

# ANNUAL REPORT

## April 2023 – March 2024

UPHOLDING  
REPUTATIONS



SAFEGUARDING  
STANDARDS



ADDRESSING  
CONCERNS



The Senedd Commissioner for Standards is an independent person appointed by the Welsh Parliament, to safeguard standards, to uphold reputations, and to address your concerns.



**Douglas Bain CBE TD**  
Senedd Commissioner for Standards

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# ANNUAL REPORT

## April 2023- March 2024





 **Senedd Cymru**  
**Welsh Parliament**



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# 1. Introduction

**1.** This is my fourth annual report as Senedd Commissioner for Standards. The report outlines how I performed the functions of that office during the year ended 31 March 2024.

**2.** After setting out the relevant statutory provisions it gives information on the number and subject matter of complaints received and how they were processed. Information is also given on other work undertaken in 2023-24, the expenditure of the Commissioner's office and what is planned for 2024-25.

## 2. Functions and duties of the Commissioner

3. There were no changes to the functions and duties of the Commissioner during the reporting year. The office of Senedd Commissioner for Standards was created by section 1(1) of the National Assembly for Wales Commissioner for Standards Measure 2009 ('the Measure').<sup>1</sup> Section 5 of the Measure provides for the independence of the Commissioner from the direction or control of the Senedd.

4. The functions of the Commissioner are set out in sections 6 and 7 of the Measure and may be summarised as being –

- To receive any complaint that a Member has failed to comply with a requirement of the Code of Conduct<sup>2</sup> (the Code') or other relevant provision and to investigate and report to the Standards of Conduct Committee ("the Committee") on those that are admissible;<sup>3</sup>
- To advise Members and members of the public on the process for making and investigating complaints;
- To give advice to the Senedd on any matter of general principle relating to the standards of conduct of Members, the procedure for investigating complaints or any other matter relating to promoting, encouraging and safeguarding high standards of conduct in the public office of Member of the Senedd.

5. Section 19 of the Measure requires the Commissioner, as soon as possible after the end of each financial year, to submit a report to the Senedd on how the functions of the Commissioner have been exercised during that year.

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<sup>1</sup> <http://www.legislation.gov.uk/mwa/2009/4/contents;>

<http://www.legislation.gov.uk/mwa/2009/4/contents/enacted/welsh>

The title of the post was changed from National Assembly for Wales Commissioner for Standards by the coming into effect of section 7 of the Senedd and Elections (Wales) Act on 6 May 2020.

<sup>2</sup> <https://www.assembly.wales/en/memhome/code-conduct-mem/Pages/default.aspx>

<sup>3</sup> As defined in section 6(3) of the Measure.

## 3. Complaints

### Introduction

6. By far the greater part of my time during the year was spent dealing with complaints against Members of the Senedd. Further information about them is set out in the following paragraphs.

### Complaints carried forward from 2022-23

7. At the start of the reporting year there were no complaints that were awaiting a decision on admissibility. The investigations of three admissible complaints were ongoing at the start of the year. My report of one of these was submitted to the Committee in April 2023.<sup>4</sup> The report of my investigation into the complaint against Rhys ab Owen MS was submitted in May 2023. My investigation of the third ongoing complaint was brought to an end in June 2023 in accordance with paragraph 5.1(b) of the **Procedure for Dealing with Complaints against Members of the Senedd (“the Procedure”)**.<sup>5</sup>

### New complaints

8. During the year 190 new complaints, were received. All these complaints were dealt with in accordance with the Procedure.

9. The sources, subject matter and reasons for inadmissibility of these complaints is shown in the following Tables.

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<sup>4</sup> **Seventh Report to the Sixth Senedd under Standing Order 22.9**

<sup>5</sup> Paragraph 5.1(b) allows the Commissioner to bring consideration of an admissible complaint to an end where it repeats substantially an allegation that has already been considered by the Commissioner and no significant additional evidence has been provided

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*Table 1: Complaints received, source and admissibility*

	2019 -20	2020-21	2021-22	2022-23	2023-24
<b>Received</b>	106	216	44	71	190
<b>% by Public</b>	76.4	94	91	58	89
<b>% by Member against Member</b>	13.2	4.5%	0	0	0.5
<b>% by Member against self</b>	0	0.5%	0	7	1.5
<b>% by Clerk of the Senedd</b>	10.4	1	9	35	9
<b>% not admissible</b>	85.9	41	80	49	84
<b>% admissibility not decided by year end</b>	6.6	9	5	0	1

