

Contents

Chair’s foreword	5
Recommendations	7
1. Introduction	10
Background.....	10
Existing requirements on truthfulness.....	12
Consultation and evidence gathering.....	13
2. General principles of political deception	14
Those in favour of a new offence.....	14
Those against the creation of a new offence.....	16
3. Definitions	21
4. Scope	24
Members of the Senedd and Candidates.....	24
Public and private statements.....	25
5. Human Rights	26
6. Procedure and process	27
Criminal offence.....	27
Civil law sanction.....	30
An administrative model.....	31
Appeals and timescales.....	32
7. Strengthening existing mechanisms	34
The Independent Standards Commissioner and the Standards of Conduct Committee.....	34
The Code of Conduct.....	36
Correction Notices.....	38
Other suggested mechanisms.....	39

	Existing legislation relating to electoral candidates.....	40
8.	Sanctions	43
9.	Resource and capacity	48
	Vexatious complaints	49
10.	Committee Views.....	53
	Minority View	60
	Conclusions.....	61
	Recommendations.....	62
	Annex 1: Observer Members views	65
	Annex 2: Procedure for dealing with a complaint made against a Senedd Member.....	67
	Annex 3: Complaints made under section 106 of the Representation of the People Act 1983	70
	Annex 4: Potential administrative models	71
	Annex 5: Amendment as tabled at Stage three of the Elections and Elected Bodies Act	74
	Annex 6: List of oral evidence sessions.....	77
	Annex 7: List of written evidence	79

Chair's foreword

Seeking to deliberately deceive the electorate is a serious matter that goes against the fundamental principles of public life, and has far reaching consequences for the very foundations of our democracy. Honesty is one of the seven Nolan principles which serve as the basis of the ethical standards expected of public office holders. It underscores the relationship of trust that exists between us as politicians and the people that we serve. At the very least, the public should be able to expect its politicians, and those who put themselves forward as candidates for public office, to act and speak truthfully. As a Committee we are clear that those individuals who seek to deliberately deceive for political gain need to be held to account .

Making and repeating deliberately misleading statements by politicians and candidates has such a significant impact on public confidence. In a digital age, a lie can spread on an almost industrial scale, compounding the erosion of trust in politics. That is why we are proposing a package of reform which we believe confronts the issue now, with the tools that we already have at our disposal. As one of the few legislatures whose Code of Conduct applies to Members at all times, the Committee believes that by embedding deliberate deception into the Code, the Senedd will be sending a clear message that it will not tolerate such behaviour and will hold those who are in breach of these standards to account.

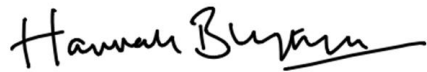
We are not only recommending making these rules clearer, we are also proposing: introducing more independence into our Standards processes to address concerns of politicians 'marking their own homework'; improving transparency when politicians do break the rules; and broadening the sanctions available to the Committee to hold those who break the rules to account. These changes, if taken together, can put the Senedd at the forefront of the global challenge to restore trust in politics.

We are grateful to the observer Members for their invaluable input. They have helped us gather and examine a range of evidence, and given us an alternative perspective on the various options put before the Committee. Out of those positive discussions, and in the spirit of finding common ground, the Committee has been able to recommend an innovative set of measures.

The Committee has heard a wide range of views on the subject of deliberate deception, and those who have taken the time to engage with the Committee have all done so in a constructive manner, with the aim of improving the status quo. We are encouraged by the efforts of those who are doing important work to

improve the integrity of democratic institutions and who continue to push for change. The conversation does not end here – we know there is more to do.

The recommendations in this report also sit alongside the Committee's broader reform work to strengthen the Senedd standards regime and to restore trust in politics, politicians and political systems. A change of culture rarely comes about because of a single action and it is incumbent upon us who do, and those who seek to, hold public office, to earn that trust. It begins with us and being honest.



Hannah Blythyn MS

Chair of the Standards of Conduct Committee

Recommendations

Recommendation 1. The Committee recommends that the Welsh Government, on the basis of the evidence gathered by the Committee on related definitions within existing legislation, should clearly define deliberate deception in legislation relating to Senedd elections; and that it is replicated in any associated Standing Orders and guidance..... Page 62

Recommendation 2. The Committee recommends that section 28 of the Government of Wales Act 2006 is amended to allow the Senedd to appoint lay members to the Standards of Conduct Committee.Page 62

Recommendation 3. The Committee recommends that the Welsh Government considers broadening section 75 of the draft Senedd Cymru (Representation of the People) Order (which replicates the provision contained in section 106 of the Representation of the People Act 1983 in relation to Senedd elections) to make it an offence for a candidate or any election agent to make or publish deliberately deceptive statements/information for the purposes of affecting how a vote is given at the election..... Page 62

Recommendation 4. The Committee recommends that the Government of Wales Act 2006 is amended to stipulate that any Conduct Order made under section 13 may include a provision for deliberate deception, ensuring that the issue of deliberate deception is considered in the conduct orders made for future elections..... Page 62

Recommendation 5. During an election period, the Committee recommends that the Welsh Government explores ways of requiring candidates who have made, or disseminated, deliberately deceptive statements to correct the record, and that those corrections are:

- Made with equal prominence to the inaccurate statement;
- Made at the earliest opportunity; and
- Published on the voter information platform for transparency.Page 63

Recommendation 6. The Committee recommends that the National Assembly for Wales Commissioner for Standards Measure 2009 is amended to allow the Commissioner for Standards to initiate investigations, to bring the functions of the Commissioner for Standards in line with other UK Parliaments.Page 63

Recommendation 7. The Committee recommends that the Senedd replaces Rule 2 of the current Code of Conduct (which applies to Members at all times) with two new distinct rules:

- To broaden the existing rule to ‘act truthfully’ and expressly state that Members must not make deliberately misleading statements; and
- To require those who make factually incorrect statements to correct the record at the earliest opportunity.

.....Page 63

Recommendation 8. The Committee recommends that Standing Orders, and associated guidance, are amended to introduce a two-stage formal process for Members to correct the record. This would include:

- A procedure to allow Members to voluntarily, or at the request of another Member, correct the record/withdraw statements in cases of unintentional and minor inaccuracies;
- Introducing a requirement for Members to correct factually incorrect statements at the earliest opportunity when required to do so on the recommendation of the Commissioner for Standards, via a ‘correction notice’;
- A requirement that corrections are published with equal prominence to the inaccurate statement; and
- A provision that failure to comply with a correction notice is a breach of the Code of Conduct and sanctioned as deceptive conduct by the Member.

.....Page 63

Recommendation 9. The Committee recommends that reports published on breaches of the Code of Conduct, as well as correction notices issued, should be published on Members of the Senedd’s web pages and, where applicable, to the Record of Proceedings..... Page 64

Recommendation 10. The Committee recommends that, should legislation be brought forward to introduce a remove and replace procedure, that:

- Sanctioning guidelines are agreed and published by the Senedd; and
- Any guidelines that contain deliberate deception as a trigger, should specify that it is only to be recommended when the breach is severe in

nature.

.....Page 64

Recommendation 11. The Committee recommends that the Welsh Government introduces a legislative mechanism to enable any future appeals procedure, to be brought into force by the Senedd..... Page 64

1. Introduction

Background

1. The Standards of Conduct Committee (the Committee) agreed to undertake an inquiry into Individual Member accountability¹ and the potential for it to be strengthened, in light of evidence received during Stage 1 consideration of the Senedd Cymru (Members and Elections) Bill.²
2. The Reform Bill Committee recommended that the Committee should develop options to achieve this, including consideration of a recall mechanism, the disqualification arrangements, and the sanctions available to the Committee when a complaint about a Member is upheld. The Committee also recommended that public consultation on potential options should be completed before the end of the Sixth Senedd in 2026.
3. At stages 2 and 3 of the Senedd Cymru (Members and Elections) Bill, amendments were brought forward in relation to the introduction of a recall system and the introduction of an offence of deception which would lead to disqualification from the Senedd (Stage 2 Amendments 124, 125 and 126, Stage 3 Amendments 40, 42 and 43).³
4. There was broad cross-party support for the principles behind the amendments but a recognition that this was an area which needed further careful consideration.
5. The then Counsel General wrote to the Standards of Conduct Committee following Stage 2 highlighting that he was:

"... supportive of the general principle underpinning these amendments, and of the increased accountability of Members they would bring. My decision not to support the amendments was because such complex and continually important issues require a fuller consideration than the amending stages of this Bill can provide, and mindful of the related recommendation to, and proposed review by your Committee."⁴

¹ The Standards of Conduct Committee's inquiry into individual Member accountability

² The Senedd Cymru (Members and Elections) Act 2024

³ The Senedd Cymru (Members and Elections) Act 2024

⁴ Letter from the then Counsel General to the Standards of Conduct Committee, 13 March 2024

6. The Elections and Elected Bodies (Wales) Bill⁵ was introduced to the Senedd in October 2023 and proposed a range of changes to the administration of elections in Wales. During Stage 2 an amendment was agreed to the Bill that would have changed the grounds upon which a Senedd Member could be disqualified.

7. Section 64 of the Bill would have amended Schedule 1A of the Government of Wales Act 2006⁶ to add the committing of the offence of deception as grounds upon which a person could be disqualified from being a Senedd Member or from standing as a candidate in a Senedd election for a period of four years.

8. Section 64 of the Bill, as amended at Stage 2⁷, stated that a person must not 'wilfully' and 'with the intent to mislead' make, publish or cause or permit to be published on their behalf a statement of fact which they know 'to be false or deceptive' and would have made doing so a criminal offence for which the sentence would be disqualification.

9. The former Counsel General tabled an amendment at Stage 3 to remove this provision and wrote⁸ to all Members of the Senedd outlining his reasoning. He explained that he considered the Committee to be the best vehicle for considering this as part of its work on Individual Member Accountability to ensure it had been fully scrutinised before becoming law.

10. The provision was removed at Stage 3 on 2 July 2024, however, during proceedings, the then Counsel General made a commitment that the Welsh Government would bring forward legislation before 2026 for the disqualification of Members and candidates found guilty of deliberate deception through an independent judicial process. He wrote⁹ to the Committee inviting it make proposals to that effect.

11. The Committee agreed to consult on these proposals as part of the individual Member accountability consultation. The terms of reference of its initial inquiry were broadened to include:

Gathering evidence on the merits of introducing further mechanisms for the disqualification of Members and

⁵ [The Elections and Elected Bodies \(Wales\) Act 2024](#)

⁶ [The Government of Wales Act 2006, Schedule 1A](#)

⁷ [The Elections and Elected Bodies \(Wales\) Bill, as amended at Stage 2, section 64](#)

⁸ [Letter from the then Counsel General to all Members of the Senedd, 25 June 2024](#)

⁹ [Letter from the then Counsel General to the Standards of Conduct Committee, 12 July 2024](#)

candidates found to have deliberately deceived the electorate including through an independent judicial process.¹⁰

12. The Welsh Government proposed that Members who were proponents of the amendment relating to the offence of deception, namely Adam Price MS, Lee Waters MS and Jane Dodds MS, work with the Committee as additional Members on the related elements of the Committee's inquiry. In accordance with Standing Order 17.49, the Chair invited those Members, along with James Evans MS for the Welsh Conservative group, to contribute to its inquiry as 'observer Members'.

13. A Memorandum of Understanding¹¹ setting out how this would work in practice, was agreed between Committee members and observer Members and was adhered to throughout the inquiry.

14. Adam Price MS, declared a relevant interest during the Committee's oral evidence session on 25 November 2024 with Dr Sam Fowles, Director, Institute for Constitutional and Democratic Research and Jennifer Nadel, Co-director, Compassion in Politics. Dr Sam Fowles had provided pro bono support to the Member in drafting section 64 of the Elections and Elected Bodies (Wales) Bill. Adam Price MS also declared as part of the inquiry his involvement with the working group that fed into the original White Paper submitted to the Committee by the Institute for Constitutional and Democratic Research (ICDR) which a number of witnesses were involved in., He also declared he had worked with Jennifer Nadel as part of the Compassion in Politics campaign.¹²

Existing requirements on truthfulness

15. Rule 2 of the Members of the Senedd' Code of Conduct states that "Members must act truthfully".¹³ The Guidance on the Code of Conduct sets out further what may be considered a breach of Rule 2. It states:

"A white lie (e.g. claiming to be 'fine' when a Member is actually tired) or some other minor lack of truthfulness, would not be regarded as a breach of this Rule. Equally, while Members are expected to reasonably fact-check and verify their assertions, it is inevitable that sometimes 'incorrect, but honestly made,' statements will occur. For instance, a Member might inadvertently misquote a financial figure ("£60,000" rather than

¹⁰ The Standards of Conduct Committee's inquiry into individual Member accountability.

¹¹ Memorandum of understating between Committee and observer Members

¹² Standards of Conduct Committee, Record of Proceedings 25 November 2024, paragraph 245

¹³ Code of Conduct on the Standards of Conduct of Members of the Senedd

“£600,000”). Provided the Member has corrected the error at the earliest opportunity, complaints of such nature are likely to be considered frivolous or vexatious.

A complaint would normally be based upon an alleged lie. Amongst other things, the substantiveness of the consequences of a lie are likely to be a factor in the determination of sanction for such behaviour.”¹⁴

16. The Senedd is the only legislature in the UK that has a rule within its Code of Conduct which specifically requires members to ‘act truthfully’.¹⁵

Consultation and evidence gathering

17. The Committee launched its consultation on 31 July 2024.¹⁶ Based on the scoping evidence the Committee received, the consultation asked for views on three options in relation to deception. The options were:

- **Option 1:** The creation of a criminal offence of deception which would be investigated by the police and tried before the criminal courts.
- **Option 2:** Using an existing investigative body such as the Public Services Ombudsman and an independent Welsh Tribunal, such as the Adjudication Panel for Wales (if the making false or deceptive statements of fact is to be a matter for civil sanction).
- **Option 3:** Strengthening the Code of Conduct (Rule 2) subject to approval by the Senedd to prohibit more explicitly wilful lying or deception and strengthen the sanctions which could be applied. These would continue to be dealt with through the mechanisms of the Senedd Commissioner for Standards and considered by the Standards of Conduct Committee and Senedd. This system would apply to Members of the Senedd and a wider re-design of the system would be needed to include candidates.

