

David Rees MS, Deputy Presiding Officer and Chair of the Member
Accountability Bill Committee
By email

30 October 2025

Scrutiny of the Senedd Cymru (Member Accountability and Elections) Bill

Dear David,

As you'll be aware, the Standards of Conduct Committee ('the Committee') has been conducting an inquiry into Individual Member Accountability. In January and February of this year, the Committee reported on two of those areas: Recall and Deliberate Deception. In their response to our reports, the Welsh Government accepted all recommendations, either in full or in principle, and committed to bringing forward legislation during the current Senedd term to enact the majority of those recommendations.

The Welsh Government published a draft version of the Bill on 6 October, which the Committee noted at its meeting on 13 October. We noted some key differences between the recommendations made by this Committee and the provisions of the Bill, namely around the triggers and terminology of a recall mechanism; the requirements around agreeing guidance associated with a new recall system; a proposed appeals procedure which includes a sub-committee of lay members; and placing a duty on the Welsh Ministers to make provision prohibiting the making or publishing of false or misleading statements of fact before or during an election for the purpose of affecting the return of any candidate. Further detail about the context to our recommendations in these areas may be found in the narrative of our reports.

Whilst a number of our recommendations require legislative change, and have been taken into account in the draft Bill, we would like to draw your attention to work this Committee will be undertaking in parallel to your scrutiny of the Bill, that does not require legislation but are nonetheless intrinsically linked. The purpose of which is to strengthen the Senedd standards regime as a whole.

Recommendations 8 and 9 of our report on Deliberate Deception proposes introducing a two-stage formal process for Members to correct the record, and for information relating to any breaches of the Code by a Member (as well as any correction notices issued under Recommendation 8) to be published in a more transparent way.

The Committee also intends to build on the evidence it gathered during the course of its inquiry to explore how appointing Lay Members may work in practice and to bring forward proposals for the Senedd to consider. We will draw on other aspects of our work - such as our inquiry into Dignity and Respect - to help inform those proposals.

You may wish to note that the Committee wrote to the Business Committee in May 2025, after we received the Welsh Government's response accepting our recommendations, to draw its attention to those that are likely to



impact their procedural work programme, such as changes to Standing Orders and associated guidance. The letter to Business Committee is included as **Annex A**.

We also wrote to the Counsel General regarding other potential minor amendments to the National Assembly for Wales Commissioner for Standards Measure 2009 ('the Measure') that could be incorporated into the Senedd Cymru (Member Accountability and Elections) Bill following our ongoing review of the Measure. This is included in **Annex B**.

I would be happy to meet with the Bill Committee to discuss our Individual Member Accountability inquiry in more detail.



Hannah Blythyn MS

Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

Annex A

Y Pwyllgor Safonau Ymddygiad

Standards of Conduct Committee

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Rt Hon. Elin Jones MS, Llywydd and Chair of the Business Committee

By email

1 May 2025

The Standards of Conduct Committee's reports on its inquiry into Individual Member Accountability

Dear Elin

As you may already be aware, the Standards of Conduct Committee ('the Committee') has been conducting an inquiry into Individual Member Accountability. It has recently reported on two of those areas: [Recall](#) and [Deliberate Deception](#).

Some of the recommendations in those reports relate to Senedd procedures and are for the Business Committee's consideration. We have been awaiting responses from the Welsh Government before writing to draw your attention to the relevant recommendations, as some would depend on the Minister making the necessary legislative changes recommended by the Committee. We have since received the [Welsh Government's response to the recall report](#) and the [Welsh Government's response to the deliberate deception report](#), accepting all recommendations, either in full or in principle.

We would therefore like to draw your attention to the recommendations listed below.

The Committee has already started to develop ideas of how some of these recommendations can be put into practice and intends to bring forward more detailed suggestions for Business Committee to consider. We intend to bring forward proposals on recommendations 8 and 9 towards the end of the Autumn term, however, as the other recommendations are dependent on the Welsh Government making the relevant changes to legislation, it is likely the Committee will make proposals on these early in the Spring term for the Seventh Senedd to consider.

