Respondent - Sam Fowles

To assist with our inquiry, the Committee would welcome your views on any or all of the following points:

- Recall
- Triggers for a recall process
- Signing a petition
- Length of the recall process
- A system for Wales
- Disqualification
- Making of False or Deceptive Statements of Fact by Members and Candidates
- Sanction of removal of a Member

Some helpful things to be aware of before you start answering the consultation questions:

- You do not need to answer every question, only those on which you wish to share information or have a view.
- If you provide any information that you feel is not suitable for public disclosure, please indicate which parts should not be published and give your reasons for this.

Recall

Recall mechanisms are the means by which an elected politician can be removed from office by their constituents between elections.

The UK Parliament was the first legislature in the UK to introduce a system of recall for Members of Parliament (MPs) in 2015. If certain conditions are met, voters in the relevant constituency have six weeks to sign a "recall petition" if they wish for their MP to be removed from office. If at least 10 per cent of eligible registered electors sign the petition, there will be a by-election in that constituency via the First Past the Post (FPTP) electoral system. The recalled MP may stand in the by-election.

From 2026, all Members of the Senedd will be elected via a closed list proportional representation system. If a recall mechanism is to be adopted by the Senedd then it must be designed in accordance with the new electoral system. Under the new arrangements, there is no provision for a by-election in the event of a vacancy during a Senedd term; a vacant seat will be filled by the next eligible and willing person on the list instead.

10. Should there be a power to remove a Member of the Senedd during a Senedd term when a complaint of misconduct has been upheld?

- ○ Yes
- ○ No
- ○ Don't have a view

11. Please outline your reasons for your answer.

(We would be grateful if you could keep your answer to around 500 words)

12. The following questions in this section are based on the practical implications of recall, if you do not think that a recall system should be introduced, you do not have to answer these questions.

Would you like to answer questions on the practical implications of recall?

- ○ Yes
- ○ No

Triggers for a recall process

13. In the House of Commons recall system, an MP will be subject to recall if, following a report from the Committee on Standards, the House of Commons orders the suspension of the MP from the House for at least 10 sitting days or 14 calendar days.

    What is your view on how long a period a Member of the Senedd should be suspended for in order to trigger a recall process?

- ◯ Fewer than 10 sitting days
- ◯ 10 sitting days
- ◯ More than 10 sitting days
- ◯ Suspension should not trigger a recall process
- ◯ Don't have a view
- ◯ Other

14. Please outline your reasons for your answer.

    (We would be grateful if you could keep your answer to around 500 words)

15. In the House of Commons recall system, an MP will be subject to recall if, after becoming an MP, they have been convicted of providing false or misleading information in support of an expenses claim under the Parliamentary Standards Act 2009 (provision of information they know to be false or misleading in a material respect in support of a claim for allowances).

    What is your view on whether the upholding of a complaint about misuse of expenses or allowances (i.e. a breach of Rule 9 of the Code of Conduct) should potentially trigger a recall process?

- ◯ A breach of Rule 9 should automatically trigger a recall process
- ◯ A breach of Rule 9 should not result in a recall process
- ◯ Triggering a recall process should be an option available to the Standards of Conduct Committee to recommend if a complaint about a breach of Rule 9 is upheld.
- ◯ Don't have a view

16. Please outline your reasons for your answer.

    (We would be grateful if you could keep your answer to around 500 words)

17. At the moment there are no sanctions if a Member leaves, joins or changes political group during a Senedd term.

    What is your view on whether changing political groups should trigger recall processes (i.e. moving from party group A to party group B within a Senedd term, or moving from party group A to sit as an independent)? Please outline your reasons for your answer.

    (We would be grateful if you could keep your answer to around 500 words)

18. What is your view on whether a lack of attendance and participation in proceedings without good reason for a period of six months or more trigger recall procedures? Please outline your reasons for your answer.

(We would be grateful if you could keep your answer to around 500 words)

19. At present, Members of the Senedd who are convicted of a criminal offence and sentenced to a period of imprisonment or detention of 12 months or more are disqualified from being Members or candidates. In the House of Commons recall system, an MP will be subject to recall if they have, after becoming an MP, been convicted of an offence and sentenced to be imprisoned or detained for a period of less than 12 months (including suspended sentences).