18. A full list of oral evidence sessions can be found in Annex 6: List of oral evidence sessions.

¹⁴ [Guidance on the Code of Conduct for Members of the Senedd](#)

¹⁵ [The Code of Conduct on the Standards of Conduct of Members of the Senedd](#)

¹⁶ [The Standards of Conduct Committee’s inquiry into individual Member accountability: Consultation](#)

2. General principles of political deception

19. The Committee heard from a number of organisations, bodies and individuals on the principles underpinning the proposal to introduce an offence for deception. Most respondents were of the view that public trust in politics and politicians has been declining in recent years and that further action by parliaments and parliamentarians alike is needed. However, the mechanisms put forward in evidence to combat the issue of deception varied.

20. Mechanisms suggested can be grouped into three broad categories;

- those who are in favour of strengthening existing standards processes and sanctions;
- those in favour of a new of a criminal offence and/or a civil law sanction on deception; and
- those who did not want to set out a particular view on what, if any, further mechanisms should be introduced but set out some practical issues they believed should be considered.

Those in favour of a new offence

21. Compassion in Politics, the Institute for Constitutional and Democratic Research (ICDR), Quakers in Wales, Henrietta Catley, Professor Conor Gearty FBA, KC and Elkan Abrahamson are in favour of new offences applying to Members of the Senedd and Candidates.

22. Compassion in Politics and the ICDR are in favour of the introduction of a new criminal offence or civil law sanction on deception. They set out a number of arguments including:

- Levels of declining public trust in politics and political discourse, Compassion in Politics states that a small number of bad actors are impacting levels of trust in general;
- That existing mechanisms have failed to address declining levels of public trust;
- That mechanisms where politicians are perceived to be ‘policing’ themselves won’t restore trust;

- That a similar independent judicial process as applied to fraudulent misrepresentation by the general public should apply to political deception and misrepresentation;
- That an independent and legislative means to redress deception may reduce abuse and harassment of politicians; and
- The need to extend an offence to both candidates and Members of the Senedd and that current mechanisms only apply to Members.

23. During oral evidence, while elaborating on the principles behind introducing deception as a criminal offence, Jennifer Nadel, Co-director of Compassion in Politics explained that it was necessary “... to have something visible that the public understand, which will begin to turn around public trust”, going on to say:

“This isn't going to be the only answer, but it will be a really clear signal that politics ... needs to visibly take action to show that it is cleaning up its act so that it can begin to restore trust, and it needs to defend itself against the bad actors that we have.”¹⁷

24. Dr Sam Fowles, Director of the ICDR was asked to provide a rationale behind the institute’s proposals in its original “White Paper”, ‘A Model for Political Honesty’¹⁸, to depart from the traditional political model of self-policing, and commented:

“Well, the short answer is, 'It hasn't worked.' As set out in the ICDR's report, the self-policing model we've witnessed, and even when the administrative model was introduced to the self-policing model, we've witnessed a decline in public trust in politicians to historic proportions.”¹⁹

25. He said that the “public's general and historic distrust of politicians” was because of a “structural reason”. In relation to Westminster Dr Sam Fowles stated that “politicians simply don't respond to requests to correct the record”. Although he drew a distinction on this point between Westminster and the

¹⁷ Standards of Conduct Committee, Record of Proceedings 25 November 2024, paragraph 248

¹⁸ The Institute for Constitutional and Democratic Reform: White Paper – A Model for Political Honesty

¹⁹ Standards of Conduct Committee, Record of Proceedings 25 November 2024, paragraph 256

Senedd, which in his view “held themselves to a very high standard”, he went on to say he believed:

“It's because there is no incentive to comply with the existing rules around truth telling because those existing rules are not enforced. The data for that is set out in the ICDR's paper.”²⁰

26. In response to questions around the erosion of trust in politics and whether introducing the offence of deception would restore that trust, Professor Andrew Blick from the Constitution Society, said that a new offence would hopefully target bad actors and reduce the accusation made by people that “they’re all the same”.²¹ He argued that whilst initial cases could generate less trust as more accusations of lying surface in the longer term it could rebuild trust by contributing to a cultural change within politics.

27. He also told the Committee that in some high-profile instances of deception by Parliamentarians, there have been claims by the accused that the process in place is not a fair judicial process because it was investigated by a parliamentary committee. They added:

“... if you look at the experience of the parliamentarians who were involved in investigating what [Boris] Johnson had done, I think they were exposed to unfair pressure and treatment by the media and by some of their own parliamentary colleagues, and I think it might be fairer to take that procedure out of Parliament and not expect people to judge their own peers in the same way, and put it into a court in extreme cases.”²²

28. Professor Conor Gearty FBA, KC, in his written submission to the Committee, stated that he believed there was an “urgent imperative of effectively addressing the threat to our system of representative democracy that is posed by the deliberate deployment of deceit by malign political actors”. He suggested that “the wrong at which the Bill is aimed should be processed through the criminal rather than the civil law”.²³

Those against the creation of a new offence

²⁰ Standards of Conduct Committee, Record of Proceedings 25 November 2024, paragraph 257.

²¹ Standards of Conduct Committee, Record of Proceedings 4 November 2024, paragraph 22

²² Standards of Conduct Committee, Record of Proceedings 4 November 2024, paragraph 57

²³ The Standards of Conduct Committee's inquiry into individual Member accountability: written submission by Professor Conor Gearty FBA, KC. (Hon)

29. Transparency International UK, Unlock Democracy and Full fact agreed in their evidence that further mechanisms to address misinformation and improve transparency are needed, but they expressed concern about the introduction of any new criminal offence or civil sanction on deception.

30. In oral and written evidence these organisations set out their preference for further strengthening of the existing Standards processes within the Senedd as a first step towards addressing any deception by Members of the Senedd.

31. Transparency International UK sets out its view that outlawing deception would present practical problems of proving intent. They voiced concerns that if an offence is difficult to prove then the failure to prosecute or investigate allegations of deception could risk further declining trust. They also highlighted the potential threat of legal action which could create barriers for individuals wanting to stand as candidates. During oral evidence, they said:

“... whilst we absolutely think that deception is a problem in politics and declining trust is linked to those failures of integrity, we think that strengthening accountability mechanisms alongside improving the transparency of how decisions are made and how politicians are held to account are the most important responses to this.”

“... we want reforms to be pragmatic and offer lasting improvement, and so we just think that criminalising lying risks introducing a new accountability mechanism that the public still wouldn't see working.”²⁴

32. Azzura Moores, Full Fact told the Committee:

“We feel very strongly that trust needs to be earned and not just legislated for ... we think that Welsh citizens will be better served by seeing their political system adapt more robustly to hold politicians to account for the truth and accuracy of their statements.”

“... we're quite concerned that co-opting the criminal justice system to determine the truth and the accuracy of statements would be disproportionate and potentially dangerous, partly because we don't think it will work in practice. We really are

²⁴ Standards of Conduct Committee, Record of Proceedings 25 November 2024, paragraph 14

concerned about the idea that introducing a criminal offence will result in political point-scoring.”²⁵

33. Tom Brake from Unlock Democracy told the Committee that he was worried that asking the courts to reach judgements on statements of opinion versus statement of facts could increase the risk of trust in the courts declining if politicians or the media accused courts of taking political decisions. He stated:

“The problem is that, if the proposal is that the courts start policing statements of fact, which politicians would probably consider to be statements of opinion, then I think that starts to damage the courts. And one of the arguments put forward by others in support of using the courts is because they are respected. I am really concerned that if the courts start adjudicating on these decisions that respect will start to get lost, because they will be making decisions that some politicians are going to be arguing are highly political and are seeking to curtail their freedom of expression.”²⁶

34. Jonathan Rees KC expressed similar concerns about the potential politicisation of the courts, in his evidence to the Committee as a representative of the Criminal Bar Association (CBA). He expressed concern about the risk of the courts being asked to adjudicate where two opposing sides are using the same facts to support different arguments and the potential for this to undermine the independence of the courts and the public trust in them:

“We would have real concerns about what we would see as the risk—real risk—of politicising the courts of England and Wales. At the moment, the criminal courts are only engaged when there is clear evidence of serious wrongdoing, deliberate intentional wrongdoing. To introduce the courts as some sort of third-party arbiter of hotly disputed statements where you may get two opposing sides using the same alleged facts, but to support different arguments and different, as they would put it, factual conclusions, would undermine the independence of the courts, and moreover, and more important than that, would not serve the public interest whatsoever.”²⁷

²⁵ Standards of Conduct Committee, Record of Proceedings 25 November 2024, paragraphs 27 and 28

²⁶ Standards of Conduct Committee, Record of Proceedings 25 November 2024, paragraph 85

²⁷ Standards of Conduct Committee, Record of Proceedings 18 November 2024, paragraph 218

35. Full Fact raised issues around how ‘intent’ to make a false statement would be proved. Azzurra Moores outlined the resources and level of expertise Full Fact is required to use when it is looking at whether a statement made by a politician or public body has been misleading. She questioned whether the Courts would have access to this level of expertise in making judgements about intent. She also outlined that Full Fact often finds misleading statements made by “human error”²⁸ rather than due to intent to deceive.

36. Transparency International UK also asks, in its written consultation response²⁹, who would be responsible if a Member or candidate repeated a false statement contained in a briefing from a source such as a stakeholder or civil service briefing. In oral evidence Juliet Swann said this issue could impact the willingness of stakeholders to provide briefings.

37. In written evidence the Criminal Bar Association (CBA) noted:

“... There are many ways in which available sanctions can be extended in accordance with the Nolan principles, for example, by way of providing for the disqualification of elected Members through the process of recall.

However, the stated aim of increasing trust in politics by penalising the making of false statements by members and candidates will not in our view be met unless any new regime meets the tests of fairness and practicability.

We believe further that great care should be exercised before creating a new criminal offence. The criminal law should be used sparingly, in line with the overriding objective to deal with all cases justly to acquit the innocent and convict the guilty.”³⁰

38. The Committee also heard evidence on the principle of parliamentary autonomy. That is, the general constitutional principle that only parliaments should hold the power to regulate behaviour within a parliament in order to protect the institution from outside interference and control.

39. Professor Emyr Lewis said that in considering the introduction of any further mechanisms on deception the Senedd will need to carefully consider the

²⁸ Standards of Conduct Committee, Record of Proceedings 25 November 2024, paragraph 62

²⁹ The Standards of Conduct Committee’s inquiry into individual Member accountability: Consultation response, Transparency International-UK

³⁰ The Criminal Bar Association: Briefing note to the Standards of Conduct Committee, 17 November 2024

implications of giving an external agency such as the courts a role in regulating parliamentary affairs. Professor Lewis said to do so may affect the 'exclusive cognisance' the Senedd has in relation to the conduct of Members. Professor Emyr Lewis explained:

“To ensure that the business of Parliament as an independent democratic body isn’t detrimentally impacted by any external entity or agency, the Parliament itself regulates behaviour. And if we look at the Welsh Parliament, the Senedd, although there is no absolute statement that the Senedd and the Senedd alone has the right to regulate the behaviour of Members within the Senedd, the Government of Wales Act does provide that Standing Orders can include provisions that enable the Senedd, ultimately, to withdraw privileges from Members and also to suspend them from being present at the Senedd.”

40. He went on to say:

“... among the issues that are being considered is this idea that what is said by Members of the Senedd could be the topic of an inquiry by an agency external to the Senedd—by the courts, for example, or by another institution or organisation. And so, if you were to go along that particular route, you would perhaps be diverging from this concept of self-regulation. Now, there are very powerful arguments for taking that route, and there are also powerful arguments against, and it's not my place to weigh up those arguments. But I think it's useful for us to lay that foundation as something to bear in mind ...”³¹

41. In its written consultation response Transparency International UK also highlights the principle of the autonomy of Parliament. It points to a recent decision by the European Court of Human Rights in *Paterson v. the United Kingdom*³² which upheld the rights of parliaments to regulate their affairs themselves.

³¹ Standards of Conduct Committee, Record of Proceedings 18 November 2024, paragraphs 8 and 10

³² European Courts of Human Rights: *Paterson v. the United Kingdom*

3. Definitions

42. There was a consensus in the evidence the Committee received that if any new mechanisms on deception are to be introduced then ‘deliberate deception’ would need to be clearly defined in the drafting of any legislation. In their written evidence, the Crown Prosecution Service (CPS) stated that any legislation would need to be drafted in a way that ‘provides a clear definition of the offences’ who determines what is true or false and whether the statements relate to matters of fact or opinion.³³

43. Chief Constable Amanda Blakeman expanded on this during her evidence session, saying:

“It would be really useful for total clarity to be written into the legislation as to what a false or deceptive statement is and what is general political discourse. It would be really difficult to categorically say here without looking at the individual cases that need to be investigated on their own merits, and that can only be done when all of the information is known.”³⁴

44. As an independent organisation whose focus is on fact checking governments, political institutions, politicians and journalists to correct the use of false or misleading claims, Full Fact told the Committee that defining deception was:

“something we are doing day in, day out in order to understand whether or not what someone is saying is true or false, and we do this particularly in a political context in Westminster... I would say our work is really defined in looking at evidence, and sometimes opinion circumvents the evidence, but we look at facts, we look at detail, we look at the research behind someone’s statement, and we call things out when they are what we believe to be right or wrong.”

