



Welsh Conservative response to the Standards of Conduct consultation: Procedure for Dealing with Complaints against Members of the Senedd

February 2022

This document sets out the response of the Welsh Conservative Group in the Welsh Parliament in relation to the Standards of Conduct Committee consultation on dealing with complaints against Members of the Senedd.

The design and content of the Procedure:

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

Under section 3.6. of the new procedure, the Group would like to see reference added for the Commissioner to receive or have sight of legal advice, if the Commissioner appointed does not have suitable legal qualifications or experience.

The Group would welcome greater clarity on section 8.17 as to what is the definition of a “clear majority” in the procedure. If it is a case that it just needs to be a simple majority of the committee, we believe that it should be stated as such, given the different interpretations that can be made from a clear majority.

Whilst the Group supports section 8.19, where the Commissioner’s report can be anonymised unless the Member concerned requests otherwise, we believe that it should be amended for all parties to agree to the report being anonymised. However, the Group does question why under section 8.18, a report which finds no breach of the Code should be published at all, with Members concerned about vexatious complaints that make it through to report stage.

The Group would welcome an additional section of the new Procedure to cover complaints made to the Commissioner by the Presiding Officer. The Group does not believe that it is appropriate for the Presiding Officer to be able to make complaints and then continue to have a role within the Procedure.

The admissibility criteria for complaints:

What time limit, if any, do you think would be fair and appropriate to safeguard both the rights of the complainant and the Member complained of? If a time limit is retained, do you have any views on the guidance included above to help explain what might constitute a good cause for the delay for complaints being made outside of the specified time?

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

Whilst the Group accepts that there are a number of reasons why a complaint may take longer to be made, we do believe that the current limit of one year for complaints to be made should be maintained.

With the need to ensure that the complainants concerns are properly addressed and action taken, Members are concerned that more political complaints will be made nearer to a Senedd election, especially with the fixed term nature of Senedd terms, and whilst the Commissioner won’t conduct enquiries during an election, the additional pressure put onto Members can have a detrimental impact on them and their election.

The Group welcomes the proposal under section 18 and 19, encouraging complainants to make reference as to what section of the Code a Member has broken as part of their complaint to the Commissioner.

Bringing a complaint to the end and the right to request a review:

Do you agree the Commissioner should have this discretion, and do you agree with the grounds specified under which a complaint can be brought to an end? Are there any additional grounds which should be included, and if so what are the reasons for suggesting the additional grounds? Do you agree that there should be a right of review by the Standards Committee of a decision of the Commissioner to dismiss a complaint on any of these grounds?

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

The Group welcomes the majority of the proposals under this section, however, it does not believe that the Committee should have a right of review if the Commissioner dismisses a complaint on the grounds outlined in the proposal.

The Senedd has appointed the Commissioner to investigate complaints and if the Commissioner decides that under the Procedure the complaint can be correctly dismissed, then that is the responsibility of the Commissioner, and not for the Committee to re-start complaints that have been properly scrutinised following the Procedure.

The Appeal Process

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

Whilst the Group recognises that the current appeal process can be costly and can further delay investigations which can have taken up to a year to reach the point in the process, we do believe that the process should be retained as it currently is.

The current appeal process and the appointment of an independent legally qualified person gives Members the opportunity to have the process reviewed and to ensure that they have been treated fairly according to the procedure. By removing the appeal process and forcing Members to undertake a judicial review will put additional emotional and financial pressure on Members, whilst also removing a member's anonymity unless imposed by the courts.

Redacting the Commissioner's report

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

The Group welcomes this proposal.