What is your view on whether a Member of the Senedd convicted of a criminal offence with a sentence of less than 12 months should be subject to a recall petition? Please outline your reasons for your answer.

(We would be grateful if you could keep your answer to around 500 words)

20. Should there be any other triggers for a recall process?

(We would be grateful if you could keep your answer to around 500 words)

Signing a petition

21. In the House of Commons system, eligible voters only sign the petition if they are in favour of recalling the MP. This means that there is no option for voters to show support for the MP to remain in post and that, when entering a polling station, their intention to sign the petition is known to others.

Should the recall petition provide an option for showing support for the recalled Member to retain their seat?

- ○ Yes
- ○ No
- ○ Don't have a view

22. Please outline your reasons for your answer.

(We would be grateful if you could keep your answer to around 500 words)

23. In the House of Commons system, if 10 per cent of eligible electors sign a recall petition, there will be a by-election in that constituency and the outgoing MP may contest that election if they wish to. The Senedd Commissioner for Standards has highlighted that if the threshold was set at the same level for a Senedd recall process, 10 per cent of the electorate could directly remove a Member, as there is no provision to replace Members of the Senedd through by-elections.

What are your views on the threshold of signatures that should be required in order for a petition to remove a Member?

(We would be grateful if you could keep your answer to around 500 words)

24. In the House of Commons system, eligible voters may sign a recall petition in person at a designated signing place, by post, or by appointing someone as a proxy to sign the petition on their behalf.

    What are your views on how an eligible voter should electors be able to sign a petition?

    (please select all options that you think should be available to voters)

- [ ] In person
- [ ] By post
- [ ] By proxy
- [ ] Don't have a view
- [ ] Other

25. Please outline your reasons for your answer.

    (We would be grateful if you could keep your answer to around 500 words)

Length of the recall process

26. In the House of Commons system, electors have six weeks to sign a recall petition. Evidence suggests that the majority of people who have signed recall petitions do so early in the six-week period. Concerns have been raised about the practicalities of providing designated signing places for a six week period.

    Should a recall petition be open on a single day, across a greater number of designated areas, or over a multi-week signing period in fewer areas?

- ◯ A single day across a greater number of designated areas
- ◯ A multi-week signing period in fewer areas
- ◯ Don't have a view
- ◯ Other

27. If the petition should be open for a multi-week signing period, how long it should be open for?

    (We would be grateful if you could keep your answer to around 500 words)

28. Are there any other issues that you would like to raise regarding how constituents can access or participate in the process?

    (We would be grateful if you could keep your answer to around 500 words)

A system for Wales

Early work by the Committee has identified two initial options for consideration:

Option 1: A recall petition is run asking only whether the Member should be recalled. In the event a Member is recalled, the next eligible and willing candidate from the party's list on which the removed Member was elected would fill the vacant seat. This approach means that signing the petition would remove the Member, rather than result in a by-election in that constituency.

Option 2: A retain or remove and replace petition is run, asking whether the Member should remain in place, or be removed and replaced (if possible) with the next candidate on the party's list. This would be subject to a campaign period, allowing the Member subject to the 'recall' process an opportunity to defend their position with the electorate.

With either option, vacancies could be filled quickly and the proportionality of the last election result could be maintained. However, Members elected as independents, or those elected to represent political parties that have no remaining candidates on their lists, would not be replaced. This could affect the proportionality of the Senedd.

29. What are your views on these two options?

(We would be grateful if you could keep your answer to around 500 words)

30. Is there an alternative system which could be explored?

(We would be grateful if you could keep your answer to around 500 words)

Disqualification

A person must meet certain qualifications to be eligible to be a Member or stand for election to the Senedd. These are set out in section 16 and Schedule 1A to the Government of Wales Act 2006, and include criteria such as age, citizenship, not being registered on an electoral register in Wales, bankruptcy status, certain criminal convictions or sentences, membership of other UK legislatures, and holding of certain offices.

