briefing: Recall elections

right in terms of preserving the secrecy of how the ballot is progressing.”³⁷

143. Michela Palese, set out the tricky balance between raising awareness while not coming across as campaigning. She said:

“... one of the tensions that we’ve picked up in speaking to administrators in those areas that have run recall petitions—how to ensure that they’re publicising it, ensuring that voters have as much information as possible as to the fact that a recall petition is taking place, where they can sign, what days, what time frames for that signing period, while also not crossing over into inadvertently campaigning for or against a specific outcome. One of the learnings that we do flag in our election reports following the recall petitions that have taken place is whether we should consider whether voters should have the option of, for example, signing an alternative signing sheet to indicate that they oppose the petition. That could have some benefits, but one of them would be to enable further awareness and information to be given around the recall petition process given that there isn’t just one outcome, which is, if you’re going to sign, you’re signing for that person to be recalled.”³⁸

Other considerations

144. In previous Seneddau, Members have ‘crossed the floor’ to join or sit alongside another Political party/group. This means that the proportionality established at the election is no longer reflected in the make-up of the Senedd. The Committee explored whether this should be a matter for recall.

145. A number of individual respondents felt this should be a trigger for recall under the new voting system (given that the electorate will be voting for the political party, rather than the individual), however some responses urged caution, particularly as this may generate more recall petitions and was out of step with other political governance systems in the United Kingdom:

146. ERS Cymru raised concerns about the closed list electoral system offering a “lack of choice for voters”, which it says would be exacerbated if a Member

³⁷ Standards of Conduct Committee, Record of Proceedings, 10 June 2024, paragraph 49

³⁸ Standards of Conduct Committee, Record of Proceedings, 19 November 2024, paragraph 83

changed political parties during a Senedd term and that “strict procedures” must be in place to respond to this scenario. However, it states that this is not a feature of the Westminster recall process, and that “unintended consequences” should be considered.

147. The Committee noted that Graham Simpson MSP’s Bill in the Scottish Parliament is recommending that MSPs who do not participate in proceedings for a period of six months without good reason could be subject to disqualification.

148. The Committee considered whether this should be a matter for recall. The majority of the respondents to the written consultation agreed it should be a matter for recall, but that it would need to be a clear lack of engagement, and not matters like illness. One respondent highlighted that constituents may consider being based in constituency as doing the job of an MS rather than attending meetings in Cardiff Bay.

Committee view

149. The Committee noted the concerns raised about the running of recall petitions under the Westminster system and the need to ensure a system in Wales did not replicate these problems.

150. Given the two stage process in Westminster, the Committee understands the need for a window for the petition to be signed at a limited number of places, and a threshold to be met. However, given the suggested approach for Wales of essentially merging the two stages into one, we do not consider these arrangements would be workable or desirable.

151. The Committee is recommending that the recall process is held on one day after a six week notice period, in line with the existing process for a Senedd or UK Parliament by-election. This would allow sufficient time to put in place the necessary arrangements and for a sufficient number of polling stations to be opened across a constituency. Ideally, the usual polling arrangements within a constituency would be followed.

152. Adopting this approach would make the process as simple as possible to understand for as many people as possible. Whilst it is unable to recommend following the same recall process as Westminster, or holding by-elections, the Committee believes that holding a recall process on one day will replicate many of the key elements and will be beneficial for engagement and voter turnout.

However, the Committee recognises the challenges that this could post for electoral administrators.

153. The Committee does not consider that a threshold should be set for the turnout or responses. Given the question will be based more along the lines of a referendum, , the Committee believes this process should be in line with other elections. This again will help ensure consistency with established election practice in Wales.

154. The Committee considers that the key to success with this process will be ensuring good communication and clear messaging. The nature of replacing an MS with the next person on the list will limit political campaigning as this will typically only involve one party. However, it will be important to ensure that information about the process and choices is sent to eligible voters and that they are aware of the opportunity to exercise their voice.

Recommendation 7. The Committee recommends the recall process is held on one day in a process akin to a by-election, with sufficient coverage of polling stations and no threshold with regards to turnout. Postal and proxy voting should be available as part of this process.