45. Azzurra Moores, Full fact went on to explain that she had quite a strong concern about the proposal of ‘deliberate’ deception and explained that there was a “really, really delicate boundary” of how intent would be defined in this context. She said:

³³ The Standards of Conduct Committee’s inquiry into individual Member accountability: Consultation response, CPS

³⁴ Standards of Conduct Committee, Record of Proceedings 25 November 2024, paragraph 152

*"... I think that, really, defining 'intent' could do a lot to worsen trust in politics than to increase trust in politics. When you are calling someone out and saying they are deliberately deceiving someone, I think that would do some quite serious harm. But defining truth and defining a falsity is a really tricky thing."*³⁵

46. The Criminal Bar Association pointed the Committee towards an existing definition of false or misleading statements in section 2 of the Fraud Act 2006 (Fraud by false representation) ³⁶ which is replicated in many other statutes and regulations and is "fit for purpose". They stated that the definition is:

*"... tried and tested in the courts, there is case law in relation to it, and it is sufficiently broad as to incorporate, I think, that which you're considering and determining."*³⁷

47. They elaborated on this further, telling the Committee:

*"... we would strongly urge that you incorporate both proof of falsity on the person making the accusation against the politician, that that should be to the criminal standard, and falsity should include, as the Fraud Act does, knowledge on the part of the person making it, that it is false, so that, for example, accidental, innocent purposes, even recklessness or negligence, fall outside the scope of a false statement; and that it should also come with the requirement to prove dishonesty, because that is what is being alleged, and one shouldn't make the allegation without, in effect, fronting up and requiring there to be a finding of explicit dishonesty."*³⁸

48. Professor Emyr Lewis told the Committee that there would need to be clarity around the definition of deliberate deception, stating that "the prosecutor needs to prove every element"³⁹, meaning that they would need to prove that the statement under question was a matter of fact and not opinion, that it was untrue and that it was said deliberately.

49. In response to Members of the Senedd' concern about the definition of 'intent' in the ICDR proposal for a disqualification Order, and that it would be difficult to prove, Dr Sam Fowles explained that it had created a model which did

³⁵ Standards of Conduct Committee, Record of Proceedings 25 November 2024, paragraph 61

³⁶ The Fraud Act 2006, section 2

³⁷ Standards of Conduct Committee, Record of Proceedings 18 November 2024, paragraph 241

³⁸ Standards of Conduct Committee, Record of Proceedings 18 November 2024, paragraph 244

³⁹ Standards of Conduct Committee, Record of Proceedings 18 November 2024, paragraph 56

not define what constitutes a false statement to alleviate those concerns. He said:

“Only if someone actively refuses to correct the record will this sanction be in place... Now, the intention element will be very clear. It arises where you've been told by a court that your statement is factually incorrect, you've been asked to correct it, and you've actively chosen not to do that. Now, that is deception. That is certainly deliberate deception.”⁴⁰

⁴⁰ Standards of Conduct Committee, Record of Proceedings 25 November 2024, paragraph 259-260

4. Scope

Members of the Senedd and Candidates

50. In relation to whether any proposed further mechanism should cover both candidates in Senedd elections and Members of the Senedd, the Committee heard a range of views. Some favoured the introduction of a single system that would include both candidates and Members, whereas other evidence expressed concern about the complexity of creating a single system given the different status and roles of both groups.

51. The Deputy First Minister, in his evidence to the Committee, stated that consideration should be given to the “complexities and challenges” related to scope and whether the same regime should apply to candidates as to Members.

52. The Deputy First Minister said “candidates and Members operate under, fundamentally, constitutionally, two different roles; they’re subject to different statutory regimes”.⁴¹ He said the Welsh Government’s commitment to introducing mechanisms for candidates and Members remained but suggested that the Committee may want to consider “those different constitutional roles that Members and candidates play, and whether it’s appropriate that a new regulatory system relating to deception is applied to both in the same way”.⁴²

53. Unlock Democracy told the Committee that if any proposed legislation should be extended to include electoral candidates as well as Members of the Senedd, they would have concerns about independent candidates or those from smaller political parties not having access to legal advice. Their view is that this may deter them from standing as candidates at Senedd elections. Concerns about individuals being deterred from putting themselves forward as candidates were also expressed by Transparency International UK and the Crown Prosecution Service.

54. The Constitution Society’s view, however, is that any legislation should include candidates, saying that “when a general election is called, there are no MPs—there are just people contesting seats”.

55. The Committee noted that this is also the case with Senedd elections. Members of the Senedd cease to hold office from the point of dissolution until new Members are returned following an election. During this time all those

⁴¹ Standards of Conduct Committee, Record of Proceedings 2 December 2024, paragraph 80.

⁴² Standards of Conduct Committee, Record of Proceedings 2 December 2024, paragraph 102.

standing for election, even those who were previously Members of the Senedd, are considered 'candidates'. Paragraphs 127-133 of this report describe how current legislation relates to the conduct of candidates, and the making of false statements, during an election period.

56. The Constitution Society commented further on current legislation, stating:

*"... there are some guidelines, through electoral law, on candidates and lies about opposing candidates during election periods, but I think it would be fair to say those are quite tightly confined at the moment, and ... broadening those then, within this offence, would seem a reasonable step alongside elected Members to me."*⁴³

Public and private statements

57. Professor Andrew Blick, Constitution Society, also suggested that the Committee may wish to consider the boundary between public and private life of both Members and candidates, and how they would be drawn if further mechanisms on deliberate deception were introduced.

58. The ICDR states in its original proposed models of offences or civil law sanctions on deception, statements made by a Member or a candidate in their official roles or a statement made in a private capacity that is deemed to be of public interest would fall within the scope. It says this would include statements about "private" matters, such as whether the individual has had an affair, which are relevant to their suitability for office.

59. The Committee noted that the current Senedd Code of Conduct applies to Members at all times and does not distinguish between public and private lives.

⁴³ Standards of Conduct Committee, Record of Proceedings 4 November 2024, paragraph 27

5. Human Rights

60. Respondents to the Committee's inquiry suggested that any new mechanisms on deliberate deception would need to comply with the European Convention on Human Rights⁴⁴ and in particular Article 10 on the Freedom of Expression⁴⁵ and Article 3 of Protocol 1 on the right to free elections.⁴⁶

61. The Public Service Ombudsman for Wales (PSOW) drew attention in her evidence⁴⁷ to existing case law on Article 10 which her office is required to be mindful of in carrying out its investigations.

62. The ICDR, Compassion in Politics, Professor Emyr Lewis and Henrietta Catley noted that rights to freedom of expression are not unlimited and that would be possible for any new mechanisms to be drafted in such a way as to comply with the requirements of the Convention, provided they are proportionate and were necessary to 'safeguard democracy'. Concern, however, was expressed about the proportionality of disqualification as the only sanction for deception. Sanctions are considered further in **chapter 8**.

63. Professor Emyr Lewis stated:

"The European Court of Justice has determined that some level of restriction on freedom of expression is possible to safeguard democracy, to all intents and purposes, to safeguard the rights of constituents in the context of an election—so, that would apply with regard to candidates, rather than Members on a daily basis."⁴⁸

64. Alex Greenwood of the CBA, told the Committee that in addition to human rights any new mechanisms would also need to be mindful of natural justice case law.

⁴⁴ The European Convention on Human Rights

⁴⁵ The European Convention on Human Rights, Article 10

⁴⁶ The European Convention on Human Rights, Article 3 of Protocol 1

⁴⁷ Standards of Conduct Committee, Record of Proceedings 18 November 2024, paragraphs 145-146

⁴⁸ Standards of Conduct Committee, Record of Proceedings 18 November 2024, paragraph 14

6. Procedure and process

65. Based on the three options put forward by the Committee in its consultation document; to create a new criminal offence of deception; the use of a civil procedure; and strengthening the existing Standards regime (see [paragraph 17](#)), the Committee considered a wide range of views on the procedures involved in each of these models.

Criminal offence

66. In its written consultation response, Compassion in Politics argued in favour of the introduction of a new criminal offence on deception and said that it needed to be “drafted to really target the very bad actors”.⁴⁹ In her oral evidence, Jennifer Nadel, Co-Director of Compassion in Politics, outlined her view that a new criminal offence could act as a deterrent for deliberate deception by politicians. She further stated that requiring proof to the criminal standard of beyond all reasonable doubt and the requirement for the Crown Prosecution Service (CPS) to conduct a public interest test of any allegations, would provide safeguards against vexatious complaints.

67. The ICDR, in its initial written submission to the Committee, proposed both a criminal offence and a civil sanction, but stated that “the regime will be similarly effective whether it takes effect in criminal or civil law (although the criminal law is more practicable and makes a stronger statement).”⁵⁰ In later evidence, the ICDR said that having reflected on evidence gathered by the Committee during its inquiry, it latterly was in favour of a civil sanction.

68. The criminal offence model, which included Members of the Senedd and candidates as defined in the Government of Wales Act 2006⁵¹, proposed it would work in two parts:

- That if a qualifying person makes a false statement and fails to correct the record, a Magistrates’ Court comprising lay justices or a single District Judge may issue a “correction notice” requiring them to correct the record;

⁴⁹ Standards of Conduct Committee, Record of Proceedings 25 November 2024, paragraph 242

⁵⁰ The Institute for Constitutional and Democratic Reform: White Paper – A Model for Political Honesty

⁵¹ The Government of Wales Act 2006, section 7

- A qualifying person who fails, without reasonable excuse, to comply with a correction notice may then be sanctioned by a court. The sanction would be a disqualification from office.

69. The offence would apply in relation to statements which are made when an individual is acting as a Senedd Member or as a candidate or if there is a public interest in the statement.

70. It says that a Senedd Member or candidate would be deemed to have made a false statement if a court decides:

- It is a qualifying statement e.g. if it relates to their role as Senedd Member or a candidate or is of public interest;
- That the statement is not “trivial” and ‘a reasonable person could understand to be a statement of fact’;
- That the statement is “on the balance of probabilities” false;
- It was not necessary to make that false statement for the purposes of national security or law enforcement.

71. There would be no requirement to prove intent to deceive, and the civil standard of ‘on the balance of probabilities’ would apply.

72. Any person registered to vote in Wales would be able to lay information with the evidence that they believe shows a false statement having been made before a magistrates’ court. Following this it states that the application for a correction notice should be heard promptly with a hearing taking place, no later than seven days after a notice has been served on a qualifying person.

73. In relation to vexatious or trivial applications the proposals suggest courts use a system already used in judicial review proceedings whereby all applications will first be reviewed on the papers by a single judge.

74. A number of witnesses told the Committee that if a new offence is going to be proposed then it should require proof to the criminal standard of ‘beyond all reasonable doubt’ and should require proof of intent to deceive. The Law Society, for example, outlined its view that, given allegations of deliberate deception carry severe reputational and professional consequences, any new procedure must require proof of intent to deceive meeting the criminal standard of proof.

75. Jonathan Rees KC, of the CBA, built on this argument saying that as well as requiring the prosecution to provide proof to the criminal standard that a

statement is false and that it was made with intent to deceive, “the burden and standard of proof should squarely fall upon the person making such an allegation, if it is intended to employ the criminal law to deal with such sanctions.”⁵²

76. Alex Greenwood of the CBA, agreed and said that the use of the criminal process would provide additional safeguards, as the CPS would be required to review the evidence and to satisfy a public interest test.

77. The CBA also expressed concern in their written evidence about the likely volume of applications given that any registered voter would be able to make an application to the Magistrates Court under the ICDRs original criminal model. It said that Magistrates and District Judges would also not have experience previously of judging applications on papers within a strict timeframe to decide whether they were vexatious or had any real prospect of success.

78. The Law Society said that the novelty of the system could invite legal challenges and disputes which, coupled with the resource pressures already facing the court system, could lead to long processes rather than the swift resolution of cases.

79. Dr Sam Fowles of the ICDR refuted some of these claims in his oral evidence to the Committee. He argued that he believed the number of applications would not be significant and outlined his view that the ICDR proposal for a criminal offence of making a vexatious claim would deter applications that were malicious.

80. He also stated that he did not believe the system proposed by the ICDR would reverse the burden of proof as applicants will be required to submit a witness statement with their application which exhibits all their evidence to prove the case and that there is a real prospect of what the politician said was false or misleading.

81. Chief Constable of North Wales Police, Amanda Blakeman, expressed concerns about proposals for using the civil standard of ‘on the balance of probabilities’, particularly in relation to a criminal offence, given that the police would usually apply the criminal threshold of ‘beyond all reasonable doubt’.

⁵² Standards of Conduct Committee, Record of Proceedings 18 November 2024, paragraph 176

Civil law sanction

82. On 16 December 2024, the ICDR submitted further evidence⁵³, stating that having reflected on evidence gathered by the Committee in relation to creating a criminal offence of deception, a civil sanction was now its preferred model. It suggested some additional amendments to the civil sanction model submitted in its original paper to the Committee.

83. In oral evidence to the Committee, Dr Sam Fowles stated that civil courts had the advantage of the “the civil procedure rules”, meaning that their procedure is clearer and more consistent than in the magistrates' courts. He also stated that “perception-wise, there seems to be a concern about using a criminal sanction”⁵⁴, which would be a principal argument for recommending a civil court.

84. The IDCR states that its proposed regulatory model for a new civil sanction would minimise resource implications as applications would be made directly to a County Court by any registered voter. A County Court would need to hear this application within 48 hours of a notice being served on the relevant qualifying person. The application would need to be reviewed by a judge on the papers within 24 hours to assess whether there is grounds to proceed.

85. If a qualifying person was issued with a correction notice and failed to comply with it then a person registered to vote in Wales could make an application for a disqualification order. If the County Court finds that a correction notice has not been complied with then the court must make a disqualification order.