31. A Member is disqualified from being a Member of the Senedd if, after being elected, they are convicted of a criminal offence and sentenced to imprisonment or detention for 12 months or more. We have heard some suggestions that this should be reduced, for example, to six months.

What are your views on the length of prison sentence that should trigger disqualification?

(We would be grateful if you could keep your answer to around 500 words)

32. Other than deception, which is dealt with in the next section, are there any other grounds which should result in disqualification from membership of the Senedd?

(We would be grateful if you could keep your answer to around 500 words)

Making of False or Deceptive Statements of Fact by Members and Candidates

The Code of Conduct already requires Members to be truthful and act truthfully. However, the Committee has heard suggestions that Members and candidates should be disqualified if they wilfully make false or deceptive statements with the intent to mislead.

Early work by the Committee has identified three initial options for consideration. More detail on these options is set out in the consultation document:
https://business.senedd.wales/documents/s152624/Inquiry%20into%20Individual%20Member%20Accountability%20-%20Consultation.pdf

Option 1: Create a criminal offence of deception, which would be investigated by the police and tried before the criminal courts. People convicted would be disqualified.

Option 2: Create a civil offence of deception, which would be investigated by an existing investigative body such as the Public Services Ombudsman and an independent Welsh Tribunal, such as the Adjudication Board for Wales.

Option 3: Amend the existing Code of Conduct to more explicitly prohibit wilful lying or deception and strengthen the potential sanctions. Alleged breaches would be investigated by the Senedd Commissioner for Standards, and, if upheld, referred to the Standards of Conduct Committee and Senedd. Extending this option to cover candidates as well as Members could give rise to significant practical implications.

33. What are your views on whether making of false or deceptive statements by Members of the Senedd or candidates to become Members should be grounds for disqualification?

- ○ Grounds for disqualification for Members only
- ○ Grounds for disqualification for candidates only
- ◉ Grounds for disqualification for Members and candidates
- ○ Not grounds for disqualification
- ○ Don't have a view

34. Please outline your reasons for your answer. If you have indicated that candidates should be included, please indicate at what point you think candidates should be subject to potential liability.

(We would be grateful if you could keep your answer to around 500 words)

The answers to the following questions are based on excerpts from the ICDR White Paper "A Model for Political Honesty". This was compiled based on a three month project bringing together experts from politics, academia, public policy, and law. The White Paper sets out the problem of political lying and proposes a model for a law which would provide for the disqualification of politicians who deliberately make deceptive statements ("the ICDR Model"). It also contains draft legislation. The White Paper has been sent to the Committee separately.

The regime must apply to both candidates and MS. Both groups ask the public to place trust in them and seek to exercise power on the public's behalf. Both, therefore, voluntarily take on responsibility and seek power. It is right, therefore, that both are held to the same standards of political honesty. "Member" is defined according to section 1 of the Government of Wales Act 2006 and "Candidate" should be defined according to section 7 of that Act.

Only 9% of Britons trust politicians to tell the truth. This is the lowest level in the 40 years since records began. According to research by National Centre for Social Research (led by Sir John Curtice), in June 2024, 58% of voters believe that politicians "almost never" tell the truth. Voters believe the political system itself is incapable of ensuring truth-telling. As one (representative) respondent to the BBC "Your Voice Your Vote" survey stated: "Repeatedly seeing scandals addressed years after they've happened makes me feel decision makers can dodge accountability… It feels like every time a scandal is uncovered accountability has to be imposed through relentless public pressure, rather than through the rule of law."

The summer of 2024 saw the real-world impacts of political misinformation writ large. Riots broke out across 27 cities in England and Northern Ireland, triggered by a piece of political misinformation: that the alleged perpetrator of a knife attack in Southport was a Muslim immigrant. That misinformation was promoted on social media by at least one member of the Westminster Parliament. Over 1000 people were arrested and more than 700 charged. It was the most significant disorder since 2011. Rioters attacked hotels housing asylum seekers (including children) and mosques with fire-bombs.

