

Dignity and Respect:

Options for the Standards of Conduct Committee under current provisions

April 2025

To provide information on what measures can be taken within existing provisions to achieve changes identified within the dignity and respect consultation.

Background

- 1.** The Standards of Conduct Committee agreed to undertake an inquiry into dignity and respect to review the progress made in this area, ensure the conversation continues and consider whether further steps could be taken.
- 2.** The Committee ran a consultation from 16 November 2023 to 22 January 2024, and there were 9 responses. There were four main themes from the consultation:
 - i. There should be an Independent body investigating complaints;
 - ii. There should be a different procedure or independent investigator in cases of sexual harassment;
 - iii. The 6 month time cap on raising complaints should be extended; and
 - iv. The process should be made clearer.



3. This paper sets out information on what measures can be taken within existing provisions to achieve the main themes from the consultation.

The Current Standards Functions

4. The Committee has responsibility for producing the Code of Conduct and the Procedure for Dealing with Complaints Against Members of the Senedd. These documents are then agreed by the whole Senedd.

5. The Commissioner for Standards is independent of the Senedd. The National Assembly for Wales Commissioner for Standards Measure 2009 sets out the functions of the Commissioner:

6 Functions of the Commissioner

(1) The functions of the Commissioner are—

(a) to receive any complaint that the conduct of a Member of the Senedd has, at a relevant time, failed to comply with a requirement of a relevant provision,

(b) to investigate any such complaint in accordance with the provisions of this Measure,

(c) to report to the Senedd the outcome of any such investigation,

(d) to advise Members of the Senedd and members of the public about the procedures for making and investigating complaints to which paragraph (a) applies, and

(e) the further functions conferred by section 7.

(2) A “relevant time” means a time when the requirement in question was in force but it is irrelevant whether the conduct in question is alleged to have taken place before or after this section comes into force.

(3) A “relevant provision” means—

(a) any provision of the Standing Orders relating to—

(i) the registration or declaration of financial or other interests,

(ii) the notification by Members of the Senedd of their membership of societies,

(iii) the registration or notification of any other information relating to Members of the Senedd or to persons connected to Members of the Senedd.

(b) any resolution of the Senedd relating to the financial or other interests of Members of the Senedd,

(c) any Code of Conduct approved by the Senedd relating to standards of conduct of Members of the Senedd,

(d) any resolution of the Senedd relating to standards of conduct of Members of the Senedd, and

(e) any provision included in the Standing Orders (or in any code or protocol made under them) in accordance with section 36(6) of the Act.

(4) It is irrelevant whether a relevant provision came into force before or after this section comes into force.

6. Schedule 6 sets out:

6(1) The Commissioner may, on such terms as the Commissioner may determine, appoint such staff or secure the provision of such goods or services as the Commissioner considers necessary for assisting in the exercise of the Commissioner's functions.

(2) The Commissioner may enter into arrangements with any public body or office holder, upon such terms as the Commissioner and such body or office holder may agree, for the provision by that body or office holder of such services as the Commissioner considers necessary for assisting in the exercise of the Commissioner's functions.

7. These provisions mean that the Senedd is able to set out what it expects the Commissioner to investigate. This is done via the Code of Conduct and the associated documents.

8. The current dignity and respect policy was a response to issues like the #metoo movement. It was agreed by the whole Senedd via an affirmative vote on a Standards of Conduct Committee motion. As the policy was adopted by resolution it is itself a "relevant document" within the meaning of s6(3)(d) of the measure, (albeit the Code of Conduct has incorporated the key operational provisions for dealing with breaches). Part of the recommendations from the

initial Commission paper was that this policy be replaced with an overarching statement which the Senedd signs up to.

What changes can happen?

9. There are a number of changes which can happen within the existing provisions – both within the powers of the Commissioner and the Committee.

A specific Code and investigation process

10. It would be possible to have a separate process for investigating complaints related to sexual harassment under the current provisions. In order to achieve this the Senedd could approve some form of code relating to ‘dignity and respect’ encompassing the behaviours to be tackled. This would allow the Commissioner to investigate under s.6(1) as the code would be a “relevant provision” under s.6(3)(c) (see section under powers of the Committee). This code would replace the current resolution on “Dignity and Respect”.

Exercise of the Standards Commissioners’ functions

11. The provisions set out in the Measure allow the Commissioner to employ staff or expertise as necessary for exercising the functions of the Commissioner. This decision is at the discretion of the Commissioner.

12. In other parliaments, witness interviews are often carried out by staff of the Commissioner, with the exception of those conducted under the statutory provisions. Whilst that has not been common practice in Wales, nothing in the legislation prohibits suitably trained staff members from carrying out interviews on behalf of the Commissioner. The only exception may be those under section 11 which are interviews where the Commissioner has issued a notice which requires a witness to attend and will typically be done under oath.

Other actions within the powers of the Committee

13. The Committee is able to include provisions within the Code of Conduct on any matter that it considers relevant to the behaviour of Members. For example, as part of the last revision of the Code, Members agreed to incorporate the principle of respect. It could further strengthen these provisions or introduce alternative ones.

14. The Committee is also responsible for the Procedure for Dealing with Complaints. It can therefore adjust matters like the time limit on complaints via an amendment to the Procedure.

15. When updating the Procedure at the beginning of this Senedd, the Committee took the decision to reduce the complaint time scale from a strict 12 months to 6 months with a clause to allow older complaints to be admissible with good reason. This decision was taken to ensure that complaints were made in a timely manner and not held back for political gain.

16. The Committee also has discretion around how the process is explained and set out. While there are necessary stages within any complaint process to safeguard both the complainant and person complained of – which may limit the simplification which is achievable – further work could be undertaken to make sure that it is explained as clearly as possible. This would align with the conclusion in the Committee’s ninth report to the Senedd under SO 22:

“The Committee intends to consider the provisions available to Members as part of its inquiry into Dignity and Respect provisions in the Senedd, and make sure that the available information is as clear as possible to make sure Members are fully aware of the support available in the future.”

17. The Committee also has the opportunity to make recommendations to the Commission or wider in terms of dignity and respect. This may include matters such as recommendations around the need for training or policies which can be adopted more widely.

What is not achievable under the current powers?

18. The Senedd cannot compel the Commissioner to use external expertise – it is for the Commissioner to decide how they undertake investigations. This is an important safeguard for the process to preserve the independence of the Commissioner.

19. The appointment process as currently established makes the position a single appointee – and therefore as such the Committee could not appoint a panel to the position. The House of Lords has appointed two people to the role – each has autonomy over their own investigations and decisions, which is important in terms of decision making – however this is not an option for the Senedd without legislative changes to the provisions of the Measure.

Potential Future Changes

20. The report on deception recommended the introduction of lay Members and own investigative powers for the Commissioner – these changes could add a significant degree of independence into the process if the proposed legislative changes are successful. The appointment of Lay Members will require an amendment to GoWA (s.28(2)) and if adopted the Committee may wish to consider whether experience and understanding of some of the wider dignity and respect matters could be a requirement for at least one of those appointed as a lay Member.