86. A similar offence of making vexatious complaints would also apply.

87. The ICDR argues that whilst the offence itself doesn't require the statement to be made with intent to mislead, rather, that a statement was found to be untrue. A person will only be subject to a disqualification order if they fail to correct the statement, at which point they will be aware that a Court has found that, on the balance of probabilities, their statement was false.

88. The President of the Adjudication Panel for Wales (APW) did not wish to comment on any policy considerations but states that if a civil sanction was

⁵³ Further written evidence by the ICDR submitted on 16 December 2024

⁵⁴ Standards of Conduct Committee, Record of Proceedings 25 November 2024, paragraph 299

created the new jurisdiction would most appropriately fall within the remit of the APW, subject to it being provided with the necessary budget and training.

89. The Committee also heard evidence from the PSOW about the standards process for local authority members. The Ombudsman provided further detail on the investigation process, the grounds upon which allegations are investigated and the basis upon which the Ombudsman would refer a matter to the APW.

90. When asked about the appropriateness of the PSOW and the APW to conduct independent investigations into deliberate deception as part of a civil procedure, the PSOW said:

"... the thing that probably is of most concern is the fact that, at the moment, my office is independent. I'm accountable, as ombudsman, to the Senedd, and that's right. I'm accountable for the performance of the office, for the budget and the financial management of the resources. So, that's absolutely right. And there's a good separation between the Senedd and ourselves. And I think bringing us into this work risks very much blurring that line. You can see that there might be a situation where we're responsible for investigating something, and then that Member might be involved in some of the scrutiny of our work on a regular basis, and it just starts to remove that clear blue water between the two organisations, and I think that could be challenging."

91. The Ombudsman went on to say:

"... I think getting us involved in investigating just one aspect of the code or a potential breach of the code will add complexity into it, when the standards commissioner would presumably still be responsible for investigating other aspects."⁵⁵

An administrative model

92. The Committee considered further proposals by the ICDR, which were submitted on 16 December, for two different administrative models⁵⁶:

- A "Gatekeeper Option" that would give the Standards Commissioner a power to bring Correction Orders and Disqualification Orders and to

⁵⁵ Standards of Conduct Committee, Record of Proceedings 18 November 2024, paragraph 137.

⁵⁶ Further written evidence by the ICDR submitted on 16 December 2024

prosecute for vexatious claims. The Standards Commissioner would be held accountable for their decisions by a right of appeal to the court.

- A “Panel Option” that would give an administrative panel, overseen by the Standards Commissioner, the power to make Corrections Orders or Disqualification Orders. The panel would be held accountable by a right to appeal to the court on a point of law.

93. Under these proposals a person could make an application to the Standards Commissioner or Panel for a correction notice if they believed that a statement which “a reasonable person could understand to be a statement of fact” and does not include “a statement of honest opinion”, was false or misleading.

94. There would be no role for the Senedd or the Standards of Conduct Committee of the Senedd in either procedure.

95. The proposals submitted by the ICDR on 16 December were received towards the end of the Committee’s inquiry and as such the Committee has not been able to gather any evidence from other organisations or experts to assess the risks and benefits of such a model.

Appeals and timescales

96. The timescales for any relevant procedures such as investigation, adjudication and appeal will be dependent on the nature and form of mechanisms that are adopted.

97. On the matter of appealing a decision on deliberate deception, Professor Emyr Lewis told the Committee:

“In terms of appeal, if you’re talking about criminal process, through the courts, you would have to have the right to appeal. The question is what is that right. Is that right limited to legal issues—for example, where the person who’s made the decision had made a legal error in reaching that decision? Or is it a right to appeal the decision itself? Namely, the sanction on the grounds that it is unfair, for example. I tend to think that you need some kind of conclusivity in this issue, but you would never exclude the idea of appeal, for legal reasons, be that in a criminal matter or any other matter.”⁵⁷

⁵⁷ Standards of Conduct Committee, Record of Proceedings 18 November 2024, paragraph 63

98. The Committee heard from the PSOW on the issue of appeals and how it is applied to investigations of complaints against elected members in local government. The Ombudsman explained that appeals could be made on grounds of the decision itself, which often challenges something either in the investigation or in the procedure that the Standards Committee has followed, or on the severity of the sanction.

99. The PSOW told the Committee that her office aims to conclude investigations within 12 months. She said:

“That’s a long time to have a complaint hanging over you, or indeed to be a complainant waiting for an outcome. But you’ve got to balance that against the need to do a thorough investigation, and the length of time it takes will really be dictated by the nature of that complaint and how complex it is. An extreme example will be that we have several witnesses to interview; as well as the information we gather, you have several witnesses, you then go back and, quite rightly, interview the member concerned, and that all takes quite a period of time. So we are mindful of trying to minimise that as far as we can.”⁵⁸

100. The PSOW also made the point that the complexity of the complaint often means that more public bodies are involved, making the investigation more difficult. She said:

“... if there’s an issue that is potentially a police matter, that would be referred to the police, and then our investigation has to go on hold while the police look at that. Similarly, if Audit Wales are looking at something, we might put our investigation on hold while they’re looking at it. So there can be an interplay between public bodies here, and that makes the time these things take all the more challenging.”⁵⁹

⁵⁸ Standards of Conduct Committee, Record of Proceedings 18 November 2024, paragraph 94

⁵⁹ Standards of Conduct Committee, Record of Proceedings 18 November 2024, paragraph 96

7. Strengthening existing mechanisms

101. A number of organisations suggested strengthening existing mechanisms and the possible amendment of existing legislation as a means of tackling deliberate deception.

102. Rose Whiffen of Transparency International UK said that whilst individually these reforms could be seen as tweaks to the existing system taken together as a package of reform could “have more of a significant difference”.⁶⁰

The Independent Standards Commissioner and the Standards of Conduct Committee

103. The Senedd’s Commissioner for Standards is appointed as an independent person and is responsible for receiving and investigating complaints about the conduct of Members of the Senedd. The Commissioner’s independence is protected by statute in the National Assembly for Wales Commissioner for Standards Measure 2009.⁶¹ It states:

“Subject to section 19 [which relates to the Commissioner’s annual report to the Senedd], the Commissioner is not, in the exercise of any functions, to be subject to the direction or control of the Assembly.”

104. The Commissioner reports to the Senedd about his investigations and advises Members of the Senedd and the public about complaints procedures. A summary of the current procedure for dealing with complaints against Members can be found in [Annex 2](#).

105. Under the current Measure, the Commissioner for Standards does not have the authority to initiate investigations if they believe a breach of the Code of Conduct has taken place. They may only pro-actively investigate once a complaint has been made against a Senedd Member.

106. In its response, Transparency International UK sets out proposals for strengthening existing mechanisms, stating that ensuring the current accountability mechanisms are ‘fit for purpose’ should be prioritised over introducing a new offence.

⁶⁰ Standards of Conduct Committee, Record of Proceedings 25 November 2024, paragraph 40

⁶¹ National Assembly for Wales Commissioner for Standards Measure 2009

107. Transparency International UK suggested ways that the standards regime at the Senedd could be strengthened, including introducing lay members to the Standards of Conduct Committee to assist in investigating alleged breaches, at an early stage of the process. This is the case in Westminster, where since 2015 the House of Commons Select Committee on Standards has been comprised of an equal number of MPs and lay members. Full Fact agreed with this approach, saying that it would introduce an element of independence to the proceedings and could help mitigate the perception of politicians ‘marking their own homework’.

108. Tom Brake of Unlock Democracy stated:

“... I have some personal experience when I was on the House of Commons Commission of the role of lay people on the House of Commons Commission. It was very clear that they brought a completely different perspective and on occasions stopped, perhaps, the groupthink that politicians of all parties on the House of Commons Commission adopted in some cases. That may be a model, for instance, that the Senedd might want to consider...”⁶²

109. In response to questions about whom would be best placed to investigate complaints, Tom Brake said:

“... if members of the public are worried that this is all about Members of the Senedd supporting their mates, albeit mates in other parties, then why not consider bringing lay people into the standards committee, so people can see there are outside, independent people who are contributing to the debates as well?”⁶³

110. Giving the Senedd’s independent Commissioner for Standards powers to initiate investigations themselves if they suspect misconduct, without the need for a third-party complaint to be made first, was also recommended to the Committee by Rose Whiffen of Transparency International UK as a mechanism open to it.⁶⁴

111. Further suggestions made by bodies who provided us with evidence included:

⁶² Standards of Conduct Committee, Record of Proceedings 25 November 2024, paragraph 23

⁶³ Standards of Conduct Committee, Record of Proceedings 25 November 2024, paragraph 86

⁶⁴ Standards of Conduct Committee, Record of Proceedings 25 November 2024, paragraph 16

- Improving transparency around the reporting of breaches and the sanctions imposed (i.e. publishing reports under individual Member profiles);
- Bolstering the sanctions that are available for the Committee to impose;
- Producing a job description alongside code of conduct to hold members to account if they do not fulfil the criteria;
- Setting out clearly (and making public) the sanctions available to the Committee for a range of breaches.

112. Rose Whiffen, also suggested that measures could be taken to improve the transparency of standards investigations and outcomes such as including information on investigations and outcomes on individual members' pages.

113. Transparency International UK, Unlock Democracy and the Law Society suggest that existing sanctions available to the Standards Committee could be strengthened. Tom Brake for Unlock Democracy suggested that recall was an option for strengthening sanctions mechanisms.

114. Dr Sam Fowles, in his evidence to the Committee, argued that existing standards processes lack accountability, predictability, speeds and transparency as there are no public hearings.

115. The Committee is currently reviewing the National Assembly for Wales Commissioner for Standards Measure 2009, and ways in which it can be improved in the light of experience gained since it was last reviewed. The Committee noted that any changes to the existing Standards regime, such as those suggested in evidence, would need to be considered alongside any future reform of the Measure.

The Code of Conduct

116. Rule 2 of the current Code of Conduct for Members stipulates that 'Members must act truthfully'.⁶⁵ On the current code, Professor Emyr Lewis stated:

"The new code of conduct enables the Senedd to follow a process in order to exclude a Member of the Senedd. That code has to be implemented in a way that is proportionate, of

⁶⁵ The Code of Conduct on the Standards of Conduct of Members of the Senedd

course. And, of course, it is limited to Members of the Senedd. It doesn't relate to candidates. One would have to consider, if a new offence were to be created, whether there is a need for the code, or whether the code exists for a lower threshold of behaviour by parliamentarians.”⁶⁶

117. On extending the scope of the standards regime to include candidates, the CBA said:

“... it seems to me [it] could simply be a matter of consent—if you wish to be a candidate, you need to sign up to accept that the code of conduct applies to you—likewise, assuming that every Senedd Member is asked then to agree to the code of conduct that’s in place, that wouldn’t, it seems to me, require separate legislation. It’s simply: those are the standards that the Senedd put in place, and, if you want to be a Member of this place, then you have to agree to abide by those standards.”⁶⁷

118. In considering deliberate deception differently from other conduct covered by the Members’ Code of Conduct, the Commissioner for Standards stated:

“I question why making a deceptive statement should have these draconian consequences, when other arguably more serious misconduct, such as bullying, harassment or inappropriately touching staff, would not have those consequences. I believe that that would be sending entirely the wrong message about how the Senedd regards bullying, harassment and inappropriate sexual behaviour.”⁶⁸

119. When asked about possible unintended consequences this may have on other breaches of the code, stating, the PSOW said:

“... because you're giving deception this higher status, if you like, by making it criminal, what then happens is that there's a risk that the other things become seen as lesser breaches, and that the things that are left, the lesser breaches that we see a lot of, are around equality and respect. It might not be deception, but there still might be serious issues there of harassment, bullying

⁶⁶ Standards of Conduct Committee, Record of Proceedings 18 November 2024, paragraph 19.

⁶⁷ Standards of Conduct Committee, Record of Proceedings 18 November 2024, paragraph 227.