In Wales, voters suggested that the events around the resignation of, former First Minister, Vaughan Gething have reduced their trust in politics.

his is not to suggest that all politicians are inherently untrustworthy. Many, perhaps the vast majority, are honest people doing their best in a very difficult job. But this is not the public's perception.

The falling trust in politics undermines the very essence of political discourse:
(a) It devalues public debate – Politics is based on public discourse. This is only meaningful when participants and voters can have confidence that the participants are doing their best to properly represent the factual basis for their arguments. When every factual statement must either be fact checked or disbelieved (as now), meaningful political discourse becomes increasingly ineffective.
(b) It creates a barrier to engagement – When voters don't trust politicians they don't engage with or believe political arguments (even those which are based on verifiable facts). It makes it more difficult for voters to engage with public debate if they have to fact check everything that is said. The actions of a few dishonest politicians thus undermine political debate as a whole.
(c) It increases division – The voter-perception of dishonesty removes the presumption of truth-telling from public debate. This increases "siloisation" of voters. Voters can't trust that participants are engaging honestly in public debate so retreat to echo chambers which confirm their existing ideas (and, in many cases, prejudices) rather than engaging with new or different perspectives.
(d) It increases the risk of violence.

35. If making of false or deceptive statements were to be grounds for disqualification, what are your views on any risks that could arise (such as the potential for malicious complaints to be made against Members), the effect of such risks, and how any such risks could be mitigated?

(We would be grateful if you could keep your answer to around 500 words)

The concern appears to be that private citizens, groups, or other MS will make spurious reports to score points off their political opponents, and that this may overwhelm the police. We do not think this is a particularly compelling critique.

The ICDR Model provides for a "review stage". Any application for a Correction Order must first be reviewed, on the papers, by a single judge (as is already the case in applications for judicial review). Where that judge is of the view that the application is trivial, vexatious, or stands no real prospect of success, they must dismiss it without a hearing. In this way, any inappropriate application will be dismissed before the politician in question is even required to respond to it.

Any criminal or civil wrong contains the risk of abuse. The existing offences of wasting police time and perverting the course of justice already provide a powerful deterrent. Police have established mechanisms for sifting out vexatious claims. Moreover, C64 (and the proposed amendments thereto) provides a high level of clarity as to the offence targeted. This will allow the Police to eliminate vexatious claims more easily.

The Scottish experience of the Hate Crimes (Scotland) Act shows this in practice. Despite an extremely high level of press and public attention, a high level of misinformation suggesting the offences were much broader than they actually were, and approximately 6m potential perpetrators, after an initial high level of complaints in the first week, there are now fewer than 60 complaints received per week. Given that, for the most part, only 60 people will be able to commit an offence under the proposed regime, we would expect an low number of reports (whether vexatious or otherwise). The high level of specificity in the language of C64 will make it relatively easy for investigators, courts, or prosecutors to identify and dismiss vexatious complaints.

An provision for a specific offence of making a vexatious report may add an additional level of deterrence.

36. Section 42 of the Government of Wales Act 2006 provides that statements made during Senedd proceedings are 'absolutely privileged' for the purposes of defamation. Section 43 provides that statements made during Senedd proceedings have limited protections from contempt of court.

What are your views on whether any prohibition on the making of false or deceptive statements of fact could have consequences for these 'privileges'?

(We would be grateful if you could keep your answer to around 500 words)

These two exemptions concern entirely different legal regimes. There is no need for them to impact on the proposed misrepresentation regime and there is, consequently, no need to amend them.

It is important to note, however, that (contrary to statements previously made by some politicians) there is no general privilege (akin to the Westminster parliament) in the Senedd. Members can be prosecuted for crimes or sued for civil wrongs committed in the Senedd so long as these lie outside section 42 and do not involve contempt.

37. Would introducing a criminal offence or a civil sanction system give rise to any human rights issues, for example in relation to rights of freedom of expression (Article 10 of the European Convention on Human Rights) and freedom to stand in an election (Article 3 of Protocol No. 1 to the ECHR - Right to free elections)?