Recall

Recommendation 6 (see also recommendation 10 of the 'Deliberate Deception' report). 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 –

Accepted in principle

This recommendation is dependent on the detail contained in the legislation brought forward by the Welsh Government.

Deliberate Deception

Recommendation 1. The Committee recommends that the Welsh Government, on the basis of the evidence gathered by the Committee on related definitions within existing legislation, should clearly define deliberate deception in legislation relating to Senedd elections; and that it is replicated in any associated Standing Orders and guidance. – Accepted in principle

This recommendation is dependent on the detail contained in legislation brought forward by the Welsh Government.

Recommendation 2. The Committee recommends that section 28 of the Government of Wales Act 2006 is amended to allow the Senedd to appoint lay members to the Standards of Conduct Committee. - Accepted

This recommendation is dependent on the Welsh Government making the required legislative change.

The Committee intends to build on the evidence it has gathered as part of this inquiry, including exploring the model adopted by the House of Commons, to bring forward some detailed proposals on how this may work in practice.

Recommendation 8. The Committee recommends that Standing Orders, and associated guidance, are amended to introduce a two-stage formal process for Members to correct the record. This would include:

- *A procedure to allow Members to voluntarily, or at the request of another Member, correct the record/withdraw statements in cases of unintentional and minor inaccuracies;*
- *Introducing a requirement for Members to correct factually incorrect statements at the earliest opportunity when required to do so on the recommendation of the Commissioner for Standards, via a 'correction notice';*
- *A requirement that corrections are published with equal prominence to the inaccurate statement; and*
- *A provision that failure to comply with a correction notice is a breach of the Code of Conduct and sanctioned as deceptive conduct by the Member. – For consideration of the Business Committee and the Senedd, noted by the Welsh Government.*

The Committee's view is that the issuing of correction notices could play an important role in stopping the spread of misinformation in the simplest and fastest way. The Committee has already received evidence suggesting ways such a procedure could be introduced in the Senedd. We therefore intend to develop a more detailed proposal for Business Committee to consider.

Recommendation 9. The Committee recommends that reports published on breaches of the Code of Conduct, as well as correction notices issued, should be published on Members of the Senedd's web

pages and, where applicable, to the Record of Proceedings. – For consideration of the Business Committee and the Senedd, noted by the Welsh Government.

To improve transparency, and to reinforce the seriousness in which the Committee considers breaches of the Code of Conduct, we believe that correction notices should be published on the Record of Proceedings where inaccurate statements have occurred on the floor of the Senedd, and that correction notices and breach reports should be published on Members' profile web pages.

Recommendation 10 (see also recommendation 6 of the 'Recall' report). The Committee recommends that, should legislation be brought forward to introduce a remove and replace procedure, that:

- *Sanctioning guidelines are agreed and published by the Senedd; and*
- *Any guidelines that contain deliberate deception as a trigger, should specify that it is only to be recommended when the breach is severe in nature. - Accepted*

This recommendation is dependent on the detail contained in legislation brought forward by the Welsh Government.

Recommendation 11. The Committee recommends that the Welsh Government introduces a legislative mechanism to enable any future appeals procedure, to be brought into force by the Senedd. –

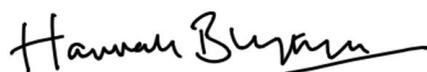
Accepted in principle

This recommendation is dependent on the detail contained in legislation brought forward by the Welsh Government.

Further detail about the context to these recommendations may be found in the narrative of the reports.

The Committee would welcome the Business Committee's consideration of these matters as part of its procedural work programme.