⁶⁸ Standards of Conduct Committee, Record of Proceedings 1 July 2024, paragraph 3.

and the behaviour of people that perhaps then don't get the right level of attention in the process, because it's the criminal activity that takes the focus.”⁶⁹

Correction Notices

120. Following work done with the UK Parliament to require MPs to correct the record if they are found to have made false or misleading statements, Full Fact have recommended that the Committee considers how a correction notice model could be adopted by the Senedd. They suggested using the procedure “more robustly, more widely, in order to really give Members the opportunity to take control of what they say and to really take responsibility of how they say it”.⁷⁰

121. In oral evidence Full Fact explained their current process for fact-checking claims:

“in some instances—and, actually, I shall argue in quite a few instances—it wasn't a situation where they had deliberately miscalculated something, or they had deliberately misjudged something; they had been given the wrong briefing or they had misunderstood the statistics, and I think, actually, there's a lot of human error involved in this, which is why, at Full Fact, we issue corrections and we ask someone to correct the record, and I think that's something that the Senedd should quite strongly consider, because, actually, it's not always an act of deliberate deception; sometimes it is just an inaccuracy that needs to be corrected.”⁷¹

122. When probed on whether correction notices lead to corrections, Full Fact told the Committee:

“Yes, absolutely. They often lead to correction, but I would say that we are a small organisation with limited capacity, and I think if the political system were to take on a correction system model, they would be even more effective. Now, of course, they don't always work, and there are other things that we do alongside the correction system that increase trust in politics, such as training sessions, and work directly with departments to ensure they are trained on how data can be more

⁶⁹ Standards of Conduct Committee, Record of Proceedings 18 November 2024, paragraph 134

⁷⁰ Standards of Conduct Committee, Record of Proceedings 25 November 2024, paragraph 29

⁷¹ Standards of Conduct Committee, Record of Proceedings 25 November 2024, paragraph 62

transparent and accurately presented. But yes, they definitely do have an effect... ”⁷²

Other suggested mechanisms

123. Both Transparency International UK and Unlock Democracy call for other wider reforms to the standards process including:

- a comprehensive lobbying register and a new criminal offence for corruption in public office;
- caps on political donations and spending; and
- improved reporting of gifts and hospitality.⁷³

124. Reform of Political Advertising has submitted specific evidence to the Committee in relation to amendments to regulation of false or misleading political advertising. It calls for a new code of conduct on political advertising to be agreed by political parties with a body or panel established to police adherence with the code.⁷⁴

125. Compassion in Politics also refers to the UK Government’s commitment to bring forward a law on a duty of candour, otherwise known as the Hillsborough Law. Jennifer Nadel told the Committee:

“The committee’s heard evidence about three different models that exist and work well. We had the Representation of the People Act just referred to; Mr Lewis, in his evidence, referred to the Fraud Act, and we also have the Hillsborough law, which would be another way of approaching it. I’ve spoken over a period of time to the team behind the Hillsborough law and they did consider including political statements in that, but decided to exclude it because they felt it might impede its passage and their first goal was to get the core thing over ... There was a lot of debate about whether they should include political statements, so that would be another model—a duty-of-candour model that when that duty was broken then an action was triggered.”⁷⁵

⁷² Standards of Conduct Committee, Record of Proceedings 25 November 2024, paragraph 138

⁷³ Standards of Conduct Committee, Record of Proceedings 25 November 2024, paragraph 16

⁷⁴ The Standards of Conduct Committee’s inquiry into individual Member accountability: Consultation response, Reform of Political Advertising

⁷⁵ Standards of Conduct Committee, Record of Proceedings 25 November 2024, paragraph 264

126. Members asked some witnesses about their view of this proposed law, however, as a draft is yet to be introduced to Parliament, organisations were unable to comment on its provisions in detail.

Existing legislation relating to electoral candidates

127. Both the CPS and the Chief Constables in their responses, draw the Committee's attention to section 106 of the Representation of the People Act 1983⁷⁶, which states that it is illegal to make a false statement concerning the personal character or conduct of a candidate for the purpose of affecting their return as a candidate.

128. As a criminal offence, if a complaint is made under section 106, the police will conduct an investigation and, should the complaint be upheld, transfer the case to the CPS for assessment. The assessment carried out is against the criminal standard of 'beyond reasonable doubt' and a decision to prosecute based on the prospect of conviction would be taken in accordance with 'The Code of Crown Prosecutors'.⁷⁷ The number of complaints made under the Representation of the People Act 1983 within the last 15 years in Wales was provided as a written submission by the Chief Constable Amanda Blakeman and can be found in [Annex 3](#).

129. The CBA also pointed to the existing common law offence of misconduct in public office, as well as the Representation of the People Act 1983. In their oral evidence, the CBA proposed amending existing legislation, saying:

"You could look at both the offence of misconduct in a public office and the offence under the Representation of the People Act. You could, in the first instance, look to see whether the scope of the common law offence ought to be broadened so that it is not solely restricted—or, to put it a different way, so that it doesn't exclude, as it presently does, those who are politically campaigning. You could look to see about making a small, incremental change there to widen it to, for example, people who don't hold public office, who are campaigners, I suppose. But, again, I would urge you only to take those steps with great caution."⁷⁸

⁷⁶ Representation of the People Act 1983, section 106

⁷⁷ The Code of Crown Prosecutors

⁷⁸ Standards of Conduct Committee, Record of Proceedings 18 November 2024, paragraph 237

130. They went on to say:

“Or you could look at the offence under the Representation of the People Act, So, unlike the common law offence, where it only deals with those who are public officers and when they’re acting as public officers, section 106(1) of the Representation of the People Act 1983 relates to any person who, before or during an election, for the purpose of affecting the return of any candidate, makes or publishes any false statement of fact. You could look at whether restricting that offence to, as it currently is restricted, before or during an election, in fact should be widened, so that the temporal scope of that offence is widened in some small, incremental way so that it applies on a wider basis and not simply before or during an election.”⁷⁹

131. In its written evidence to the Committee on 16 December, the ICDR states that Section 106 of the Representation of the People Act “serves a different purpose” to the issue of false statements. It says the offence relates to the protection of the reputations of candidates and that its proposals are designed to protect “the people” from misinformation.⁸⁰

132. In considering evidence relating to existing legislation, the Committee noted that the Senedd does not have competence to amend section 106 for the Representation of the People Act 1983 as it relates to reserved elections. However, the relevant provision in the National Assembly for Wales (Representation of the People) Order 2007 (also known as the Conduct Order)⁸¹, which replicates the provision contained in the Representation of the People Act 1983 for Senedd elections, is within the Senedd’s legislative competence. The Welsh Government is currently undertaking a consultation on a draft Senedd Cymru (Representation of the People) Order ahead on the next Senedd elections in 2026. As currently drafted, the provision on false statements in relation to candidates is unchanged.

133. The Committee also noted work that has been undertaken by the Law Commission, who have recommended replacing the misconduct in public office offence with two new offences – an offence of corruption in public office, and an

⁷⁹ Standards of Conduct Committee, Record of Proceedings 18 November 2024, paragraph 238

⁸⁰ Further written evidence by the ICDR submitted on 16 December 2024

⁸¹ The National Assembly for Wales (Representation of the People) Order 2007

offence of breach of duty in public office. In their view, the new offences would make the law clearer and easier to follow.⁸²

⁸² The Law Commission: Misconduct in public office

8. Sanctions

134. The terms of reference agreed by the Committee states that it is to gather evidence on potential mechanisms for the disqualification of members on the grounds of deliberate deception.

135. Some witnesses have provided evidence setting out why they believe disqualification is the appropriate sanction. However, other evidence has suggested that a range of sanctions may be more appropriate particularly in light of the requirement under the European Convention of Human Rights for any limitations on these rights to be proportional.

136. Compassion in Politics argues that disqualification as a sanction is important to deter individuals from engaging in dishonest behaviour. It states that “for the unscrupulous bad actor, there are considerable advantages that can be achieved through dishonesty” including electoral advantage and therefore “the sanction has to be strong enough to outweigh any perceived advantages”.⁸³

137. The Committee looked at how the issue of deception compares with other matters which currently result in a person being automatically disqualified from being a Member of the Senedd or a candidate to be a Member of the Senedd. Jennifer Nadel, Compassion in Politics argued:

“... the law already provides for those who are declared bankrupt to be disqualified from office, and that's the precedent I think we should follow with deliberate, intentional deception ... it's part of declaring the rules of the game rather than something that people can really decide, 'Well, it wasn't such a bad case of fraud. It wasn't such a bad case of bankruptcy'—that it's absolute. And to say that somebody who has been declared bankrupt is not fit but someone who has committed fraud is fit doesn't sit right.”⁸⁴

138. Section 16 of the Government of Wales Act 2006 sets out the circumstances in which a person is automatically disqualified from being a Member of the Senedd or a candidate to be a Member of the Senedd. That section provides that a person falling within any of the categories of person specified in Part 1 of Schedule 1A to that Act is disqualified.

⁸³ The Standards of Conduct Committee's inquiry into individual Member accountability: Consultation response, Compassion in Politics

⁸⁴ Standards of Conduct Committee, Record of Proceedings 24 June 2024, paragraph 90

139. The current disqualifying criteria set out in Part 1 of Schedule 1A include:

- (i) A person subject to a bankruptcy order;
- (ii) A person found guilty of corrupt or illegal practices at elections;
- (iii) A person sentenced to a period of imprisonment (regardless of whether the sentence is suspended) of more than one year;
- (iv) A person who is subject to a disqualification order following conviction of a "Schedule 9 offence"⁸⁵ under the Elections Act 2022.
- (v) A person subject to an order under the Sexual Offences Act 2003.

140. Other than bankruptcy, the disqualifying criteria set out above all involve the person being found criminally liable of an offence. The person is then, by default, disqualified from being a Member of the Senedd or a candidate to be a Member of the Senedd.

141. The ICDR states, in its written consultation, that only disqualification would offer a sufficient deterrent. It states that persons who failed to comply with a correction notice under either its civil or administrative model should be disqualified for at least one Senedd term but that the disqualification could be longer depending on a range of factors.

142. Elkan Abrahamson, Director, Broudie Jackson Canter solicitors, in written evidence to the Committee stated that "The only regime likely to be effective is one which has sufficiently grave sanctions as to act as a deterrent. What those sanctions need to be will inevitably vary from case to case."⁸⁶

143. Professor Emyr Lewis said that careful consideration will need to be given to the proportionality of any sanctions applied to ensure compliance with the European Convention on Human Rights and would need to take account of not only the rights of individual politicians but also the rights of the wider electorate, saying:

"Once they are a Member, if they are disqualified from being a Member for the remainder of the term of office, it appears to me that it would have to be quite a high threshold for you to

⁸⁵ Examples of 'Schedule 9 offences' include offences against the person, theft offences and malicious communications offences. Full list can be found in [Schedule 9 to the Elections Act 2022](#)

⁸⁶ [The Standards of Conduct Committee's inquiry into individual Member accountability: Written submission from Elkan Abrahamson, Director, Broudie Jackson Canter solicitors](#)

say that a sanction of suspension or exclusion is a proportionate one. It would have to be a very high threshold for that to be the case, I would think, otherwise you are denying those people who have elected that person as a Member the right to have that person representing them at the Senedd.”⁸⁷

144. Professor Lewis states that this could be particularly important in light of the changes in the Senedd’s electoral system after 2026, where there is a possibility that a seat could remain vacant if the disqualification related to an individual candidate or to a party whose list has been exhausted.

145. The Senedd’s Commissioner for Standards expressed concerns around the sanction of disqualifying Members or candidates for four years, stating:

“I’m also troubled... by the idea that making a false statement should bar a person from standing for the Senedd for four years, in effect. As I understand it, that would mean that they wouldn’t be eligible to stand at the next Senedd elections. I struggle to see how that can be justified; the fact that they had made a false statement by then would be public knowledge, and, surely, it can be left to the electorate, knowing about that previous misconduct, to judge whether they are fit or not to be a Member of the Senedd.”

146. In relation to the question of the proportionality of disqualifying a Member at the start of a Senedd term, versus a Member towards the end of the Senedd term, Professor Lewis cautioned that very careful consideration would be needed of a sanction that would disqualify a Senedd Member from a future Senedd.

147. In his evidence to the Committee, the Deputy First Minister stated that, should a new approach be adopted in dealing with deliberate deception, the question of whether it is proportionate “... is going to be key in determining whether it’s considered compliant with that part of the human rights legislation or not.”⁸⁸

148. In both its civil law and administrative models, the ICDR states that its proposals would meet the proportionality test as individuals would only be disqualified if they failed to correct the record. It did not set out a view in relation to the rights of the electorate.

⁸⁷ Standards of Conduct Committee, Record of Proceedings 18 November 2024, paragraph 16

⁸⁸ Standards of Conduct Committee, Record of Proceedings 2 December 2024, paragraph 82

149. The PSOW told the Committee that the APW can disqualify a councillor or member of a relevant authority for up to five years. The PSOW said there have been cases where conduct investigations have not been concluded prior to an election and that in very serious cases the APW can prevent an elected member from standing for a period of time.

150. Tom Brake, from Unlock Democracy, stated that a menu of sanctions should be available if further mechanisms on deliberate deception are introduced. He outlined his view that there should be a “graduated scale”⁸⁹ depending on the severity of harm a lie would cause. He also referred to the potential introduction of a recall mechanism as a future sanction.

151. The ICDR however, outlines its view that a sanction of recall “would be better than doing nothing”⁹⁰ but would not be as effective a sanction as a disqualification order. It says recall, as currently constructed in the Westminster system, as an action “lacks speed”.

152. The Senedd’s Commissioner for Standards also expressed his views on recall as a potential mechanism to sanction those found to have breached the code. He told the Committee:

“... the recall mechanism should not just apply to those who've brought the Senedd into disrepute by making a false or misleading statement; it should apply to all misconduct. That would deal with my concern about singling out making false statements and treating it more seriously, apparently, than bullying, harassment or sexual misconduct. It remains my view that the recall mechanism should include some process for allowing the electorate to decide if the offending Member should continue to be a Member or be replaced by the next person on the party list. Without such a mechanism, suspension for more than a specified number of days would in effect be final and result in the Member ceasing to be a Member. My view is that, in principle, that is wrong.”⁹¹

153. The Committee recently reported on introducing a system of recall to come into force in time for the Seventh Senedd. The Committee’s view on creating a standalone sanction to remove a Member from office is that “sanctioning

⁸⁹ Standards of Conduct Committee, Record of Proceedings 25 November 2024, paragraph 130

⁹⁰ Further written evidence by the ICDR submitted on 16 December 2024

⁹¹ Standards of Conduct Committee, Record of Proceedings 1 July 2024, paragraph 14

guidelines” should be produced and agreed by the Senedd. The report states that:

“These guidelines could contain specifics of when recall would be applied, including an approximate number of days for exclusion, receiving a prison sentence and breaches of specific provisions, such as around dignity and respect and expenses.

Such guidelines may also consider deliberate deception as a trigger for recall, if legislation was not brought forward or passed in this area.”⁹²

154. Rose Whiffen of Transparency International UK suggested that the “severity of the punishment should vary according to the severity of the offence and also the number of infractions”.⁹³

155. In his evidence, the Deputy First Minister said that the sanctions available should be related to “how narrow or how broad the wrongdoing is actually defined”.⁹⁴ He said that a broad definition could warrant a range of sanctions where the seriousness of instance could be taken into account. In relation to disqualification, he said that careful consideration will need to be given to whether there is an automatic period of disqualification applied or whether any mitigating or aggravating factors can be taken into account on the length of the disqualification.