Recommendation 8. The Committee recommends that the Welsh Government should consult with electoral administrators and other interested stakeholders on the practical implications of holding a recall vote on a single day across multiple polling places in a consistency.

Recommendation 9. The Committee recommends that the Welsh Government works with electoral community to make sure that the information sent out relating to recall clearly informs voters of the reason for the recall and the options available to them.

Annex A – Sanctions applied by the Standards of Conduct Committee to date

<u>Report 01-18</u> Complaint made by three complainants relating to a taped recording of the Member using the racist term “coconut” ³⁹	Contravention of paragraph 4 (b) of the Code of Conduct for Assembly Members, which includes the principle that Members should “at all times conduct themselves in a manner which will tend to maintain and strengthen the public’s trust and confidence in the integrity of the Assembly and refrain from any action which would bring the Assembly, or its Members generally, into disrepute.”	A breach has been found and that the Member should be excluded from Assembly proceedings for a period of seven days
<u>Report 02-18</u> Self-referred to the Commissioner after being convicted of failure to provide a breath sample	Contravention of paragraph 4 (b) of the Code of Conduct for Assembly Members, which includes the principle that Members should “at all times conduct themselves in a manner which will tend to maintain and strengthen the public’s trust and confidence in the integrity of the Assembly and refrain from any action which would bring the Assembly, or its Members generally, into disrepute.”	A breach has been found and that the Member should be excluded from Assembly proceedings for a period of 21 days, reduced to 14 days because of the self-referral.

³⁹ This complaint was subject to an appeal under the Procedure for dealing with complaints against Assembly Members.

<u>Report 03-18</u> Complaint made by the Clerk to the Assembly that the Member in respect of this regional office project failed to exercise adequate care or oversight; (signed the lease without ensuring that necessary surveys and estimates had been obtained and doing so against professional advice - expenditure of nearly £10,000).	Improper use of Assembly resources and bringing the Assembly into disrepute	A breach has been found and censure. The Committee wrote to the Member to ascertain that the money lost would be repaid – which was confirmed prior to publication of the report.
<u>Report 01-19</u> Complaint made by three complainants that a video made by the Member contravened the dignity and respect policy	Contravention of paragraph 4 (b) of the Code of Conduct for Assembly Members, which includes the principle that Members should “at all times conduct themselves in a manner which will tend to maintain and strengthen the public’s trust and confidence in the integrity of the Assembly and refrain from any action which would bring the Assembly, or its Members generally, into disrepute.” And the Dignity and Respect Policy.	A breach has been found and that the Member should be excluded from Assembly proceedings for a period of 7 days. The Committee also recommended that the Assembly removed the member concerned from the Committee
<u>Report 03-20</u> Complaint made by another Member regarding the MS being physically and verbally aggressive towards another Member (Mick Antoniw MS).	Paragraph 4(b) – Integrity/ Paragraph 4(g) – Leadership: Contravention of paragraph 4 (b) of the Code of Conduct for Assembly Members, which includes the principle that Members should “at all times conduct themselves in a manner which will tend to maintain and strengthen the public’s trust and confidence in the integrity of the	A breach has been found and that the Member should be excluded from Senedd proceedings for a period of 21 days and access to Ty Hywel and

	Assembly and refrain from any action which would bring the Assembly, or its Members generally, into disrepute.” And Para 4g. Leadership: Holders of public office should promote and support these principles by leadership and example. And the Dignity and Respect Policy.	Senedd removed during this time.
<u>Reports 01-21 to 04-21 to the fifth Senedd</u> Four reports relating to one Member. ▪ Report 01-21 – Misuse of Senedd resources, namely using Senedd resources for party political and election purposes in relation to the Cardiff Council Grangetown ward by-election in November 2016, the Cardiff Council local elections in March 2017. ▪ Report 02-21 – Failure to declare a relevant interest in a meeting of the Petition’s Committee.	Paragraph 10 of the Code of Conduct – use of Assembly Resources Paragraph 9 of the Code of Conduct – declaration of interests Paragraphs 4b (the integrity principle), 4e (the openness principle) 4g (the leadership principle) of the Code. The Commissioner also found a breach of paragraph 15 of the Code of Conduct which requires Members to cooperate at all stages with any investigation into their conduct by the Commissioner for Standards.	Sanctions not applied as Member was not re-elected. Would have amounted to 42 day suspension which was related to the nature of breaches but also the Member engagement in the process and the total number of complaints.

