

Meriel Singleton
Clerk, Standards of Conduct Committee
The Welsh Parliament

21 February 2022 (by email)

Dear Meriel

Procedure for Dealing with Complaints against Members of the Senedd

Thank you for your email of 24 January inviting views on prospective revisions to the Procedure for Dealing with Complaints against Members of the Senedd.

My responses below have used the same numbering as the consultation document for ease of reference.

Section 2

You may wish to consider producing a single document that includes the procedure alongside the guidance. In either case, you should be clear about whether the guidance is indicative only or is rather intended to be definitive about how the procedure is to be understood.

Section 3

Timescales – You may wish to consider whether this sufficiently takes account of a course of conduct which can span over months and years and which cumulatively might constitute bullying and/or harassment.

Information contained within a complaint – I would urge caution against requiring the complainant to state how the conduct complained of is thought to breach the Code. Our experience suggests that members of the public are generally able to set out the conduct which is of concern to them but very rarely able to articulate how such conduct is incompatible with the relevant provisions. Making this a requirement may render the complaints process inaccessible, even if guidance and support is provided.

Section 4

Informing the complainant – These proposals are positive and will demonstrate greater transparency in the process.

Group complaints – These proposals seem sensible although care must be taken to ensure that any “lead complaint” properly addresses all of the concerns raised by other complainants in the “group”.

Section 5

Bringing a complaint to an end and appeals process – I believe that the Commissioner should have this discretion, particularly given that there is a proposed route of appeal to the Committee. I think that route of appeal would be a vital constituent of the revised procedure. Additionally, the Commissioner should be required to provide the complainant with their reasons for bringing a complaint to an end.

In respect of the reasons provided, a proportion may require further consideration and potentially explanatory guidance as follows:

“it no longer meets the requirements under sub-paragraph 4.2 (the admissibility criteria) for the complaint to proceed” – see my comments under section 3. I feel it would be hard to justify bringing a complaint to an end if a complainer is unable to identify, regardless of support and guidance provided, the parts of the Code that are engaged.

“the complainant no longer insists upon the complaint proceeding” – there may be a range of reasons for a complainant withdrawing a complaint. They may, for example, be a vulnerable person, or have been influenced inappropriately to do so. We have extensive guidance for the issues that we consider when such requests to withdraw a complaint are made and would be happy to provide these if considered helpful.

“the victim of the alleged conduct, who did not make the complaint, does not wish the complaint to proceed” – as immediately above, the victim of the conduct may have reasons for not wishing a complaint to proceed, even if the conduct is clearly incompatible with the Code’s provisions.

“having due regard to value for money considerations and the nature of the complaint, it is not in the public interest to proceed further with the consideration of the complaint” – It may be prudent to restrict this to “not in the public interest” and to refer to value for money and the nature of the complaint, among other public interest tests, in the guidance.

Rectification process – I agree that it is appropriate for complaints to be resolved by way of apology where that is possible and appropriate. That should though also be subject to the same public interest test that is being applied to the withdrawal of complaints. An apology may be sufficient for the complainant, but other members of the public may not consider that to be the case, dependent on the nature of the conduct complained of.

Section 6

No comment other than to observe that there is no equivalent appeals process in Scotland.

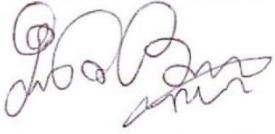
Section 7

These proposals seem sensible. The Committee will have to have due regard to GDPR, FOI and natural justice considerations when taking such steps.

I hope that some of these observations will be helpful to the Committee’s deliberations.

Please don't hesitate to contact me if you require further information and/or would find it helpful to discuss any aspect of this response.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Ian Bruce', written in a cursive style.

Ian Bruce
Acting Ethical Standards Commissioner