⁹² The Standards of Conduct Committee report - Individual Member Accountability: Recall

⁹³ Standards of Conduct Committee, Record of Proceedings 25 November 2024, paragraph 132

⁹⁴ Standards of Conduct Committee, Record of Proceedings 2 December 2024, paragraph 129

9. Resource and capacity

156. The resource and capacity implications of any further mechanisms introduced will depend on the exact mechanisms adopted. The Committee heard evidence on the potential resources or capacity implications of different options.

157. The Chief Constables state, in their written evidence⁹⁵, that there are potential resource implications for police forces from the creation of a criminal offence that would apply continuously and not only during an election period, as is currently the case. The Chief Constable for North Wales Police, Amanda Blakeman, outlined in evidence that at present police forces “stand up” special units specifically during an election period in relation to electoral law applicable during an election period.⁹⁶ The Chief Constables drew attention to the fact that the number of Members of the Senedd, and therefore candidates, will increase at the next Senedd election and that resourcing requirements would depend on the detail of any legislation.

158. The CBA and the Law Society both pointed to the current pressures on the courts, and drew particular attention to magistrates courts and the Crown Courts. In terms of the practical consequences, the CBA argued in oral evidence that:

“The current backlog in the Crown Court is in excess of 67,000 cases; it’s the worst it’s ever been. And in the magistrates’ courts, I think it’s in excess of 383,000 cases. So, the proposal to add additional obligations on district judges fails arguably on a practical level to take account of the parlous state of our justice system as it currently stands.”⁹⁷

159. Compassion in Politics does not believe that any resource implications should be an argument against the prevention of harm to the public. It states that it cannot comment on the costs of establishing a new body but that it expects this would be more expensive than the resources needed by the Police and CPS to investigate a small number of cases.

⁹⁵ The Standards of Conduct Committee’s inquiry into individual Member accountability: Consultation response, Chief Constables

⁹⁶ Standards of Conduct Committee, Record of Proceedings 25 November 2024, paragraph 209

⁹⁷ Standards of Conduct Committee, Record of Proceedings 18 November 2024, paragraph 166

160. The practical and resourcing implications of fact-checking information was put forward by Full Fact, who told the Committee:

"... we know that we need quite a large team of fact checkers. We have specialists who understand certain types of data, who are specialists in crime statistics or health statistics, and I think we hold some concerns about whether or not the courts might have this expertise in order to do that, and how quickly they might be able to do that."

"So, how to define a fact really is just based on what the evidence is at hand, but also it's about working with the individual and understanding what they meant by what they were trying to say. So, our process works as, once we have looked into something, we go back to the individual who made that claim and try and understand what they were trying to say, what was their intention."⁹⁸

161. In reference to the resources required by the PSOW to conduct investigations by her office, she explained:

"So, there would be an impact on resources, and what we're seeing at the moment in terms of the case load is, year on year, more and more complaints coming in around elected members, probably perhaps just because people are more aware that the process is there and that they can bring complaints. That means we've already got a heavy case load, and our focus on that is trying to reduce the time it takes to investigate. But undoubtedly, involvement in another process, a totally different process from different organisations, will have a resource impact, yes, and we don't have spare capacity to apply."⁹⁹

Vexatious complaints

162. The Committee heard evidence about the potential for vexatious or malicious complaints under different proposed mechanisms and evidence about possible safeguards against these types of complaints if further mechanisms on deliberate deception were introduced.

⁹⁸ Standards of Conduct Committee, Record of Proceedings 25 November 2024, paragraph 62

⁹⁹ Standards of Conduct Committee, Record of Proceedings 18 November 2024, paragraph 97

163. The risk of vexatious and malicious complaints, particularly against candidates, is one of the key issues identified by organisations concerned about the introduction of a new offence or sanction. Suggested safeguards against such a risk include use of the criminal standard for any new offence, sifting mechanisms of different kinds and a proposal from the ICDR for a new criminal offence of making a malicious complaint.

164. The Chief Constable, in her evidence, said that the definition and clarity of any new criminal offence would be an important factor in deterring vexatious or malicious complaints and clarified that the Police would need to investigate all allegations to determine whether there was a case to be answered.

165. Transparency International UK also expressed concern that the creation of an offence of deception could lead to individuals with resources pursuing malicious complaints against Members of the Senedd or candidates. It compares it to the situation of Strategic Litigation against Public Participation (SLAPPs). Juliet Swann explained this in more detail to the Committee, stating:

“... the threat of legal action as comes about through SLAPPs is a tool open to abuse by those with deep pockets who wish to silence discussion for their own benefit. Those who seek to prevent people speaking truth to power basically use their financial resources to quiet challengers ...”

166. She continued:

“... they are a way that the wealthy and the powerful can use the legal system to stifle freedom of speech, and I really think that there is a risk that creating an offence of political lying would create a situation where you could see lawyers being instructed to demand a politician retract a statement under the threat of it being challenged as a lie. And the legitimacy of the case to answer isn't the issue; it's the use of the threat by someone who is prepared to spend time and money taking the case. The politician in question would then have to determine if they were prepared to risk the case going forward or simply retract the statement, and the legal action is basically a way to intimidate, regardless of the validity of the case, because the accuser isn't afraid to throw the money at the legal action,

regardless of success or failure; they just want you to be scared enough to shut up, and I think that could be a real problem.”¹⁰⁰

167. The Committee also heard about the two-stage process applied by the PSOW when considering allegations against elected authority members. The Ombudsman told the Committee that the first stage is to determine if there is sufficient evidence of a breach, and the second stage is to consider if there is evidence whether it is in the public interest to pursue the investigation further. Public interest considerations include the seriousness and nature of the breach and whether the investigation would be a proportional use of public resource.¹⁰¹

168. Jennifer Nadel, Compassion in Politics, said in oral evidence:

“In terms of the fear of overwhelm of vexatious statements, I would say that, for a complaint to be made, it needs to be accompanied by evidence that the offence has been committed. You can’t just say that someone’s lied, in the same way as you can’t just say, ‘My house has been burgled’ if there’s no evidence of anything missing, or having been broken into. So, you have to provide evidence in order to make a complaint—evidence that an offence has taken place. So, I think, with the specialist unit continuing through non-election times, a high standard of proof and a public interest filter on the cases that are actually brought, this could be incredibly effective.”¹⁰²

169. When questioned on the resourcing required and the capacity of the courts to deal with potentially a high number of complaints and allegations, Dr Sam Fowles explained that:

“... there is a high bar to bring in your claim in the first place. So, you have got to, first, put your money where your mouth is. You have got to prepare your evidence—you have got to find your evidence and you have got to put it in witness statement form. You have got to make your application to the court. You have got to succeed in that application. So, the first time a single judge sees it, the complainant will have already gone through a significant number of barriers before they can bring it. This is

¹⁰⁰ Standards of Conduct Committee, Record of Proceedings 25 November 2024, paragraphs 53 and 54.

¹⁰¹ Standards of Conduct Committee, Record of Proceedings 18 November 2024, paragraph 87.

¹⁰² Standards of Conduct Committee, Record of Proceedings 25 November 2024, paragraph 250.

a very good way of vetting out complaints that are trivial or vexatious. Making a complaint carries with it its own risk, and so, even if you use the judicial review model, then you are not going to see a significant resource impact on the courts.”¹⁰³

¹⁰³ Standards of Conduct Committee, Record of Proceedings 25 November 2024, paragraph 315

10. Committee Views

These represent the views of the full Committee members. The views of the observer Members can be found in [Annex 1](#).

The principles of honesty in the political system

170. The issue of mistrust in the political system, and how it can be restored, has been debated for a number of years in many forums. What politicians say, how they say it and the impact it has, matters, and lies at the heart of this inquiry. The Committee is united in its view that the principles of truthfulness and honesty are the cornerstones for a healthy democracy, and those who knowingly disregard these fundamental standards bring our democratic institutions into disrepute and should be held accountable. The Committee considers deliberate deception and the spreading of misinformation by candidates and elected officials a serious issue, which has the potential to further erode trust in politics.

171. The Committee recognises that changes in technology, social media and its use to spread disinformation rapidly are real and serious threats. Throughout this inquiry, we were reminded of the old adage ‘a lie can travel halfway around the world before the truth has got its shoes on’, and we are acutely aware of the need to get to grips with the negative effects this has on political discourse.

172. As the Committee looks to a wider package of reforms to improve individual Member accountability ahead of the next Senedd in 2026, now is the opportune moment to act and take steps to address the deterioration of standards in this area. The Committee agrees unanimously with the fundamental proposition that further steps are needed to deter dishonest behaviour through deliberate deception by Members and candidates.

173. In considering practical steps to tackle deliberate deception in a political context, the Committee has had to be mindful of other key principles that underpin our democratic system:

- The right to freedom of expression, which is protected under the Human Rights Act 1998 and the European Convention on Human Rights;
- The right to free and fair elections; and

- The principle of the autonomy of parliaments to regulate their own procedures and standards of conduct without interference from any outside body.

174. We have considered the varied mechanisms put forward to the Committee in evidence which include criminal, civil and administrative routes as well as suggested changes to strengthen the current Standards regime of the Senedd and the conduct of candidates at Senedd elections. In doing so, we have listened to the views of legal experts on how each of these proposals would interact with existing laws.

175. Respecting these fundamental democratic principles, as well as existing laws, and incorporating them in any legislation intended to address deliberate deception, is a complex matter. In the short time afforded to the Committee, we have endeavoured to provide the Welsh Government with a body of evidence for it to consider, and a summary of what we believe to be the key arguments for and against the various options it may want to take forward.

176. The Committee is mindful that addressing deliberate deception is of crucial importance and needs to be acted upon now. We believe that, if the Welsh Government is serious about embedding a culture of honesty in the Welsh democratic system which goes beyond the 2026 election, it is an issue that deserves further detailed examination by an expert panel and would require a longer timescale than has been made available to the Committee. However, the recommendations in this report are the immediate measures we would expect to see going forward, and represent a significant and indeed ground-breaking programme of reform that can be in place in time for the Seventh Senedd.

Introducing a Criminal Offence or a Civil Sanction

177. The Committee heard evidence that highlighted the deterrent effect introducing a criminal offence or a civil sanction would have on deliberate deception.

Criminal Offence

178. We considered the argument for bringing the independence of the courts into to the process of holding Members and candidates to account, and the perception that the public have a higher level of trust in the in the judicial system than the political system. However, we had some significant concerns about the risks outlined to the Committee in the evidence it received of introducing a criminal offence. These included:

- The unforeseen and unintended difficulties in prosecuting such an offence or basis for action through the courts, could have the inadvertent effect of further reducing public trust and confidence;
- The considerable existing strain on the justice system and the resource implications for the police, courts and legal system more broadly;
- The potential for malicious or vexatious complaints that could have a chilling effect on genuine debate and deter candidates from standing in elections;
- The justice impact on the reserved system of justice in England and Wales;
- Rights under article 10 freedom of expression of the European Convention of Human Rights as well as the right to free and fair elections; and
- The difficulties of proving that a statement is false.

179. We also heard arguments both for and against the principle of Parliaments' self-regulation. Some felt that this traditional model 'hasn't worked' in addressing the issue of deception to date, and that the public perception of politicians 'marking their own homework' does not encourage trust in the system. However, parliamentary autonomy is an important constitutional principle developed to protect parliaments from possible malign interference from external sources.

180. Concerns were also raised about the potential for politicising the courts and the 'blurring of lines' between the independence of the courts and Parliament, contrary to the principle of the separation of powers. Asking the courts to reach judgments on whether statements made are points of genuine political contention or statements deliberately intended to be deceptive, the Committee was told, could risk undermining the high levels of public trust in the courts and judiciary.

181. On balance, and on the evidence we have examined during the course of this inquiry, we are not convinced that a new criminal offence would have the intended effect of restoring trust in the system. Our view is that the risks and the unintended consequences currently outweigh the benefits.

Civil offence

182. Alongside making this a criminal offence, the Committee gave consideration to an offence of deception being dealt with via a civil/administrative model. There were a number of ways such a model may work depending on the level of involvement by Members of the Senedd. An illustration of how this may work is at [Annex 4](#).

183. The Committee agreed that if a new process was required that an administrative model would be more appropriate than a criminal system. However, the Committee remains concerned that the introduction of such a system would mean that deception is dealt with differently from other matters of Member conduct. Some Members were also concerned with a process that excludes Members of the Senedd and results in disqualification as it removes a degree of accountability in relation to the electorate.

184. Through considering whether this should be an offence, the Committee was persuaded by the arguments for introducing greater independence into the process of holding Members and candidates to account. This would be a significant and immediate measure which would begin the restoration of public trust in politics.

Strengthening Existing Mechanisms

185. The Committee are in agreement that there are a number of changes that could be made across the existing Standards regime, and mechanisms that relate to candidates, that would amount to a significant reform and improvement of the existing Standards of Conduct arrangements. Collectively, they would enhance the independence of the Standards process at each stage, improve transparency, place more responsibility on Members and candidates to fact-check statements, and strengthen the sanctions available to deal with individuals who fall short of the standards the public expects from those who are, and those who wish to be, politicians.

Members of the Senedd and Candidates

186. The Committee considered various views on whether any options taken forward should be applied to both Members of the Senedd and candidates. The majority of the Committee have concluded that, although we are trying to deter the same deliberately deceptive behaviour, the different legislation and governance that distinguish between these two groups presents a level of complexity that, to bring together under one system, would require further consideration that is not possible for the Committee to undertake in the time

that we have, or that we believe could be legislated for in in this Senedd. However, we have been able to recommend making specific changes to existing legislation, Standing Orders and guidance that seeks to further prevent deliberately misleading statements being made by elected Members and candidates.

