

## Written evidence: Senedd Cymru (Welsh Parliament) Standards of Conduct Committee

### Sanction options for a report under Standing Order 22.9

1. Section 7.11 of the Complaints Procedure sets out that the Committee may decide to recommend the following to the Senedd:

7.11 *The Committee may take a decision to recommend any of the following:*

- i) that **no breach has been found and that the complaint is dismissed;***
- ii) that **a breach has been found but that it is a failure of a minor nature and the complaint should be dismissed;***
- iii) that **a breach has been found but that no further action should be taken;***
- iv) that **a breach has been found and that the Member should be “censured” in accordance with Standing Orders;***
- v) that **a breach has been found and that the Member should be excluded from Assembly proceedings either generally or specifically, for example, proceedings at particular meetings of the Assembly or its committees, for a time to be specified time in the motion for exclusion, and in accordance with Standing Order 2;***
- vi) that **a breach has been found and that certain rights and privileges of membership of the Assembly should be withdrawn from the Member concerned;***
- vii) or where deemed appropriate, **any combination of the above sanctions may be applied.***

2. These options were updated in 2013 following [a report from the Standards of Conduct Committee on sanctions](#) which was fully endorsed by the Assembly.
3. The table below sets out the previous decisions on complaints brought forward following investigation by the Statutory Commissioner for Standards. The table is split between decisions pre the 2013 report, when the Committee only had three options available (that either no breach had occurred; that there was a breach but no further action should be taken or that there was a

breach and the Member should be censured) and post the 2013 report when the Committee gained the wider range of options now available.

Complaint	Nature of Breach	Committee Decision
<b>Pre-2013 Report on Sanctions</b>		
<p>Keith Davies AM (May 2012) <a href="#">Report 01-12</a> Complaint made by the Clerk to the Assembly following the conduct of the Member in St David's Hotel.</p>	<p>Contravention of paragraphs 4 (b) and (g) of the Code of Conduct for Assembly Members ("the Code") which provide that: "Assembly Members should at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of the Assembly and refrain from any action which would bring the Assembly, or its Members generally, into disrepute." and "Holders of public office should promote and support (the Nolan) principles by leadership and example."</p>	<p>A breach has been found and censure</p>
<p>Bethan Jenkins AM (March 2013) <a href="#">Report 01-13</a> Complaint made by the Clerk to the Assembly following the arrest of the Member for Drink Driving.</p>	<p>Contravention of paragraph 4 (b) of the Code of Conduct for Assembly Members, which includes the principle that Members should "at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of the Assembly and refrain from any action which would bring the Assembly, or its Members generally, into disrepute."</p>	<p>A breach has been found and censure</p>
<p>Bethan Jenkins AM (March 2013) <a href="#">Report 02-13</a> Complaint made by the Clerk to the Assembly that a claim made by the AM had been paid in circumstances where the work claimed for had not in fact been completed.</p>	<p>Contravention of the central principle underpinning the Determination on Members' Pay &amp; Allowances in April 2010 (along with the revised edition in September 2010) , which provides that: 'Members may only claim for the reimbursement of reasonable allowances and/or expenses, necessarily incurred, in connection with his or her role as an Assembly Member'.</p>	<p>A breach has been found but that no further action should be taken</p>

Complaint	Nature of Breach	Committee Decision
<b>Post-2013 Report on Sanctions</b>		
<p>Mark Drakeford AM and Jenny Rathbone AM  <a href="#">Report 01-16</a>  Complaint made by the Clerk to the Assembly that the Members concerned failed to register their previous roles as Chair of the All-Wales European Programme Monitoring Committee.</p>	<p>Failure to register an interest in accordance with Standing Order 2</p>	<p>A breach has been found but that no further action should be taken</p>
<p>Ann Jones AM  <a href="#">Report 02-16</a>  Complaint made by the Clerk to the Assembly that a party political event was held in a meeting room in the Senedd, in the name of the Member concerned.</p>	<p>Improper use of Assembly resources</p>	<p>A breach has been found but that no further action should be taken</p>
<p>Neil McEvoy AM  <a href="#">Report 01-17</a>  Complaint made by the Clerk to the Assembly that the Member did not restrict his use of the Media Briefing Room to his activities as an Assembly Member, instead using it for party political and campaigning Activities</p>	<p>Improper use of Assembly resources</p>	<p>A breach has been found and censure</p>