(We would be grateful if you could keep your answer to around 500 words)

38. What are your overall views on the three options outlined above (more detailed questions on specific issues are set out below)? Are there any other options that would be more appropriate or effective?

(We would be grateful if you could keep your answer to around 500 words)

No.

Nothing about this proposal involves imposing a new obligation on politicians. MS are already required to speak truthfully. The proposal will simply:
(e) Improve the enforcement mechanism for the existing obligation on MS; and
(f) Extend that obligation to candidates so that serving MS and candidates are held to the same standard.

While any provision which impacts speech may constitute a prima facie infringement of the right to free expression, such infringement is permissible where it is a lawful and proportionate means of achieving a legitimate aim. All democratic societies set limits on speech. A measure which requires politicians to correct false statements or face sanction is an archetypal example of a lawful and proportionate measure.

39. Should making a false or deceptive statement of fact be made a crime or be made subject to civil sanctions?

- (●) Crime
- ( ) Civil sanctions
- ( ) Don't have a view

40. Please outline your reasons for your answer.

(We would be grateful if you could keep your answer to around 500 words)

The criminal and civil law models both provide the clear break with the past, independence, speed, and protection for freedom of expression. Both have different advantages:

The advantages of the criminal model are:
 It sends the strongest signal to voters that this matter is taken seriously.
 It likely has a greater deterrent effect - impact of swift prosecutions on the summer riots shows that swift prosecutions can have a powerful deterrent effect.
 The magistrates courts are experienced at hearing short notice applications of this kind.
 At the prosecution stage, the prosecution can be handled by the CPS, which has trained personnel in place to handle prosecutions.
 Additions to criminal law fall clearly within the competence of the Senedd.
 The criminal process is relatively accessible to the public and easy to understand.
 The criminal model strikes a balance between citizen enforcement and institutional enforcement, with voters able to apply for a Correction Order but the prosecution left to the CPS.
 Proceedings in the magistrates courts are relatively low cost.

The advantages of the civil law are as follows:
 It may be more palatable to those who believe the criminal law route is "draconian" (although, given that the criminal law is used to regulate things like cutting down trees and parking offences, this critique is not particularly compelling).
 The civil model allows greater citizen involvement because it will require an application from a voter for both the Correction Order and the Disqualification Order.
 The civil law model shares many of the advantages of the criminal law model set out above.

41. What are your views on the nature of an independent judicial process that should be used if option 2 were pursued (i.e. a civil sanction investigated by an existing investigative body such as the Public Services Ombudsman for Wales or an independent Welsh Tribunal)?

(We would be grateful if you could keep your answer to around 500 words)

The new regime must conform to four key principles. It must:

• Represent a decisive break with the failed models;
• Be independent and non-political;
• Provide swift resolutions;
• Differentiate between false and accurate statements and presertve freedom of speech.

We propose a model based on existing regulatory law whereby:
• Where a court finds that a politician has made a false or misleading statement of fact, it can issue a "Correction Notice" requiring the politician to issue a public correction.
• If the politician refuses to comply with the notice within seven days (without reasonable excuse) the court can impose a Disqualification Order which prevents that politician holding office in the Senedd for a specified period of time.

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).

As with other regulatory regimes, such as the Freedom of Information Act 2000, we suggest that any registered voter should be able to apply for a Correction Order but (as with judicial review) the court should be able to dismiss any application which is trivial, vexatious, or stands no reasonable prospect of success without a hearing.

This model removes the ambiguity of previous models because there is no requirement to determine intent and preserves the freedom of expression of politicians because they have an opportunity to correct the misinformation without sanction.

The ICDR Model could be given effect in either the magistrates court or the county court.

Full details are provided in the White Paper. The White Paper also contains model drafting to demonstrate how the ICDR Model can be given effect in both criminal and civil legislation.

42. If the making false or deceptive statements is made subject to a civil sanction, what standard of proof would be most appropriate - the civil standard (i.e. "on the balance of probabilities") or the criminal standard (i.e. "beyond reasonable doubt")? Although not common, there have been instances where professional disciplinary bodies have operated to the criminal standard.