Definition

187. Amongst the legislative changes we are recommending, is a change to the Conduct Order governing Senedd elections. In amending the Conduct Order to make reference to deliberate deception the Welsh Government must develop a clear definition of ‘deliberate deception’ and in so doing, to consider carefully definitions that are outlined elsewhere in existing legislation. The Committee was pointed towards section 2 of the Fraud Act 2006 and the Defamation Act 2013 as legislation which deals with false and misleading statements. The general consensus amongst those who gave evidence to the Committee is that a clear definition is essential as a yardstick by which to measure whether a statement is a matter of fact or opinion, and whether it was said deliberately or recklessly without regard to whether it was true or not.

188. The Senedd should then apply the definition adopted for candidates in amending its own Code of Conduct in relation to Members.

189. In developing this definition, there would also need to be due to consideration to what burden of proof would be required.

Amending the Conduct Order

190. As set out in the report, there is already legislation in place which makes it an offence for candidates to make or publish a false statement of fact about the personal conduct or character of another candidate in order to affect the way a vote is cast at an election.

191. The majority of the Committee is of the view that this offence provides a strong foundation which can be built on, and the protection it already affords to minimising the spread of untruths can be extended to cover a broader range of deceptive statements made by candidates for Senedd elections. As currently drafted, the offence only covers false statements relating to the conduct or character of candidates. The Committee is recommending that the scope of the offence is widened to cover any false statement of fact made by a candidate in order to affect the vote taken at an election.

192. The majority of the Committee believe utilising the process and procedures in place is proportionate and practical. Proceeding in this way would build on existing legislative mechanisms and draw on the established procedures of electoral law with the intention of improving the transparency and accountability of candidates seeking election to the Senedd.

Independence of the Members Standards of Conduct Arrangements

193. The Committee considered ways in which to introduce more independence to the current standards system, which evidence suggests could be bolstered using levers that the Senedd currently has at its disposal. The Commissioner for Standards is an office whose independence is enshrined in statute, who conducts investigations into complaints without interference or influence from the Senedd. However, we feel that the role could be further enhanced by giving it the authority to initiate investigations into breaches of the Code of Conduct, without the need for an initial third party complaint. This would introduce an additional element of independence at the complaint stage, and would bring the functions of the Commissioner for Standards in line with those of other UK Parliaments.

194. The Committee is also recommending that the Welsh Government legislates to amend the Government of Wales Act 2006 to enable the Senedd to appoint lay members to sit on the Standards of Conduct Committee, in a similar practice to that adopted by the House of Commons. This would introduce greater independence, and independent expertise, at the decision-making stage of the standards process, as well as the broader policy work of the Standards of Conduct Committee. The Committee proposes to make recommendations for the Seventh Senedd on how lay members should then be embedded into the Standards process.

The Code of Conduct

195. Rule 2 of the Senedd's Code of Conduct already requires Members of the Senedd to 'act truthfully' at all times and, to date, few complaints have been made about breaches of this rule by Members. However, we feel that this is an opportunity to entrench the principle further. We are recommending that Rule 2 is replaced by two new rules; One building on the current requirement to act truthfully by explicitly requiring Members to refrain from making deliberately inaccurate statements; and the second providing that factually incorrect statements are to be corrected at the earliest opportunity or immediately upon a Member being ordered to do so.

196. To improve transparency, and to reinforce the seriousness in which the Committee considers breaches of the Code of Conduct, we believe that correction notices should be published on the Record of Proceedings where inaccurate statements have occurred on the floor of the Senedd, and that correction notices and breach reports should be published on Members' profile web pages.

Correction Notices

197. Although we are recommending separate mechanisms to hold candidates and Members to account for deliberate deception, the Committee believes that the requirement for both to correct the record is fundamental to stopping the spread of misinformation in the simplest and fastest way. For candidates, we recognise that there is no provision in the Conduct Order that currently allows this to happen. We would urge the Welsh Government to explore options open to it, such as amending the Conduct Order to include such a provision, or via police engagement and advice, so that candidates/political parties take more responsibility for the accuracy of statements they make in public during election campaigns, and make prompt corrections when called on to do so.

198. As regards Members of the Senedd, a formal two-stage procedure for correcting the record by Members, can be introduced by changes to Standing Orders. The first stage would allow Members to voluntarily, or at the request of another Member, make a correction for minor and unintentional inaccuracies. The second, more formal, route would be via a 'correction notice' issued by the Commissioner for Standards, with notification given to the Committee, whereby Members would be required to correct the record. We are recommending that failure to comply with a correction notice would be a breach of the Code of Conduct and should be considered deceptive conduct by the Member.

199. Under mechanisms for both candidates and Members, we strongly believe that any correction issued to a false or misleading statement, should have equal prominence to the original statement. For example, for an incorrect statement published on social media, we would expect the correction to appear on the same platform and attached to the original statement. For statements made on the floor of the Senedd, that a correction is issued to the Record of Proceedings, and in more serious cases, that it is ordered to be done orally in the Senedd.

Sanctions

200. Having recently recommended to the Welsh Government a stand-alone sanction is introduced to allow the electorate to decide whether to remove and

replace a Member from office, the Committee is of the view that “sanctioning guidelines” should be agreed and published by the Senedd. The introduction of this requirement will serve two functions. First it will bring greater consistency and transparency to the application of sanctions for misconduct, and secondly it will enable Members to understand how the Senedd views the relative seriousness of various categories of misconduct for sanctioning purposes. We recommend that if those guidelines contain deliberate deception as a trigger for recommending such a sanction, this would only be applicable in the most serious cases.

201. We are also of the view that an appeals process should be considered as a route for Members, especially in light of the possible introduction of a remove and replace procedure. We are recommending that the Welsh Government considers introducing a legislative mechanism to enable the Senedd in future to establish an appeals process with reference to an appropriate independent judicial panel such as the Adjudication Panel for Wales. Should the Welsh Government accept this recommendation, it is the Committee’s intention to consider how such an appeals mechanism would work in practice, and bring forward proposals for the Senedd to agree.

202. We believe that broadening the range of sanctions, as well as accommodating for a possible appeals structure, would give a degree of flexibility which would not be possible under any model that takes the decision-making process outside of the Senedd’s standards regime. The Committee is also of the view that further consideration should be given to the range of sanctions available to the Committee more widely, as part of its review of the Standards framework.

Minority View

203. Whilst all Members of the Committee endorse the recommendations of this report which aim to strengthen the existing Standards procedures, Peredur Owen Griffiths MS favours an alternative two-stage administrative model that captures both candidates and Members of the Senedd under the same regime.

204. Under this model, should a complaint be deemed admissible and investigated by the Standards Commissioner, they would report directly to an independent panel (for example the Adjudication Panel for Wales), for consideration. Should the panel decide that there was a breach of the deliberate criteria, a report would be produced setting out the sanction to be applied. The sanctions available to the panel would be to recommend no further action in the case of minor breaches; to refer the complaint back to the Committee to

recommend an appropriate sanction; or, in the most serious cases, to issue a disqualification Order which would prevent an individual from standing for election for one term, or a period of up to 5 years. However, once made aware of a complaint, the Member or candidate being complained about reserves the right to voluntarily issue a correction notice at the earliest opportunity. If the individual chooses to do so, no further action would be taken.

Conclusions

Conclusion 1. This report represents the body of evidence the Committee has gathered to consider the merits of introducing further mechanisms for the disqualification of Members and candidates found to have deliberately deceived the electorate, including through an independent judicial process. Although the Committee and observer Members did not agree on a definitive legislative proposal, the recommendations in this report set out what we believe to be practical steps that can be taken ahead of the Seventh Senedd to tackle the serious issue of deliberate deception.

Conclusion 2. The Committee believes further work should be undertaken by the Welsh Government, that extends beyond the 2026 election, that builds on the body of evidence the Committee has gathered to explore the complex issues around the regulation of political deception in further detail, including considering the use of an expert panel to assess the evidence and implications.

Conclusion 3. The majority of the Committee believes there should be separate mechanisms for dealing with deliberate deception by candidates and by Members of the Senedd. During an election period the Senedd is dissolved and therefore all Members of the Senedd who are standing again are treated as 'candidates' for the duration of the election period. Adopting different mechanisms for addressing deliberate deception recognises the unique status and different governance and characteristics of these two groups, but still allows the issue of deliberate deception to be addressed with equal gravity.

Conclusion 4. The majority of the Committee believes that legislation in relation to deliberate deception should be designed to function as part of a system that includes a remove and replace mechanism, which allows the electorate to decide on the outcome where a Member of the Senedd is found to have seriously breached the Senedd's Code of Conduct.

Conclusion 5. The Committee has concluded that changes to the existing Senedd Standards regime could enhance the mechanisms available to the Senedd to address deliberate deception by Members of the Senedd. These

changes should, however, be considered alongside the work it is doing to review the current National Assembly for Wales Commissioner for Standards Measure 2009, and wider work to strengthen the Standards regime. Any changes should be framed to give the Senedd the greatest autonomy in developing the regime, including the introduction of greater elements of independence in the decision-making process. By addressing this through the Standards regime, we ensure that no one standards issue is subject to a different process, and arguably higher profile, than another.

Recommendations

Amending Legislation in respect of both Members and Candidates

Recommendation 1. The Committee recommends that the Welsh Government, on the basis of the evidence gathered by the Committee on related definitions within existing legislation, should clearly define deliberate deception in legislation relating to Senedd elections; and that it is replicated in any associated Standing Orders and guidance.

Recommendation 2. The Committee recommends that section 28 of the Government of Wales Act 2006 is amended to allow the Senedd to appoint lay members to the Standards of Conduct Committee.

Amending Legislation in respect of Candidates

Recommendation 3. The Committee recommends that the Welsh Government considers broadening section 75 of the draft Senedd Cymru (Representation of the People) Order (which replicates the provision contained in section 106 of the Representation of the People Act 1983 in relation to Senedd elections) to make it an offence for a candidate or any election agent to make or publish deliberately deceptive statements/information for the purposes of affecting how a vote is given at the election.

Recommendation 4. The Committee recommends that the Government of Wales Act 2006 is amended to stipulate that any Conduct Order made under section 13 may include a provision for deliberate deception, ensuring that the issue of deliberate deception is considered in the conduct orders made for future elections.

Recommendation 5. During an election period, the Committee recommends that the Welsh Government explores ways of requiring candidates who have made, or disseminated, deliberately deceptive statements to correct the record, and that those corrections are:

- Made with equal prominence to the inaccurate statement;
- Made at the earliest opportunity; and
- Published on the voter information platform for transparency.

Strengthening the existing Standards regime for Members of the Senedd

Recommendation 6. The Committee recommends that the National Assembly for Wales Commissioner for Standards Measure 2009 is amended to allow the Commissioner for Standards to initiate investigations, to bring the functions of the Commissioner for Standards in line with other UK Parliaments.

Recommendation 7. The Committee recommends that the Senedd replaces Rule 2 of the current Code of Conduct (which applies to Members at all times) with two new distinct rules:

- To broaden the existing rule to 'act truthfully' and expressly state that Members must not make deliberately misleading statements; and
- To require those who make factually incorrect statements to correct the record at the earliest opportunity.

Recommendation 8. The Committee recommends that Standing Orders, and associated guidance, are amended to introduce a two-stage formal process for Members to correct the record. This would include:

- A procedure to allow Members to voluntarily, or at the request of another Member, correct the record/withdraw statements in cases of unintentional and minor inaccuracies;
- Introducing a requirement for Members to correct factually incorrect statements at the earliest opportunity when required to do so on the recommendation of the Commissioner for Standards, via a 'correction notice';
- A requirement that corrections are published with equal prominence to the inaccurate statement; and
- A provision that failure to comply with a correction notice is a breach of the Code of Conduct and sanctioned as deceptive conduct by the Member.

Recommendation 9. The Committee recommends that reports published on breaches of the Code of Conduct, as well as correction notices issued, should be published on Members of the Senedd's web pages and, where applicable, to the Record of Proceedings.

Recommendation 10. The Committee recommends that, should legislation be brought forward to introduce a remove and replace procedure, that:

- Sanctioning guidelines are agreed and published by the Senedd; and
- Any guidelines that contain deliberate deception as a trigger, should specify that it is only to be recommended when the breach is severe in nature.

Recommendation 11. The Committee recommends that the Welsh Government introduces a legislative mechanism to enable any future appeals procedure, to be brought into force by the Senedd.

Annex 1: Observer Members views

As set out in the introduction to this report, the Committee invited four observer Members to take part in the work on deliberate deception. At the outset the Committee agreed to specifically record the views of the observers in the report. In addition to this, the observer Member views fed into the Committee's deliberations and are reflected in the conclusions the Committee reached.

Jane Dodds MS, Adam Price MS and Lee Waters MS were the original supporters of the amendments in this area, and remain in favour of making deliberate deception a criminal offence, along the lines of the amendment tabled at stage three of the Elections and Elected Bodies (Wales) Bill (see [Annex 5](#)).

They are of the view that this is a matter of such significance that deliberate deception by politicians poses a serious threat to the future of our democracy. They believe the best way to address this would be through the introduction of a new criminal offence, investigated by the police and prosecuted through the criminal courts. But they also support the idea of an administrative offence investigated by a devolved body and decided through a new or existing Welsh tribunal. Their preference would be for a system that applied equally and uniformly to members and candidates. They considered that being found guilty of deliberate deception should incur the ultimate sanction of disqualification by judicial action rather than being subject to the proposed 'retain and replace' procedure, to avoid there being any political involvement in decision making on deception.

They are supportive of the recommendations of the Committee in terms of improving the standards system but did not think that these will, by themselves, be sufficient to meet the commitment the Government has made to the public and to the Senedd. They believe that the existing system of self-regulation, which at Westminster already includes some of these proposed changes, has failed to address the decline in public trust. For this group of observer Members, only a genuinely independent process decided through an independent court or tribunal, rather than by politicians, can meet the test of fairness and public credibility.