Complaint	Nature of Breach	Committee Decision
<p>Michelle Brown AM  <a href="#">Report 01-18</a>  Complaint made by three complainants relating to a taped recording of the Member using the racist term “coconut” <sup>1</sup></p>	<p>Contravention of paragraph 4 (b) of the Code of Conduct for Assembly Members, which includes the principle that Members should “at all times conduct themselves in a manner which will tend to maintain and strengthen the public’s trust and confidence in the integrity of the Assembly and refrain from any action which would bring the Assembly, or its Members generally, into disrepute.”</p>	<p>A breach has been found and that the Member should be excluded from Assembly proceedings for a period of seven days</p>
<p>Rhianon Passmore AM  <a href="#">Report 02-18</a>  Self-referred to the Commissioner after being convicted of failure to provide a breath sample</p>	<p>Contravention of paragraph 4 (b) of the Code of Conduct for Assembly Members, which includes the principle that Members should “at all times conduct themselves in a manner which will tend to maintain and strengthen the public’s trust and confidence in the integrity of the Assembly and refrain from any action which would bring the Assembly, or its Members generally, into disrepute.”</p>	<p>A breach has been found and that the Member should be excluded from Assembly proceedings for a period of 21 days, reduced to 14 days because of the self-referral</p>
<p>Gareth Bennett AM  <a href="#">Report 03-18</a>  Complaint made by the Clerk to the Assembly that the Member in respect of this regional office project failed to exercise adequate care or oversight; (signed the lease without ensuring that necessary surveys and estimates had been obtained and doing so against professional advice - expenditure of nearly £10,000).</p>	<p>Improper use of Assembly resources and bringing the Assembly into disrepute</p>	<p>A breach has been found and censure. The Committee wrote to the Member to ascertain that the money lost would be repaid – which was confirmed prior to publication of the report.</p>

---

<sup>1</sup> This complaint was subject to an appeal under the Procedure for dealing with complaints against Assembly Members.

Complaint	Nature of Breach	Committee Decision
<p>Gareth Bennett AM  <a href="#">Report 01-19</a>  Complaint made by three complainants that a video made by the Member contravened the dignity and respect policy</p>	<p>Contravention of paragraph 4 (b) of the Code of Conduct for Assembly Members, which includes the principle that Members should “at all times conduct themselves in a manner which will tend to maintain and strengthen the public’s trust and confidence in the integrity of the Assembly and refrain from any action which would bring the Assembly, or its Members generally, into disrepute.”</p> <p>and the Dignity and Respect Policy.</p>	<p>A breach has been found and that the Member should be excluded from Assembly proceedings for a period of 7 days. The Committee also recommended that the Assembly removed the member concerned from the Committee</p>
<p>Leanne Wood AM  <a href="#">Report 02-19</a>  Complaint made by individual about a tweet containing an offensive word</p>	<p>Contravention of paragraph 4 (b) of the Code of Conduct for Assembly Members, which includes the principle that Members should “at all times conduct themselves in a manner which will tend to maintain and strengthen the public’s trust and confidence in the integrity of the Assembly and refrain from any action which would bring the Assembly, or its Members generally, into disrepute.”</p> <p>And Para 4g. Leadership: Holders of public office should promote and support these principles by leadership and example</p> <p>and the Dignity and Respect Policy.</p>	<p>A breach has been found and censure</p>
<p>Hefin David AM  <a href="#">Report 03-19</a>  Complaint made by two individuals about a tweet containing an offensive word</p>	<p>Contravention of paragraph 4 (b) of the Code of Conduct for Assembly Members, which includes the principle that Members should “at all times conduct themselves in a manner which will tend to maintain and strengthen the public’s trust and confidence in the integrity of the Assembly and refrain from any action which would bring the Assembly, or its Members generally, into disrepute.”</p> <p>And Para 4g. Leadership: Holders of public office should promote</p>	<p>A breach has been found and no further action, as Member had issued apology</p>

Complaint	Nature of Breach	Committee Decision
	and support these principles by leadership and example  and the Dignity and Respect Policy.	