*Table 2: Complaints by subject matter*

	2019-20	2020-21	2021-22	2022-23	2023-24
<b>Conduct on social media</b>	58	60	6	8	53
<b>Misuse of resources</b>	15	25	4	5	3
<b>Standard of service</b>	13	7	16	5	17
<b>Failure to register/declare/update an interest</b>	9	95	7	27	24
<b>Outside remit (conduct in plenary or Ministerial conduct)</b>	7	12	3	20	29
<b>Other conduct<sup>6</sup></b>	4	17	8	6	64
<b>TOTAL</b>	<b>106</b>	<b>216</b>	<b>44</b>	<b>71</b>	<b>190</b>

<sup>6</sup> These included 26 complaints by a member of the public about the conduct of two Members in relation to a complaint. Others subjects complained about included Welsh Government policies, comments by Members on broadcast media and the reimbursement to Members of subscriptions to institutions.

**Table 3: Reasons for inadmissibility<sup>7</sup>**

Reason number	Descriptor	2019-20	2020-21	2021-22	2022-23	2023-24
1	Not in writing (Procedure paragraph 4.2(a))	0	0	0	0	0
2	Complainant not named (Procedure paragraph 4.2(b))	3	0	0	0	0
3	Not about conduct of a named Member (Procedure paragraph 4.2(c))	5	2	2	0	9
4	Act or omission complained of not stated (Procedure paragraph 4.2(d))	82	86	33	1	9
5	Insufficient supporting evidence (Procedure paragraph 4.2 (e)(i)) <sup>8</sup>	-	-	-	3	40
6	Conduct, if proved, not a breach of relevant provision (Procedure paragraph 4.2(e)(ii))					
	a. Conduct in plenary or Committee (Code paragraph 3) <sup>9</sup>	-	-	-	13	17
	b. Ministerial Conduct (Code paragraph 7(ii)) <sup>10</sup>	-	-	-	7	12
	c. Standard of service (Code paragraph 7(iii)) <sup>11</sup>	-	-	-	4	17
	d. Other	-	-	-	7	54
7	Not within period allowed (Procedure paragraph 4.2(g))	2	1	0	0	1

**10.** Of the 29 admissible complaints, 18 were referrals by the Clerk to the Senedd. All related to minor failures by Members to notify a change to their registered interests within the time

<sup>7</sup> More detailed statistics on the reasons for non-admissibility were introduced for 2022-23. For previous years most complaints were classified as inadmissible under the descriptor "Insufficient substance to justify further investigation. The figures are shown against Reason 4.

<sup>8</sup> Where Complainants initially fails to provide sufficient evidence or information to support a potentially admissible complaint, they are allowed at least 14 days to provide it.

<sup>9</sup> Paragraph 3 of the Code provides that the conduct of Members during plenary sessions the Senedd and in committees is normally dealt with by the Llywydd and the chairs of Committees through the application of Senedd Standing Orders. The Commissioner may investigate a complaint of such conduct only if it is referred for investigation by the Llywydd or the committee chair.

<sup>10</sup> Section 8 of the Measure and paragraph 7(ii) of the Code make clear that the Commissioner has no role in relation to complaints of alleged misconduct by Members when acting exclusively in their Ministerial capacity. The complainants who alleged ministerial misconduct were directed to the office of the First Minister.

<sup>11</sup> Paragraph 7(iii) of the Code provides that it does not apply in relation to the standard of service and outcomes received from a Member.

allowed under Standing Orders. In all instances, as the Members accepted their error and had rectified it, I recommended to the Committee that I should not continue my investigation. All such recommendations were accepted.

**11.** I brought my investigation of three of the admissible complaints to an end, in accordance with paragraph 5.1(b) of the Procedure, because I had already submitted my report about identical conduct to the Committee and no useful purpose would have been served by continuing my investigation. I ended my investigation of another complaint, in accordance with paragraph 5.1(c) of the Procedure, when the Complainant informed me that she did not wish to continue with her complaint.

**12.** I commenced a full formal investigation of the seven other admissible complaints. My reports on four of these investigations were submitted to the Committee during the year. In all of these reports I gave my opinion that there had been no breach of any relevant provision. The Committee agreed with all of these opinions.<sup>12 13 14 15</sup>

## **Complaints carried forward to 2024-25**

**13.** At the year-end I had not decided on the admissibility of two recently received complaints.<sup>16</sup> My investigation of three admissible complaints received during the year was ongoing.<sup>17</sup>

## **Consideration**

**14.** At 190, the number of complaints received is the highest since 2020-21 and an increase of more than 167% on last year. That increase can in part be explained by the fact that between them two Members were the subject of 58 complaints and one member of the public made 26 complaints, none of them against either of these Members. Nonetheless, it is clear that even without these individual contributions there was as very significant increase.