James Evans MS emphasised that the primary arbiter of political conduct should be the public and that mechanisms for removing individuals from office should reflect this principle.

While acknowledging that deliberate deception is a serious issue, he argued that addressing such matters does not necessarily require legislative change. He further raised concerns that disqualification provisions could risk politicising the courts and inadvertently creating 'martyr' figures.

To strengthen democratic accountability, he advocated for an improved standards process, which would provide a robust framework for addressing misconduct. He further proposed that any decision to remove a Member from office should be subject to a vote in the Senedd, ensuring due process and democratic legitimacy and the introduction of a recall mechanism, which would allow for the removal of Members of the Senedd between elections following a substantiated finding of misconduct.

Annex 2: Procedure for dealing with a complaint made against a Senedd Member

The office of Senedd Commissioner for Standards is an independent role. The Commissioner is appointed by the Welsh Parliament, to safeguard standards, to uphold reputations, and to address the concerns of citizens.

Set out below is a summary of the current procedure for dealing with a complaint made against a Senedd Member. The full procedure can be found on the Senedd's website.¹⁰⁴

Complaints – Initial Consideration

On receipt of a complaint, the Commissioner will determine whether the complaint is admissible.

If the complaint is deemed inadmissible, no further action will be taken.

If the complaint is admissible, the Commissioner will begin a formal investigation process.

The Commissioner may decide to bring the consideration of a complaint to an end before a final report is published, in certain circumstances.

Complaints - Formal Investigations

The Commissioner will conduct a full and thorough investigation with a view to:

- a. establishing all the relevant facts in relation to the alleged breach of a relevant provision; and
- b. forming a view whether or not a breach of that provision has occurred.

Report of investigation of a Complaint

The Commissioner must produce a report of the investigation setting out:

- a. an outline of the investigation carried out by the Commissioner;
- b. the facts established by the Commissioner in the investigation, with references to evidence as appropriate;

¹⁰⁴ Procedure for Dealing with Complaints against Members of the Senedd

- c. any representations made to the Commissioner by the Member that were not accepted by the Commissioner and the reason why they were not accepted;
- d. the Commissioner's reasoned opinion on whether or not a breach of a relevant provision has occurred;
- e. the complaint and all evidence (other than the audio recording of any interview of which a transcript was prepared) which has been obtained as part of the Commissioner's investigation and which was relied upon in reaching a decision;
- f. details of any failure by the Member being complained about or any other Member to co-operate with the investigation;
- g. any recommendation of the Commissioner regarding material to be redacted from any published version of the report; and
- h. any matter of general principle identified during the investigation.

Rectification

If the facts of the investigation are not disputed and the Member promptly rectifies and/or apologises to the satisfaction of the Commissioner for a failure of a minor nature, the Commissioner may recommend to the Committee that the investigation should not be continued. If the Committee agrees, the Commissioner must inform the Member and the complainant that, although a breach has been found, no further action will be taken against the Member.

Consideration by the Standards of Conduct Committee – Consideration Stage

The Committee meets to consider any report referred to it by the Commissioner This is generally a private meeting.

The Committee may seek further clarification from the Commissioner on the report. If no further clarification is required, and the Member being complained about has confirmed they do not wish to provide any further representations, the Committee may choose to move directly to the decision stage.

Consideration by the Standards of Conduct Committee – Representation Stage

The Member being complained about may make representations to the Committee on the Commissioner's report, which may be in person or in writing.

Consideration by the Standards of Conduct Committee – Decision Stage

The Committee is the decision maker and will decide whether to accept the Commissioner's findings on whether or not a breach has occurred.

There must be a majority within the Committee in favour for a recommendation to be made to the Senedd.

Report to Senedd – no breach of Code found

If the Committee decides that no breach has been found, the Committee will publish its report and lay it before the Senedd, along with the Commissioner's report. The report will be anonymised, unless the Member concerned requests to be named.

Report to Senedd – breach of the Code found

If the Committee agrees a recommendation by the Commissioner that a breach has been found, the Committee must either:

- a. recommend a sanction in accordance with Standing Order 22.10¹⁰⁵; or
- b. recommend that, notwithstanding that a breach has been found, no further action should be taken.

The Committee must publish its report, including its recommendations, by laying it before the Senedd along with the Commissioner's report to the Committee.

Where the Committee finds a breach, the Chair of the Committee must table a motion calling on the Senedd to endorse the Committee's recommendations.

¹⁰⁵ Standing Orders of the Welsh Parliament

Annex 3: Complaints made under section 106 of the Representation of the People Act 1983

Below is a breakdown of the number of complaints made to police across Wales and the subsequent outcomes whether they be caution or prosecution.

Date	Number of complaints	Caution	Prosecution
2008	5	1	0
2010	2	0	0
2011	2	0	0
2012	9	0	0
2014	2	0	0
2015	6	0	0
2016	4	0	0
2017	29	2	0
2018	4	0	0
2019	6	0	1
2020	8	0	0
2021	1	0	0
2022	6	0	0
2023	2	0	0
2024	25	1	0

It should be highlighted that the above chart does not include any outcomes whereby words of advice has been given. In addition, the figures do not accurately reflect other demand that will arise from such investigations. These will include support from the force's communication teams and any times reviewing challenges in relation to outcomes.¹⁰⁶

¹⁰⁶ Written evidence from Chief Constable Amanda Blakeman

Annex 4: Potential administrative models

As set out in the report the Committee considered a number of potential administrative models for dealing with a potential offence of deliberate deception. This annex sets out two options the Committee considered.

Option 1:

A two stage administrative model with the Standards Commissioner as the initial investigator for complaints about both candidates and Members of the Senedd and admissible complaints referred to an independent tribunal.

The steps would be as follows:

The Commissioner stage

- A complaint is made to the Standards Commissioner (or brought by the Commissioner themselves, if an amendment is brought forward to the Measure allowing the Commissioner to initiate an investigation)
- The Commissioner considers whether the complaint is admissible under set criteria
- If admissible, the Commissioner conducts an investigation and reports to an independent panel, for example the Adjudication Panel for Wales, for consideration.

The independent panel stage

- The panel meets and considers the report from the Commissioner:
- If the Commissioner finds that there was no 'deliberate deception', and the panel agrees, no further action will be taken.
- If the Commissioner considers there was 'deliberate deception', and the independent panel agrees that a breach of the deception criteria has taken place, a report will be produced setting out the consideration and the sanction to be applied.
- The panel would have two sanctions available to it (depending on the severity/frequency of the breach):
 - i. No further action; or

- ii. To issue a disqualification Order

Option 2:

This option would be similar to the above model but varies at the independent panel stage:

The Commissioner stage

- A complaint is made to the Standards Commissioner (or brought by the Commissioner themselves, if an amendment is brought forward to the Measure allowing the Commissioner to initiate an investigation)
- The Commissioner considers whether the complaint is admissible under set criteria
- If admissible, the Commissioner conducts an investigation and either recommends a correction notice or reports to the Standards of Conduct Committee

The Standards of Conduct Committee stage

- The Standards of Conduct Committee considers the report from the Commissioner and if it agrees the Member has deliberately deceived it will recommend either:
 - No further action
 - Call on a member to make corrections (or endorses order to make correction where member has initially refused) If member refuses the committee can recommend escalation of penalties.
 - Imposes a censure
 - Suspends for a period less than the removal trigger
 - Recommends a penalty which triggers the removal process

Independent Panel Stage

- If recommendation is for a penalty which would trigger removal process, the report is then referred to the President of Tribunals sitting with two tribunal Presidents or the Adjudication Panel for Wales to endorse the finding.

- If the recommendation is not endorsed, it can be dismissed or referred back to the Committee for a lesser penalty.

Annex 5: Amendment as tabled at Stage three of the Elections and Elected Bodies Act

Offence of deception for Members of the Senedd or candidates

(1) It is an offence for a person within subsection (2), wilfully, and with the intent to mislead, to publish, or cause or permit to be published on their behalf, a statement (otherwise than on oath) purporting to be a statement of fact which they know to be false or deceptive in a material particular.

(2) A person for the purposes of subsection (1) is a person acting in their capacity as —

- a. a Member of the Senedd, or
- b. a candidate to be a Member of the Senedd.

(3) A person found guilty on an offence under subsection (1) is liable on summary conviction or conviction on indictment to a fine.

(4) It is a defence for any person charged with an offence under subsection (1) to show that —

- a. at the time of the alleged offence they had acted in the interests of national security,
- b. the statement could be reasonably inferred to be a statement of opinion, belief or future intention rather than a statement of fact, or
- c. they retracted the statement and apologised for its inaccuracy within 14 days of—
 - i. the making or publication of the statement, or
 - ii. the inaccuracy being brought to their attention.

(5) Proceedings for any offence alleged to have been committed under subsection (1) must be commenced within six months of the date on which the statement was made or published.

(6) It is an offence for a person to make a complaint or allegation that an offence under subsection (1) has been committed that is vexatious or that they know, or ought reasonably to know, to be false, trivial or frivolous.

(7) A person found guilty of an offence under subsection (6) shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(8) No private individual or private entity may act as a prosecutor for an offence under this section.

(9) The Welsh Ministers may by regulation—

- a. add, remove or modify provisions in this section;
- b. amend, revoke or repeal any enactment to make such consequential, incidental, transitional, transitory or saving provision as they think appropriate for the purposes of or in connection with this section.

(10) Before making regulations under subsection (9), the Welsh Ministers must—

- a. consult such persons as they consider appropriate on the provisions that will be added, removed or modified by the draft regulations,
- b. allow those persons a period of at least 12 weeks to submit comments,
- c. consider any comments submitted within that period, and
- d. publish a summary of those comments.

(11) The power to make regulations under subsection (9) is exercisable by statutory instrument.

(12) A statutory instrument containing regulations under subsection (9) may not be made unless a draft of the instrument has been laid before and approved by a resolution of Senedd Cymru.

(13) Nothing in this section affects the operation of section 5 of the Perjury Act 1911 in relation to false statutory declarations and other false statements made otherwise than on oath.

(14) In this section—

- a. “private entity” means any corporation, partnership, business, professional, sole practitioner, voluntary or charitable organisation;
- b. “statement” has the same meaning as in the Defamation Act 1996 (c. 31);

- c. “publish” in relation to a statement, has the same meaning as in the Defamation Act 1996 (c.31).

Annex 6: List of oral evidence sessions.

The following witnesses provided oral evidence to the committee on the dates noted below. Transcripts of all oral evidence sessions can be viewed on the [Committee's website](#).

Date	Name and Organisation
24 June 2024	<p>Dr Sam Fowles, Cornerstone Barristers and Institute for Constitutional and Democratic Research</p> <p>Jennifer Nadel, Compassion in Politics</p>
1 July 2024	<p>Douglas Bain CBE, TD, Senedd Commissioner for Standards</p>
4 November 2024	<p>Professor Andrew Blick, The Constitution Society</p> <p>Dr Dexter Govan, The Constitution Society</p>
18 November 2024	<p>Alex Greenwood, Apex Chambers and Criminal Bar Association</p> <p>Jonathan Elystan Rees KC, Apex Chambers and Criminal Bar Association</p> <p>Michelle Morris, Public Services Ombudsman for Wales</p> <p>Professor Emyr Lewis, Lawyer and Former Head of the Department of Law and Criminology, Aberystwyth University</p>
25 November 2024	<p>Jennifer Nadel, Compassion in Politics</p> <p>Sam Fowles, Cornerstone Barristers and Institute of Constitutional and Democratic Research</p> <p>Azzurra Moores, Policy Lead, Full Fact</p> <p>Rose Whiffen, Senior Research Officer, Transparency International UK</p>

Date	Name and Organisation
	Juliet Swann, Nations and Regions Programme Manager, Transparency International UK Tom Brake, Director, Unlock Democracy Chief Constable Amanda Blakeman.
2 December 2024	Huw Irranca-Davies, Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs, Welsh Government Will Whiteley, Deputy Director, Senedd Reform, Welsh Government Ryan Price, Head of Senedd Policy, Welsh Government

Annex 7: List of written evidence

The following people and organisations provided written evidence to the Committee. All Consultation responses and additional written information can be viewed on the [Committee's website](#).

Reference	Organisation
CFS 01	Moira Owen
CFS 02	David Hazelden
CFS 03	Sarah Jones
CFS 04	Dawn Shenton
CFS 05	Angela Williams
CFS 06	Dawn
CFS 07	Peter Evans
CFS 08	Marc K
CFS 09	Ken Tucker
CFS 10	Lyndsey Brooks
CFS 11	Janet Roberts
CFS 12	S Lloyd
CFS 13	Dr Jonathan F Dean
CFS 14	Richard Houdmont
CFS 16	Louise Leyshon
CFS 17	Ian Hayes
CFS 18	Geraint
CFS 19	Harry Hayfield
CFS 20	Claire Wardle
CFS 21	Thomas Clarke
CFS 23	Joe Wade
CFS 24	Chief Constables

Reference	Organisation
CFS 25	Crown Prosecution Service
CFS 26	Meleri Tudur
CFS 27	Quakers in Wales
CFS 28	Institute of Constitutional and Democratic Research
CFS 30	Compassion in Politics
CFS 31	Transparency International UK
CFS 32	Full Fact
CFS 33	Henrietta Catley
CFS 34	The Law Society
CFS 35	Professor Stephan Lewandowsky
CFS 36	Transparency Internation UK – additional evidence
CFS 37	Chief Constable Amanda Blakeman – additional evidence
CFS 38	Institute of Constitutional and Democratic Research – additional evidence
CFS 39	Professor Conor Gearty
CFS 40	Elkan Abrahamson