Yours sincerely



Hannah Blythyn MS

Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

Annex B

Y Pwyllgor Safonau Ymddygiad

Standards of Conduct Committee

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Julie James, Council General

By email

May 2025

Amendment of the National Assembly for Wales Commissioner for Standards Measure 2009

Dear Julie,

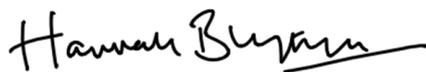
I welcome your commitment in the legislative programme to introduce an Individual Member Accountability Bill, which will seek to address the recommendations of the Standards of Conduct Committee ("the Committee") in relation to recall and deliberate deception.

Prior to being asked to undertake the work on recall and deception, the Committee had already given consideration to a number of other potential amendments to the National Assembly for Wales Commissioner for Standards Measure 2009. These amendments have been identified over the last twelve years as a result of decided cases and practical experience of the operation of the Measure in a dynamic and changing standards environment.

The changes identified by the Committee are set out in the attached paper prepared by the Senedd's Chief Legal Adviser and agreed by the Committee. The amendments are, in themselves, relatively minor and it would be more efficient to include these within the Bill you are preparing, rather than seek to find more legislative time for further amending legislation to achieve these necessary changes to the functioning of the Measure.

I would be happy to meet and discuss these proposals and the need for them, further if that would assist your consideration.

Yours Sincerely



Hannah Blythyn MS

Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

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Amendment of the National Assembly for Wales Commissioner for Standards Measure 2009

Introduction

1. The Senedd Standards of Conduct Committee in its reports on Individual Member Responsibility has made recommendations that require legislation, including the amendment of the National Assembly for Wales Commissioner for Standards measure.¹ Notably, these include recommendations for a “remove and replace” vote as a sanction for serious breaches of the Members’ Code of Conduct and giving the Senedd Commissioner for Standards the power to initiate investigations of suspected misconduct on the Commissioner’s own initiative.
2. Prior to its recent reports on Individual Member Accountability, the Committee has considered a range of other amendments to the National Assembly for Wales Commissioner for Standards Measure 2009 (“the Measure”), which has remained largely in its original form since it was enacted. On 10 July 2023, the Committee agreed a report from the Chief Legal Adviser referring to amendments which the experience of the Committee and the Commissioner had suggested would improve the functioning of the Measure and also update its provisions in certain respects (for example, the use of electronic service of documents) some of which were also noted in the Standards Committee’s Legacy Report of the Fifth Senedd.² In addition, the Commissioner has since drawn attention to two further matters that would merit amendment to the Measure and these are also noted below.³
3. The Chief Legal Adviser’s paper discussed the desirability of the Commissioner having the power to initiate investigations without the need for a third-party complaint. This amendment has now been recommended as part of the Committee’s report on Individual Member Accountability: Deliberate Deception.⁴ The Government’s response to that report, laid on 16 March 2025, has accepted that

¹ [cr-ld16929-e.pdf](#) and [Individual Member Accountability: Deliberate deception](#)

² [Fifth Senedd Legacy Report](#)

³ The use of interrogatories (para. 8.4) and the grounds of ineligibility to be appointed Commissioner (paras. 12 and 13)

⁴ See Recommendation 6



recommendation and committed to bringing forward legislative provision within the Bill to establish a system of recall.

4. The other matters which the Committee wishes to see amended in the Measure are set out in this paper.
5. A version of this paper has been considered by the Standards Committee, who have also taken evidence in private from the Standards Commissioner. The Commissioner is supportive of the amendments discussed in this paper. The Committee also made some comments now incorporated in this version of the paper. Subject to the incorporation of those comments the paper has been approved by the Standards Committee.

Self-referral by a Member

6. From time to time Members whose conduct is subject to criticism may seek to refer themselves to the Commissioner so that their conduct can be investigated. It is not completely clear whether the functions of the Commissioner under section 6 (1) and (2) of the Measure extend to considering a complaint where the complainant is a Member referring their own conduct. The Committee wish to put this beyond doubt and wishes to see provision that a complaint includes a referral by a Member about themselves.
7. Should a Member announce that they intend to refer themselves to the Commissioner but subsequently fail to do so, the existence of the power already proposed for the Commissioner to initiate an investigation will ensure that the Commissioner can take up the matter themselves if a referral does not arrive and failure to refer, once the intention is announced, may itself lead to a finding of bringing the Senedd into disrepute.