▪ Report 03-21 – Breaching the integrity, honesty and leadership principles in the Code of Conduct by undertaking covert recordings on the Senedd estate. ▪ Report 04-21 – Misuse of Senedd resources, namely the use of a Senedd e-mail address to deal with matters relating specifically to Cardiff County Council.		
<u>Ninth Report to the Sixth Senedd under Standing Order 22</u> The Member acted inappropriately towards two women on a night out in June 2021	Rule 1 Members must uphold the Overarching Principles ▪ Rule 3 Members must not act or behave in a manner that brings the Senedd or its Members generally, into disrepute. ▪ Rule 4 Members must not engage in unwanted behaviour, harassment, bullying, or discrimination ▪ Rule 6 Members must not subject anyone to personal attack – in any communication (whether verbal, in writing or any form of electronic or other medium) – in a manner that would be considered excessive or abusive by a	A breach has been found and that the Member should be excluded from Senedd proceedings for a period of 42 days.

	reasonable and impartial person, having regard to the context in which the remarks were made. and ▪ The Dignity and Respect Policy (in particular inappropriate behaviour that adversely affects the dignity of another).	
--	--	--

List of oral evidence sessions.

The following witnesses provided oral evidence to the committee on the dates noted below. Transcripts of all oral evidence sessions can be viewed on the [Committee's website](#).

Date	Name and Organisation
03 June 2024	Douglas Bain, Commissioner for Standards Joe Rossiter, Institute of Welsh Affairs
10 June 2024	Jonathan Tonge, University of Liverpool
17 June 2024	Mick Antoniw MS, Counsel General, Welsh Government Will Whiteley – Deputy Director, Senedd Reform, Welsh Government Ryan Price – Head of Senedd Policy, Welsh Government Professor Alistair Clark, University of Newcastle
1 July 2024	Jane Dodds MS
14 October 2024	Graham Simpson MSP
19 November 2024	Michela Palese, Head of Policy, Electoral Commission Colin Everett, Chair, Wales Electoral Co-ordination Board Clare Sim, Head of Member Support, The Association of Electoral Administrators Jessica Blair, Director, Electoral Reform Society Cymru Dr Nia Thomas, Research and Campaigns Officer, Electoral Reform Society Cymru
02 December 2024	Huw Irranca-Davies, Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs, Welsh Government

	Will Whiteley, Deputy Director, Senedd Reform, Welsh Government Ryan Price, Head of Senedd Policy, Welsh Government
--	---

List of written evidence

The following people and organisations provided written evidence to the Committee. All Consultation responses and additional written information can be viewed on the [Committee's website](#).

Reference	Organisation
CFS 01	Moira Owen
CFS 02	David Hazelden
CFS 03	Sarah Jones
CFS 04	Dawn Shenton
CFS 05	Angela Williams
CFS 06	Dawn
CFS 07	Peter Evans
CFS 08	Marc K
CFS 09	Ken Tucker
CFS 10	Lyndsey Brooks
CFS 11	Janet Roberts
CFS 12	S Lloyd
CFS 13	Dr Jonathan F Dean
CFS 14	Richard Houdmont
CFS 15	Aileen Russell
CFS 16	Louise Leyshon
CFS 17	Ian Hayes
CFS 18	Geraint
CFS 19	Harry Hayfield
CFS 20	Claire Wardle
CFS 21	Thomas Clarke
CFS 22	Electoral Reform Society Cymru

CFS 23	Joe Wade
CFS 24	Chief Constables
CFS 25	Crown Prosecution Service
CFS 26	Meleri Tudur
CFS 27	Quakers in Wales
CFS 28	Institute of Constitutional and Democratic Research
CFS 29	Nerys Evans
CFS 30	Electoral Commission
CFS 31	Compassion in Politics
CFS 32	Transparency International UK