



Amending Standing Orders: Standing Order 22 – Standards of Conduct

Purpose

1. In accordance with Standing Order 11.7(iv), the Business Committee is responsible for making recommendations on the general practice and procedures of the Assembly, including any proposals for the re-making or revision of Standing Orders.
2. The report recommends amendments to Standing Order 22 in relation to Standards of Conduct. The changes agreed by Business Committee are found in Annex A, and the proposal for a new Standing Order at Annex B.

Background

3. The Standards of Conduct Committee published its Report on Sanctions on 15 May 2013, and made the following recommendation:

The Standards of Conduct Committee recommends that the Assembly's Standing Orders should:

- i) enable the Standards of Conduct Committee to recommend the sanction of exclusion for a breach of the Code of Conduct for Assembly Members that does not relate to Standing Order 2 – Financial and Other Interests of Members;*
- ii) reflect the provisions of the current Standing Order 2.10 by not stating any minimum or maximum time period for exclusion;*

iii) enable the Standards of Conduct Committee to recommend withdrawal of rights and privileges other than the removal of salary that is associated with exclusion.

4. At its meeting on 21 May, the Business Committee considered a paper on the recommendation to review Standing Orders made by the Standards of Conduct Committee in its Report on Sanctions.

5. At that meeting, Business Managers agreed in principle to the Standards Committee's recommendation that Standing Orders be amended and indicated that their preferred approach would be to give the Committee the power to recommend sanctions in relation to the matters listed in SO 22.2(i), rather than in relation to breaches of the Code of Conduct only, to give the Committee maximum discretion when recommending sanctions. The Business Committee agreed to consult with the Standards Committee on this matter.

6. The Chair of the Standards of Conduct Committee wrote to the Presiding Officer on 6 June, confirming that the Committee would like the power to recommend the sanction of exclusion in relation to all the matters listed in SO 22.2(i), rather than in relation to the Code of Conduct only.

7. On the 2 July, Business Committee considered proposals to amend Standing Order 22 to implement the Committee's recommendation. Business Managers agreed to consult their groups and with the Standards of Conduct Committee on the proposals.

8. Having received confirmation from the Chair of the Standards of Conduct Committee that the Committee was content with the proposed changes, the Business Committee formally agreed the proposals at its meeting of 24 September.

Proposals for changes to Standing Orders

Available Sanctions

9. In line with the Standard of Conduct Committee's recommendation, the proposed amendments to Standing Order 22.10 will enable it in future to recommend that any Member found to be in breach of any matter under Standing Order 22.2(i) be either censured, excluded from

Assembly proceedings for a specified period, have rights and privileges removed, or any combination of those sanctions.

10. Any Member excluded from Assembly proceedings would automatically lose their salary during the period of exclusion, as is currently the case.

Motions

11. Under the existing provisions of Standing Order 2, if a Member is to be excluded from proceedings, the Assembly must so resolve on a motion tabled by the Chair of the Standards of Conduct Committee. This motion is in addition to the motion to consider the committee's report under Standing Order 22.9.

12. As all sanctions will now be brought within the scope of Standing Order 22, the draft Standing Order (Annex A) proposes to continue the process already followed under Standing Order 22 where there is one motion tabled by a member of the Standards of Conduct Committee, encompassing both the finding of a breach and the recommended sanction. The Assembly is asked to both consider the report and endorse the sanction on the basis of the same motion, and such a motion is not be amendable.

Action

13. The Business Committee agreed the changes to Standing Orders on 24 September 2013 and the Assembly is invited to approve the proposal as at Annex B.

Annex A

STANDING ORDER 2 – Financial and Other Interests of Members	
Exclusion of Members and Withdrawal of Rights and Privileges	
<p>2.10 After consideration of any report put before it by the committee responsible for the functions specified in Standing Order 22 relating to a Member’s compliance with Standing Order 2, the Assembly may, on a motion proposed by the chair of the committee responsible for the functions specified in Standing Order 22, resolve to exclude that Member from any Assembly proceedings for a period specified in the motion.</p>	<p>Delete this Standing Order</p> <p>As the sanction of exclusion has been extended to all matters encompassed in SO22.2(i), the provisions of this Standing Order are now covered by the new SO22.10.</p>
<p>2.11 During the period of a Member’s exclusion, he or she is not entitled to receive any salary from the Assembly and is not permitted to attend any Assembly proceedings.</p>	<p>Delete this Standing Order</p> <p>As the sanction of exclusion has been extended to all matters encompassed in SO22.2(i), the provisions of this Standing Order are now covered by the new SO22.10.</p>
STANDING ORDER 22 – Standards of Conduct	
Functions	
<p>22.2 The responsible committee must:</p> <ul style="list-style-type: none"> (i) investigate, report on and, if appropriate, recommend action in respect of any complaint referred to it by the Commissioner for Standards that a Member has not complied with: <ul style="list-style-type: none"> (a) Standing Order 2; (b) any Assembly resolution relating to the financial or other interests of Members; (c) Standing Order 5; (d) any Assembly resolution relating to Members’ standards of conduct; 	<p>No amendment necessary</p> <p>This SO is included for information.</p>

