

# Fifth Senedd Legacy Report

March 2021



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March 2021



# About the Committee

The Committee was established on 22 June 2016. Its remit can be found at:  
[www.senedd.wales/SeneddStandards](http://www.senedd.wales/SeneddStandards)

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## Committee Chair:



**Jayne Bryant MS**  
Welsh Labour

## Current Committee membership:



**Rhun ap Iorwerth MS**  
Plaid Cymru



**Andrew RT Davies MS**  
Welsh Conservatives



**David J Rowlands MS**  
Independent Alliance for Reform  
Group

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## Recommendations

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# 1. Role of the Standards of Conduct Committee

1. The Standards of Conduct Committee (“the Committee”) was established on 28 June 2016.
2. The Committee’s role is to carry out the functions set out in Standing Order 22.1. These include:
  - the investigation of complaints referred to it by the Standards Commissioner;
  - consideration of any matters of principle relating to the conduct of Members; and
  - establishing procedures for the investigation of complaints, and arrangements for the Register of Members’ interests and other relevant public records determined by Standing Orders.

## Membership

3. At the end of the Fifth Senedd the Committee membership stood as:
  - Jayne Bryant MS (Chair)
  - Andrew RT Davies MS
  - Rhun ap Iorwerth MS
  - David Rowlands MS
4. Previous members of the Committee were:
  - Paul Davies MS
  - Llyr Gruffydd MS
  - Helen Mary Jones MS
  - Gareth Bennett MS
5. We would like to thank these members for their contribution to the work of the Committee during the Fifth Senedd.



## The make-up and structure of the Committee

**6.** As illustrated throughout this report, the fifth Senedd has seen a significant increase in the workload of the Standards of Conduct Committee. This has been in part due to the increase in number and complexity of complaints, but also due to the work around revising the Code of Conduct and the dignity and respect regime policies in relation to Members.

**7.** In previous Assemblies, the workload of the Committee has been variable depending on the number of complaints received and made admissible. During this Senedd, there has been a definitive advantage of an increased workload as it allowed the Committee to have built a strong working relationship, which was advantageous when dealing with complaint reports from the Commissioner.

**8.** The increase in work and responsibility has shown the importance of having a consistent Committee membership throughout the course of the Senedd. The Committee considers this helps promote and facilitate understanding of the Standards regime among Members. It also helps the Committee in making what can be difficult decisions around the conduct of, and potential sanctions to be applied to, Members.

**9.** At some points during this Senedd, the work of the Committee has been hindered by having a vacancy on the Committee due to changes in group make-up. When combined with another Members being unable to take part in complaints, this has led to some delays in considering time sensitive matters.

**Recommendation 1.** The Committee recommends that consideration should be given to whether the requirement of Standing Order 17.12 (Members ceasing to be a committee member upon joining or leaving a political group) should apply to the Standards Committee.

**10.** The Business Committee of the sixth Senedd may wish to consider broadening the remit of the Standards Committee of the next Senedd. For example, in Scotland the remit of the Standards Committee includes Procedures and Public Appointments.

## Senedd Commissioner for Standards

**11.** Towards the end of the fifth Senedd, Douglas Bain was appointed as the third Commissioner for Standards. His appointment commenced on 1 April 2021.

**12.** The Commissioner is appointed by the Senedd, but is an independent officeholder. The officeholder is required to produce an annual report which is laid

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before the Senedd. During the course of fifth Senedd it has become common practice for the Committee to hold a session with the Commissioner on the report. The Finance Committee has raised matters relevant to the funding of the Commissioner's Office during its scrutiny of the Senedd Commission budget. As such, we suggest that consideration be given to how scrutiny of the Commissioner is undertaken in a cross-cutting manner.

**13.** During the fifth Senedd some concerns were raised about the conduct of the former Commissioner. The Commissioner is not subject to direction, however the Senedd has the power to remove the Commissioner from office (Standing Orders 10.7-10.8). Any concerns about the standards regime should therefore be raised with appropriate authorities, including the Chief Executive and Clerk of the Senedd or the Llywydd.

#### Acting Commissioner

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**14.** During this Senedd, the provision for Acting Commissioner, provided for under section 4 of the National Assembly for Wales Commissioner for Standards Measure 2009 (the Measure) was used on two occasions. First, when the former Commissioner considered himself conflicted, and so unable to act. Second, when the office became vacant, following the resignation of the former Commissioner.