## **Guidance on Sanctions**

4. If a breach of the Code of Conduct has been found the Standards of Conduct Committee may recommend the exclusion of a Member of the Senedd in accordance with Standing Orders. These powers were introduced in 2013, following the report from the Standards of Conduct Committee.
5. The appropriate sanction in a particular case will be decided by the Senedd on the basis of the facts and circumstances of the case. In addition, certain breaches of the requirements of the registration requirements in the Government of Wales Act 2006 could constitute a criminal offence.
6. A Member of the Senedd may also be excluded from Senedd proceedings for disorderly conduct in accordance with Standing Order 13.13 and 17.27 on the authority of the Llywydd.

## **Senedd sanctions**

7. Senedd Standing Orders states:

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 Senedd proceedings for a specified period;

"Senedd proceedings" are defined in section 1(5) of the Government of Wales Act 2006 as "any proceedings of the Senedd, committees of the Senedd or sub-committees of such committees".

8. The rights and privileges of membership of the Senedd that the Committee may recommend should be withdrawn will be as specified in the Committee's report to the Senedd, and may include:
  - withdrawal of a right of access as a member to the Senedd Estate;
  - exclusion from other activities which a member might normally have a right to attend; and/or
  - removal of representational, ceremonial and related privileges which a member might normally enjoy as a member
9. The extent of any restriction will be decided by the Senedd on a case by case basis. The Senedd will also decide the length of time for which it considers it would be appropriate to restrict or prevent a member from participating in proceedings of the Senedd. In practice, this is done through endorsing a recommendation from the Standards of Conduct Committee relating to a report from the Commissioner for Standards.



## **Withdrawal of rights and privileges**

10. The Standards of Conduct Committee may recommend to the Senedd that any of a member's rights and privileges should be withdrawn. This could for example be done in order to give effect to the sanctions set out with regards registration of interests as set out in GOWA 2006 (so that the Senedd would take its decision to impose such sanctions following a motion from the Committee). It can also be done in respect of breaches of the Code of Conduct which do not relate to the matters covered by the 2006 Act.

11. The Senedd may consider the following to be appropriate in particular cases:

- exclusion of a member from proceedings of the Senedd generally or specifically, for example, proceedings at particular meetings of the Senedd or its committees;
- withdrawal of a right of access as a member to the Senedd estate;
- withdrawal of a right of access as a member to Senedd facilities and services;
- removal of representational, ceremonial and related privileges which a member might normally enjoy as a member;

12. 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. This does not result in the withdrawal of any other allowances provided for under the Determination on Senedd Members Pay and Allowances.

13. The Senedd will decide on a case by case basis what rights and privileges will be withdrawn from a member and the duration of withdrawal.

## **Duration of exclusion**

14. To date, there have been three exclusions from the Senedd for a breach of the code of conduct.

15. Any Standards of Conduct Committee motion to recommend exclusion must specify when the period of suspension should begin and end, and it is recommended that this is framed in terms of calendar days rather than sitting days.

## **Considerations**

16. The Complaints procedure sets out that in deciding what sanction(s) to recommend to the Senedd, the Committee will make a judgement based on:

- the specific circumstances of the case in question;
- the severity of the breach;
- the extent to which it may have brought the Senedd into disrepute, whether the case in question is a repeat offence, or shows persistent

conduct which may be considered to show contempt for Senedd colleagues, the rules or the institution;

And:

- will take account of intent, i.e. whether a breach is deemed to have been committed intentionally or not, and whether any dishonesty or deceit is deemed to have been involved.

*June 2020*