- (●) Civil standard
- ( ) Criminal standard
- ( ) Don't have a view

43. If option 3 were pursued (i.e. strengthening the existing Code of Conduct and sanctions) what are your views on the measures and mechanisms that could address the issue of deception or false statements? For example, through existing standards procedures or potential recall mechanisms.

(We would be grateful if you could keep your answer to around 500 words)

The current system is fundamentally flawed for the reasons set out below.

Pursuing option 3 would be contrary to the undertaking given by the Counsel General on 3 July. It would be seen as a betrayal by the public and an example of politicians refusing to take seriously the concerns of voters.

According to Full Fact, under the Sunak and Starmer regimes, (Westminster) cabinet ministers have made 46 misleading statements of sufficient seriousness to require public correction (see Appendix 1). None appear to have corrected the record and none were required to do wo by the Westminster regime. The Full Fact numbers are likely a significant understatement. The organisation makes clear that it does not fact check every statement and spends more time on the most senior cabinet members. The date compiled for this submission was limited to cabinet members. It is likely, therefore, that the real number of false statements is significantly higher.

There are three models currently in operation for ensuring political honesty:
(a) The "Privileges Model";
(b) The "Standards Model"; and
(c) The "Pure Politics Model".

All three have proved inadequate in that they have failed to arrest the rise in political misrepresentation and associated collapse in public trust. The below summarises those arguments. The Committee is referred to the full analysis in the White Paper.

The Privileges Model – The Westminster Parliament relies on this model to enforce political honesty. Misleading Parliament is considered a "breach of privilege". The potential punishments range from a verbal warning to a recall reference (see below). An MP accused of a breach of privilege can be referred to the Privileges Committee (comprised of other MPs and on which the government holds a majority) by vote of the whole House. The Committee investigates the allegation and makes a recommendation. This must generally be confirmed by the whole House. This model has proved inadequate for the following reasons:
(a) It relies on politicians "marking their own homework".
(b) The model only applies to MPs. This creates a potential imbalance whereby MPs are subject to higher standards of honesty than candidates.
(c) The Privileges process takes too long. It's two most recent investigations, into Boris Johnson and John Nicolson, both took over a year.

The Standards Model – The Senedd uses this model to enforce, inter alia, the exiting rule against political lying. The Westminster Parliament relies on a similar model to enforce rules prohibiting bullying and harassment. Alleged breaches of the rules are investigated by a "commissioner", with the power to impose a range of sanctions. There is an appeal (in Westminster) to an "Independent Expert Panel" (the criteria for appointment to this is not clear). In the Senedd, the decision of the Commissioner must be confirmed by the Senedd. This model has proved inadequate for the following reasons:
(a) Arbitrariness
(b) Lack of accountability
(c) Lack of independence
(d) Lack of transparency and unfairness.

The Pure Politics Model - This is the model which appears to be preferred by the Senedd Standards Commissioner. It essentially involves "leaving the matter to voters". This model is prima facie attractive but, in reality, does voters a great disservice:
(a) It creates a "Catch-22" voters are required to hold politicians accountable without sufficient information to do so.
(b) Voters think all politicians are equally dishonest.
(c) Voters only get the chance to hold politicians accountable every five years.

44. If a disqualification is introduced, what length of disqualification would be appropriate? For example, should there be a fixed period of disqualification, or a period (within a set range) to be determined on a case-by-case basis so that any mitigating circumstances that could reduce the period of disqualification are taken into consideration?