## 2. Work of the Committee

**15.** The work of the Committee does not naturally lend itself to undertaking policy inquiries. Instead much of the Committee's work focuses on ensuring the procedures and policies relating to conduct of Members remain effective and current, and in dealing with complaints referred to it by the Commissioner for Standards and points of general principle raised by the Commissioner.

### Lobbying

**16.** The Committee undertook an inquiry into lobbying in 2017. This was a recommendation from the Standards of Conduct Committee of the fourth Assembly. The Committee took evidence from a broad range of witnesses and conducted a public consultation.

**17.** The Committee was particularly interested in developments in Scotland where a statutory register was in the process of being introduced. This register went live in 2018. The Lobbying (Scotland) Act 2016, which introduced the register, required the Scottish Parliament to undertake a review of the legislation after two years from enactment.

**18.** The Committee agreed that it was minded that there may be a need for a statutory register, but that it wanted to wait for the outcome of the Scottish review.

**19.** The Public Accounts and Post Legislative Scrutiny Committee in the Scottish Parliament issued its review of the legislation in January 2021.

**20.** The Committee also recommended that a trial of publishing Members diaries be introduced. However, having further considered safety and the practicality of doing so, this trial was not progressed.

### 'Creating the Right Culture'

**21.** The Committee devoted a significant amount of time in this Senedd to its dignity and respect agenda and issues associated with the #metoo movement.

**22.** The Chair of the Committee met with the Llywydd and party leaders to set the agenda for the Senedd dignity and respect policy. She was a co-signatory of the statement which was issued.<sup>1</sup>

**23.** The Committee also produced the ‘Creating the Right Culture’ report which set out steps which could be taken within the Senedd to improve and enhance the culture.

**24.** Many of the recommendations made by the Committee have already been implemented including an active bystander campaign, and training for all Members and staff on the importance of dignity and respect within the workplace.

**25.** The Committee has subsequently embedded the values of dignity and respect into the culture of the Senedd by including a new ‘respect’ principle in the revised Members’ Code of Conduct.

## Review of the Code of Conduct

**26.** A key part of the Committee’s work this Senedd has been the production of a revised Code of Conduct and accompanying guidance.

**27.** In re-drafting the Code and associated procedures, the Committee sought to:

- provide greater clarity on the standards that are expected of Members; and
- better align with the Dignity and Respect Policy adopted by the Senedd in May 2018.

**28.** In order to do this, the Committee:

- reflected upon its own experiences, and the recommendations of the Standards Commissioner’s reports, over the course of this Senedd;
- spoke with a number of stakeholders (list at Annex x);
- consulted with all Senedd Members; and
- conducted research into the use of codes of conduct, in both local and national government, within the UK and internationally.

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<sup>1</sup> Link to statements

**29.** The redrafted Code has two main elements:

- A number of overarching principles of conduct which Members must observe and which are derived from the well-established “Nolan principles” plus an additional “Respect” principle; and
- A series of 24 Rules which specify in clear and succinct terms the conduct which Members must observe.

**30.** The revised code was agreed by Plenary on 24 March 2021 to come into force at the commencement of the Sixth Senedd.

**31.** The revised Code reflects contemporary standards in public life. We recommend that the Code to be reviewed, in light of experience, to ensure it remains relevant to the political, constitutional and cultural context in which Members of our evolving Parliament operate.

**Recommendation 2.** The Committee recommends the Code of Conduct is reviewed at the midpoint of the sixth Senedd to ensure it remains relevant to the political, constitutional and cultural context in which Members of our evolving Parliament operate.

## Cross Party Groups

**32.** The Committee was responsible for reviewing monitoring reports on the activities of Cross-Party Groups during the fifth Senedd. This has worked well, ensuring broad compliance with the rules, and adding assurance around the activity of cross party groups.

**33.** The Committee recommends that the Committee with responsibilities for Standards in the sixth Senedd reviews Cross Party Group activity annually, including deciding whether to recommend any action against non-compliant groups. Reviews of monitoring reports should take place at the beginning of each autumn term, with the first review in autumn 2022.

**34.** A copy of the monitoring report should be circulated to Members thereafter, initially in draft and then as a final version, along with a note reminding Members of the rules on the operation of Cross Party Groups and the responsibilities of the Chairs of the groups.

## Complaints from the Commissioner for Standards

**35.** The Committee considered 16 reports from the Commissioner and Acting Commissioner during this Senedd. This was three times as many complaints than

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the number considered in the fourth Assembly. The Committee published 12 reports in relation to these reports. Four reports had not completed all the stages of the procedure by the end of the Senedd and it will be a matter for the next Committee to consider these reports.

