



# Individual Member Accountability – Deliberate Deception

## Response to the Standards of Conduct Committee's report

March 2025

The Standards of Conduct Committee published its report into Deliberate Deception on 19 February 2025, containing 11 recommendations, six of which were for the Welsh Government. The report was produced as part of the committee's inquiry into Individual Member Accountability. The inquiry also considered the issue of Recall, which is the subject of a separate report from the Committee.

Welsh Government's responses to the recommendations from the Counsel General and Minister for Delivery are included below.

The financial implications of the recommendations and the wider policy choices will be considered as part of the development of any legislative or non- legislative measures to provide for the Welsh Government's response to the committee's recommendations.

# Responses to the 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.*

Response: Accept in principle

I have considered this recommendation alongside recommendation 3 - that the Welsh Government considers broadening out section 75 of Senedd Cymru (Representation of the People) Order to introduce an offence of deliberate deception for candidates at Senedd elections. Given any new offence will require a definition, the Welsh Government will need to consider this in further detail. The evidence the committee has gathered will help to inform any final definition set out in legislation.

## 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.*

Response: Accept

Strengthening the independence of the Standards regime is an important component of enhancing Member accountability, and I am pleased to accept this recommendation.

Introducing lay members to the committee can also provide a source of independent, external perspective and expertise within the standards process.

I will seek to include legislative provision to give effect to this recommendation within the Bill I bring forward to establish a system of recall.

## 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.*

Response: Accept in principle

I note that the Committee recognises the challenges presented in seeking to introduce one system to deter deliberately deceptive behaviour for both candidates and Members of the Senedd and recommends dealing with the two different constitutional roles through their respective regimes.

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I am grateful to the committee for setting out a potential means by which to address deliberate deception for candidates, and I will take this into account when giving detailed consideration to the creation of a new electoral offence. However, I do not consider that Article 75 of the draft Senedd Cymru (Representation of the People) Order (“the Conduct Order”) can be broadened to deliver the new offence. What has been set out by the committee is not a modification of the existing offence of false statements as to candidates, but rather the introduction of a new offence that differs in a number of fundamental respects, including the scope of the offences, who may commit them and the harm they are seeking to address. I have instructed officials to develop a proposed offence, in line with what is envisaged by the Committee, which will require an assessment of the potential impacts on the Justice System and on our broader arrangements for electoral law for Welsh elections. I believe a proposed offence should be the subject of further consultation, which means it is not feasible to include it in the final Conduct Order for the 2026 Senedd election.

I have considered this recommendation alongside recommendation 4 given the link with the suggestion by the committee to create the new offence in the Conduct Order. Also, given the committee’s recommendation 1, the Welsh Government will begin work on consideration of a definition of deliberate deception before the election, as it will support the work to take forward this recommendation as well as the Senedd’s review of Rule 2 of the Members Code of Conduct, as set out in recommendation 7.

## **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.*

Response: Noted

In taking forward work in response to recommendation 3 the Welsh Government will consider if any amendment is required to section 13 of the Government of Wales Act 2006. This consideration will include the potential constitutional implications of any amendment.

## **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.*

Response: Accept

In line with my response to Recommendation 3 with which this recommendation is connected, I have instructed officials to explore ways in which candidates standing for election to the Senedd should be required to correct the record during the election campaign period. I believe this opportunity would be beneficial to deter this behaviour

before formal investigations are commenced, which could result in a conviction. I will therefore consider this recommendation alongside further detailed consideration in response to recommendation 3.

## **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.*

Response: Accept

The role of the Commissioner for Standards is ultimately a matter for the Senedd. On that basis I have accepted the recommendation of the Committee and will look to bring forward legislative provision to give effect to it, within the Bill I will bring forward to establish a system of recall.

## **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.*

Response: Noted

This recommendation is for the Senedd. As such, I have not provided a response.

## **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.*

Response: Noted

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This recommendation is for the Senedd. As such, I have not provided a response.

### **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.*

Response: Noted

This recommendation is for the Senedd. As such, I have not provided a response.

### **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.

Response: Accept

I am supportive of the proposal for the Committee to develop "sanctioning guidelines" and accept the recommendation insofar as it is directed at the Welsh Government. This aligns with my response to the Committee's report on Recall. I also agree that it is important for those guidelines to be agreed and therefore owned by the Senedd itself. It will be for the Committee to develop the guidelines, and for the Senedd to agree them, therefore it would not be appropriate for me to comment on the recommendation insofar as it relates to their contents at this point.

### **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.*

Response: Accept in principle

I am aware that the Senedd removed its previous appeals process in 2022. It is a matter for the Senedd to decide what if any appeals process it wishes to use for the standards process, and whether legislation is required will depend on the scope of the desired appeals process the Senedd wishes to adopt. However, in response to this recommendation, I have instructed officials to explore what provisions may be required and included in the Bill I will bring forward to establish a system of recall.