(We would be grateful if you could keep your answer to around 500 words)

A meaningful sanction is one which both offers a genuine deterrent and protects the public against political liars.
A fine or administrative penalty (such as reduction in Senedd privilages) are both insufficient. A fine will not offer a genuine deterrent because (as in the case of Michelle Donelan) , politicians fund these from state resources of donations. It also creates an imbalance because parties with sufficient funds will, in essence, be able to "price in" fines. The politicians with the biggest donors would be able to, in effect, "pay to lie". This will benefit, in particular, populist parties funded by billionaires.
Administrative penalties (such as a reduction in privileges) are in place in Westminster already and do not provide a disincentive.
The best way to both protect the public and create a genuine disincentive is to impose a period of disqualification from office. This reflects the severity of the wrong (such a sanction will only be imposed on a politician who has (a) been found to have lied, (b) been given a chance to correct the record, and (c) consciously refused to do so). It also protects the public by removing dishonest politicians, and provides a discincentive that politicians cannot buy themselves out of.
Any disqualification must last at least until the next Senedd election. A shorter period will mean that the offender retains their Senedd seat but cannot represent their constituents. This will mean that the punishment is imposed on the constituents as well as the offender. A ban that lasts until the next election will trigger a by-election so the offender can be replaced with a new representative.
Outside this constraint, the length of the disqualification should, as with any other sanction, reflect the severity and nature of the wrong. Relevant factors will include:
 The harm caused by the deceptive statement;
 The number of people to whom the statement has been communicated;
 Whether the person is a repeat offender.

45. What sanctions other than disqualification might be an appropriate penalty for the making of false or deceptive statements of fact?

(We would be grateful if you could keep your answer to around 500 words)

Disqualification is the appropriate sanction for the reasons set out above.

46. What defences should be available to an allegation of deception?

(We would be grateful if you could keep your answer to around 500 words)

Deception may be necessary for the purposes of the prevention of crime or national security.

Please see above for the other "defences".

47. Please outline any views you have on the interaction between proceedings for making false or deceptive statements (whether it is civil or criminal) with the rules set out in the Senedd Members' Code of Conduct which already require Members to always act truthfully.

(We would be grateful if you could keep your answer to around 500 words)

The ICDR Model will be a significantly more effective regime than the existing Code of Conduct regime. It will provide a resolution significantly quicker than the Standards Commissioner has proven able to provide a resolution. It should, therefore, take priority.

Any investigation by the Commissioner's would need to be conducted in such a way as to ensure that it does not prejudice an ongoing court proceeding. This is the case with all Standards investigations which touch upon criminal or civil issues.

The ICDR Model, however, covers areas that the Commissioner cannot (such as false statements by candidates or MS acting in their ministerial capacity).

In the (likely rare) event that an accusation went to a contested trial, the result of the trial would, in many cases, be determinative of the matter. There does not appear to be a justification for changing the approach on the approach of s. 64 on the basis of the (likely incredibly small) group of cases in which an individual is acquitted at trial but believed to have breached the (higher) Code of Conduct standard.

The fact that the criminal courts are currently dealing with a backlog is not a good argument. Its logic dictates that the Senedd should refrain from any form of criminal regulation until such a time as the Westminster government is able to bring the backlog down. This does not seem like a particularly effective approach to government.

48. Please outline any views you have on the resource implications for existing bodies or bodies that might be created to investigate and decide complaints of false or deceptive statements of fact.

(We would be grateful if you could keep your answer to around 500 words)

The ICDR Model minimises resource implications because applications for Correction Notices and (in the civil version of the model) Disqualification Notices can be made by individual citizens. Under the criminal version of the model, prosecution for breach of a Correction Notice will be handled by the CPS.

Given that the offence of breaching a Correction Notice is legally very simple (there is no mental element so it is roughly equivalent in complexity to a parking offence), there will not be a significant resource implication for the CPS.

Sanction of removal of a Member

If a complaint against a Member of the Senedd is upheld, the Committee may recommend one or more sanctions as set out in Standing Orders. These include exclusion from Senedd proceedings for a specified period and/or the withdrawal of certain rights and privileges. The Committee cannot currently recommend the removal of a Member.

The Senedd must debate any reports published by the Committee, and decide whether to give effect to any recommended sanctions. At present, such decisions are taken by simple majority.

49. Should the Committee have the power to recommend sanctions of disqualification or recall of a Member of the Senedd?

(We would be grateful if you could keep your answer to around 500 words)

50. Are there any other sanctions that should be available to the Committee?

(We would be grateful if you could keep your answer to around 500 words)

Future Inquiries