<ul style="list-style-type: none"> (e) any code or protocol made under Standing Order 1.10 and in accordance with section 36(6) of the Act; (f) Standing Order 3; or (g) Standing Order 4; (ii) consider any matters of principle relating to the conduct of Members generally; (iii) supervise the arrangements for the compilation, maintenance and accessibility of the Register of Members' Interests, the Record of the Employment of Family Members with the Support of Commission Funds, the Record of Members' Time Involved in Registrable Activities and the Record of Membership of Societies and the form and content of the Register and the Records; and (iv) establish and lay before the Assembly procedures for the investigation of complaints under Standing Order 22.2(i). 	
Reports	
<p>22.9 If the responsible committee has investigated a complaint referred to it by the Commissioner for Standards, it must report to the Assembly as soon as possible after completion of the investigation.</p>	No amendment necessary
<p>22.10 A report under Standing Order 22.9 may include a recommendation to:</p> <ul style="list-style-type: none"> (i) censure a Member; (ii) <u>withdraw any rights and privileges from a Member as set out in the procedures for the investigation</u> 	<p>Amend this Standing Order</p> <p>This Standing Order is amended to introduce sanctions additional to the one of censure that currently exists.</p>

<p><u>of complaints established under Standing Order 22.2(iv)</u></p> <p>(iii) <u>exclude a Member from any Assembly proceedings for a specified period;</u></p> <p>or any combination of the above, for failing to comply with any of the matters encompassed within Standing Order 22.2(i).</p>	<p>The Sanctions Committee may recommend any combination of the sanctions available to it, and may apply these to a complaint regarding any of the matters under SO 22.2(i).</p> <p>The rights and privileges which may be removed will need to be set out in the Procedure for the Investigation for Complaints which the Standards Committee must establish under Standing Order 22.2(iv).</p> <p>The procedure continues the process already followed under Standing Order 22 where there is one motion tabled by a member of the Standards of Conduct Committee, encompassing both the finding of a breach and the recommended sanction. The Assembly is asked to both consider the report and endorse the sanction on the basis of the same motion. Such a motion would not be amendable.</p>
<p>22.10A <u>If a Member is excluded following a recommendation under Standing Order 22.10, the Member is not entitled to receive any salary from the Assembly and is not permitted to attend any Assembly proceedings during the period of his or her exclusion.</u></p>	<p>Insert Standing Order</p> <p>The wording of the SO is borrowed from SO2.11, which is to be removed. It makes clear that the sanction of exclusion brings with it automatic loss of salary for the period of the exclusion.</p>
<p>22.11 If a motion to consider a report under Standing Order 22.9 is tabled by a member of the responsible committee, time must be made available as soon as possible for the motion to be debated. No amendment may be tabled to such a motion.</p>	<p>No amendment necessary</p> <p>Should Business Managers decide that they want there to be two motions, or that the motion(s) should be amendable, then this SO would need to be amended</p>

Annex B

STANDING ORDER 2 – Financial and Other Interests of Members

2.10 *[Standing Order removed by resolution of the Assembly on XX XXXX XXXX]*

2.11 *[Standing Order removed by resolution of the Assembly on XX XXXX XXXX]*

STANDING ORDER 22 – Standards of Conduct

Functions

22.2 The responsible committee must:

- (i) investigate, report on and, if appropriate, recommend action in respect of any complaint referred to it by the Commissioner for Standards that a Member has not complied with:
 - (a) Standing Order 2;
 - (b) any Assembly resolution relating to the financial or other interests of Members;
 - (c) Standing Order 5;
 - (d) any Assembly resolution relating to Members' standards of conduct;
 - (e) any code or protocol made under Standing Order 1.10 and in accordance with section 36(6) of the Act;
 - (f) Standing Order 3; or
 - (g) Standing Order 4;
- (ii) consider any matters of principle relating to the conduct of Members generally;
- (iii) supervise the arrangements for the compilation, maintenance and accessibility of the Register of Members' Interests, the Record of the Employment of Family Members with the Support of Commission Funds, the Record of Members' Time Involved in Registrable Activities and the Record of Membership of Societies and the form and content of the Register and the Records; and
- (iv) establish and lay before the Assembly procedures for the investigation of complaints under Standing Order 22.2(i).

Reports

22.9 If the responsible committee has investigated a complaint referred to it by the Commissioner for Standards, it must report to the Assembly as soon as possible after completion of the investigation.

22.10 A report under Standing Order 22.9 may include a recommendation to:

- (i) censure a Member;
- (ii) withdraw any rights and privileges from a Member as set out in the procedures for the investigation of complaints established under Standing Order 22.2(iv)
- (iii) exclude a Member from any Assembly proceedings for a specified period;

or any combination of the above, for failing to comply with any of the matters encompassed within Standing Order 22.2(i).

22.10A If a Member is excluded following a recommendation under Standing Order 22.10, the Member is not entitled to receive any salary from the Assembly and is not permitted to attend any Assembly proceedings during the period of his or her exclusion.

22.11 If a motion to consider a report under Standing Order 22.9 is tabled by a member of the responsible committee, time must be made available as soon as possible for the motion to be debated. No amendment may be tabled to such a motion.