Obstruction of the Commissioner

8. The Fifth Senedd Standards Committee recorded that in the course of the consideration of a complaint against a Member a member of that Member's staff had sought to persuade witnesses not to give evidence. While such instances are rare, the Committee considers that provision to deter such conduct should be made, as was recommended in the Fifth Senedd Legacy Report.⁵ The Measure already creates a number offences as set out in section 15(1). The Committee wishes to see an additional offence of obstructing or interfering with an investigation being conducted by the Commissioner added to the existing offences. A precedent for such an offence can be found at section 23 of the Education Act 2005 relating to the obstruction of a school inspection.

Giving Notice by Electronic Means and Use of Video

⁵ At para. 50

9. When the Measure was passed in 2009, the giving of notice and the examination of witnesses did not encompass the use of electronic means. The Committee wishes to see the provisions of sections 11 and 12 of the Measure enabling the Commissioner to call for witnesses and providing for the giving of notice to be updated to allow:

8.1 The giving of notice by electronic means and to apply section 13(2) of the Legislation (Wales) Act 2019.

8.2 The production of documents by electronic means.

8.3 The examination of witnesses (including examination on oath) to take place by video link as an alternative to attendance in person.

8.4 The Commissioner to require a person to answer questions in writing (“interrogatories”) as an alternative to giving evidence in person.⁶

Use of Translators

10. Where the Commissioner decides to place a witness on oath under section 13 of the Measure, the powers to administer an oath do not cover the situation where the witness wishes to do so in a language the Commissioner is not conversant with, necessitating the use of a translator. The Committee therefore wishes to see the Commissioner’s powers to administer an oath extended to include the power to administer an oath or affirmation to a translator.

Confidentiality of Members Under Investigation

11. The current strict confidentiality provisions under section 16 of the Measure prevent the Senedd and the Commissioner from adopting provisions currently applying in other legislature which provide for greater transparency about complaints being made, such the arrangements in relation to investigations of Members of the House of Commons.
12. At present, section 16 prevents the Commissioner from even responding to questions arising from statements to the media as to whether or not a complaint has been received in the Commissioner’s office. The current restrictive terms of section 16, embodied in primary legislation, make it difficult to adapt the transparency and confidentiality obligations of the Commissioner as circumstances change.
13. A more flexible approach would be to repeal section 16 and replace it with an amendment to section 10(1) of the Measure that Standing Orders must include provisions as to the disclosure by the Commissioner of information about investigations.

⁶ This is one of the additional matters raised by the Commissioner mentioned in paragraph 2.

Recovery of Losses Due to Misuse of Resources

14. Where a Member has been found to have misused Senedd resources and as a result there has been a loss to the Commission, the Committee wishes to see a provision to enable the Commission to recover such amounts from the Member (or former Member) as a debt.

Ineligibility to be appointed Commissioner⁷

15. The Commissioner has brought to the attention of the Committee in the context of the recent inquiries into Individual Member Accountability some issues regarding the grounds for making a person ineligible to be appointed as Commissioner. The Commissioner suggests that the two year period of ineligibility of former Members of the Senedd or Senedd or Welsh Government staff may now be too short and that such a person could still be, or at least might be perceived to be, too close to the Member complained about and also to witnesses. It is also for that reason the Commissioner suggests the inclusion of Members' support staff as a distinct ground of ineligibility. The Commissioner has also drawn attention to the current omission from the list of a Counsel General who is not a Member of the Senedd.
16. In order to enable the Senedd to consult upon amending the grounds for ineligibility and to update them from time to time, the Committee wish to see the Measure amended to remove the existing list and replace it with a requirement for the Senedd to specify in Standing Orders the grounds making a person ineligible to appointed Commissioner.

⁷ This is the second issue raised by the Commissioner referred to in paragraph 2 above.