**36.** The nature of the complaints were more complex than those in the fourth Assembly. A full list of the matters considered can be found at annex A.

**37.** The Committee was required to utilise the alternate Member provision on a number of occasions. On two occasions, complaints directly related to activities of an entire party group (although the complaints did not concern the conduct of all members of the group) which meant the Committee Chair was unable to participate, and a temporary Chair was utilised.

## Sanctions

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**38.** The Committee recommended the use of the sanctions introduced by the previous Standards of Conduct Committee<sup>2</sup> in 2013 for the first time during this Senedd. The Senedd suspended Members from proceedings of the Senedd on four occasions, for periods ranging between 7 and 21 days. The Senedd also removed the right of access to Ty Hywel and the Senedd during one period of suspension.

**39.** The Committee invited Members to repay funds and apologise to the Senedd. Of two requests of Members for repayment of sums, one which was repaid, another was not. The take up of the request to apologise was also variable. Where action was taken by the Member concerned, the Committee considered this as mitigation in reaching a decision on the level of sanction.

**40.** The Committee also recommended that Business Committee remove from the Committee a Member who had been the subject of two complaints. Further, the Committee recommended that the Member not be re-appointed to the

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<sup>2</sup> Standards of Conduct Committee 04-13 report to the Assembly on Sanctions. The previous Committee recommended that the Senedd should have powers to:

Exclude Members from Senedd proceedings<sup>2</sup> either generally or specifically, for example, proceedings at particular meetings of the Senedd or its committees, for a time to be specified time in the motion for exclusion, and in accordance with Standing Orders<sup>2</sup>; or

Remove certain rights and privileges of membership of the Senedd should be withdrawn from the Member concerned (this includes accessing the estate, from other activities which a member might normally have a right to attend and removal of representational, ceremonial and related privileges which a member might normally enjoy as a member or any combination of the above sanctions .

Committee. The Senedd resolved to replace the Member on a motion from the Business Committee.

**41.** There has been some discussion during this Senedd about the need for different sanctions, such as mandatory training and an explicit power to recover overpaid sums (although the latter may require legislative change). Although the Committee has been able, on the whole, to achieve the required outcomes by requesting certain actions, there would be a clear benefit to this being formalised through expanding the available sanctions.

**Recommendation 3.** The Committee recommends that a future Committee with the responsibility for Standards review the sanctions that can be recommended by the Committee under Standing Order 22.10, in light of the experiences of the fifth Senedd.

## 3. Priorities for the Sixth Senedd

### Procedure for dealing with complaints against Members of the Senedd

**42.** The current Procedure for dealing with complaints against Members of the Senedd (the procedure) has been in place since the Measure was passed; some features reflect the non-statutory standards regime which preceded the Measure.

**43.** The variety of complaints received during the fifth Senedd led to some parts of the procedure being utilised for the first time. These included:

- The Appeals process;
- Reporting a breach of the Code, but recommending no further action be taken; and
- An admissible complaint, but no breach of the Code found.

**44.** Furthermore, during this Senedd, the Committee has also had the opportunity to reflect on the practical application of many elements of the procedure, some of which need reform. Examples include: the effectiveness of confidentiality provisions, a need to consider the timeframe for complaints, and options for reporting on the outcome of the Commissioner's investigations.

**45.** Following the adoption of the new Code of Conduct, the appointment of a new Commissioner and in view of the other factors referred to above, we recommend a comprehensive review of the procedure. This would have been the Committee's next substantial piece of work had time allowed.

**Recommendation 4.** The Committee recommends that Senedd Commission officials work with the new Commissioner to review the procedure for dealing with complaints against Members of the Senedd and present recommendations for the next Committee with responsibility for Standards to consider.

### Registering and declaring interests

**46.** The Committee agreed at the outset of the review of the Code of Conduct that it would not consider registerable interests as part of that work. Given that the code revision is complete, it may be timely to review registration and declaration of interests. There are a number of items which have been identified



for such a review, including considering whether visits paid wholly by institutions of the European Union should be registerable.

**47.** The Acting Commissioner has also queried whether the requirements for declaring interests should apply to written questions and statements.

**48.** Furthermore, the Committee also undertook a significant amount of preparatory work on ending the dual reporting requirement under Political Parties, Elections, and Referendums Act 2000 (PPERA). This would end the requirement for Members to register certain interests, for example overseas visits, with both the Senedd and Electoral Commission, and allow Members to only record the information once with the Senedd. This would require changes to the register of interests to ensure the Senedd requirements are compatible with those of PPERA. The Committee concluded that it would not be possible to complete this work in the fifth Senedd, but recommends that this work be progressed by its successor as part of a review of registration and declaration of interests.

**Recommendation 5.** The Committee recommends a future Committee with responsibility for Standards undertakes a review of registration and declaration of interests.

## The National Assembly for Wales Commissioner for Standards Measure 2009

**49.** The National Assembly for Wales Commissioner for Standards Measure 2009, which establishes the office of Commissioner, has been in force for over 10 years. During that time, three Commissioners have been appointed, a Dignity and Respect Policy has been adopted, the Code of Conduct has been revised, and the nature of complaints has evolved. It would be timely to review the Measure to ensure it reflects contemporary requirements.

**50.** The Commissioner has also identified several desirable reforms which would require legislative action to amend the present Measure, as follows:

- Creating an offence of obstructing an investigation. This would complement the existing offences under the Measure which covers the failure to appear before the Commissioner when summoned or to produce documents and the deliberate suppression or destruction of documents.<sup>3</sup>

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<sup>3</sup> See section 15 of the Measure

- A basis for the Commissioner to initiate investigations without a complaint; and
- Reviewing confidentiality provisions for those involved in complaints.

**51.** Some Members have expressed concerns around the accountability of the Commissioner and means for reviewing concerns about the Commissioner other than tabling a motion to remove from office. Any such provision would require legislative change.

**Recommendation 6.** The Committee recommends a future Committee with a remit for Standards undertakes post-legislative scrutiny of the National Assembly for Wales Commissioner for Standards Measure 2009.

## Training for Members

**52.** On becoming an elected Member, we are entrusted with a great deal of responsibility. All Members need to be aware of the standards of behaviour and conduct expected, as set out in the Code and associated policies. We note that such training is offered as part of the induction programme at the start of a new Senedd.

**53.** It is also important for Members to have the necessary skills to face the varied challenges of their role. During the course of its work, the Committee has identified the following areas where Members may benefit from training at the start of, and throughout, a Senedd:

- Social media;
- Safeguarding;
- NSPCC ‘stop it now’;
- Unconscious bias; and
- Dignity and respect (previously delivered by ACAS).

**Recommendation 7.** The Committee recommends that the suite of training offered to Members include additional modules focused on dignity and respect.

## Annex A: Committee Reports to the Senedd under Standing Order 22.9

<b>Committee Reports to the Senedd under Standing Order 22.9</b> <b>Standing Order 22.9 states that the Committee must investigate any complaints referred to it by the Commissioner for Standards and report to the Senedd as soon as possible on completion of the investigation.</b>	<b>Publication Date</b>
<a href="#">Report 06-21 to the Senedd under Standing Order 22.9</a>	March 2021
<a href="#">Report 05-21 to the Senedd under Standing Order 22.9</a>	March 2021
<a href="#">Report 03-20 to the Senedd under Standing Order 22.9</a>	December 2020
<a href="#">Report 02-20 to the Senedd under Standing Order 22.9</a>	November 2020
<a href="#">Report 01-20 to the Senedd under Standing Order 22.9</a>	September 2020
<a href="#">Report 03-19 to the Assembly under Standing Order 22.9</a>	September 2019
<a href="#">Report 02-19 to the Assembly under Standing Order 22.9</a>	September 2019
<a href="#">Report 01-19 to the Assembly under Standing Order 22.9</a>	April 2019
<a href="#">Report 03-18 to the Assembly under Standing Order 22.9</a> <ul style="list-style-type: none"> <li>▪ <a href="#">Response from Dame Dawn Primarolo, Chair, Remuneration Board</a></li> <li>▪ <a href="#">Response from the Llywydd, Assembly Commission</a></li> </ul>	November 2018  January 2019
<a href="#">Report 02-18 to the Assembly under Standing Order 22.9</a>	July 2018
<a href="#">Report 01-18 to the Assembly under Standing Order 22.9</a> <ul style="list-style-type: none"> <li>▪ <a href="#">Report from Sir John Griffith Williams QC under paragraph 8.6 of the procedure for dealing with complaints against Assembly Members</a></li> </ul>	April 2018
<a href="#">Report 01-17 to the Assembly under Standing Order 22.9</a>	August 2017