**15.** I do not believe that this increase in the number of complaints received indicates any reduction in the generally high standard of conduct of Members of the Senedd. The percentage of complaints that were inadmissible was the highest in the last four years. And

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<sup>12</sup> [\*\*Eighth Report to the Sixth Senedd under Standing Order 22.9\*\*](#)

<sup>13</sup> [\*\*Tenth report the Sixth Senedd under Standing Order 22.9\*\*](#)

<sup>14</sup> [\*\*Eleventh report to the Sixth Senedd under Standing Order 22.9\*\*](#)

<sup>15</sup> [\*\*Twelfth report to the Sixth Senedd under Standing Order 22.9\*\*](#)

<sup>16</sup> On 13 May 2024 I decided that both were admissible and started my investigation of them

<sup>17</sup> My report on one of them was submitted to the Committee on 20 May 2024.

leaving aside those about late notification of changes to registered interests, only seven out of the 190 complaints required a full investigation with none of them being found by the year-end to have amounted to a breach. On one view, the increase in the number of complaints is to be welcomed as demonstrating a greater public interest in and closer scrutiny of the work and conduct of Members of the Senedd. That public scrutiny plays an important part in our democratic process.

**16.** As previously, the awareness sessions I provided to all party Groups resulted in a number of Members updating their entries in the Register outside the period of four weeks that is allowed under Standing Orders. All 17 such instances were, as required by law, referred to me for investigation. In all instances the Committee agreed my recommendation that, as the errors were of a minor nature and had been rectified, I should not continue my investigation of them.

**17.** Comments made by Members on social media were, despite the awareness sessions and warnings given by the Committee, by far the most common subject for complaints. Although almost all of these turned out to be inadmissible they still took. Even inadmissible complaints take up my time and that of the Members. I would again urge Members to take great care when posting, sharing or liking anything on social media and to try to avoid doing anything that might result in a complaint against them.

**18.** During the year there was only one complaint by a Member against another Member. That complaint was admissible and was under investigation at the year-end.<sup>18</sup>

**19.** A high proportion of my time was taken up with work in two areas: the complaint against Rhys ab Owen MS and complaints about the change to the default speed limit on restricted roads.

### **Complaint against Rhys ab Owen MS**

**20.** Although this complaint was received in August 2022 my investigation of it was ongoing at the start of the reporting year.

**21.** The complaint was that late on 30 June 2021 Mr ab Owen had been very drunk in Wetherspoons Mount Stewart in Cardiff Bay, that in a street nearby he had twice called the female complainant 'a bitch', that he had put his arm round her and pulled her body close to his and that in the rear of a taxi he had placed his hand on her thigh close to her groin and

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<sup>18</sup> The report of my investigation was submitted to the Committee on 20 May 2024



squeezed it hard. Mr ab Owen accepted that he had been very drunk but denied the other allegations.

**22.** The investigation entailed a significant number of witness interviews, many of them on oath, and the obtaining and consideration of relevant documents. Much time was taken considering and responding to numerous points raised by Mr ab Owen, who was represented by senior counsel throughout, about the fairness of the process being followed and whether his Human Rights had been contravened. As a result, it was not possible to submit my report to the Committee until May 2023.

**23.** Before the Committee, Mr ab Owen renewed his representations about the fairness of the process and its alleged non-compliance with ECHR standards. He also raised a number of factual matters some of which required further investigation. The Committee's Ninth Report was not published until March 2024.<sup>19</sup>

**24.** In that Report the Committee agreed my opinion that Mr ab Owen had breached Rule 3 of the Code of Conduct (duty not to bring the Senedd into disrepute), Rule 4 (duty not to subject anyone to unwanted behaviour, bullying or harassment) and Rule 6 (duty not to subject anyone to an excessive or abusive personal attack of any kind). The Senedd accepted the Committee's recommendation that Mr ab Owen should be suspended for a period of 42 sitting days.

**25.** The Committee also made a number of recommendations about the conduct of investigations all of which have been implemented.

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<sup>19</sup> [Ninth Report to the Sixth Senedd under Standing Order 22.9](#)

## **Complaints about the 20mph default speed limit**

**26.** The 20mph default speed limit on restricted roads came into effect on 17 September 2023. Thirty complaints were received about comments, almost all of them on social media, relating to it. Fifteen of these of the complaints were about comments made by those opposed to the new limit: the other half were about comments made by those who supported it. Of these 30 complaints 26 were inadmissible, two were admissible and the admissibility of the remaining two had not been decided at the year end. Following my investigation of one of the two almost identical admissible complaints, the Committee agreed my opinion that no breach of any relevant provision had occurred.<sup>20</sup> My investigation of the other admissible complaint was then discontinued in accordance with paragraph 5.1(b) of the Procedure.

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<sup>20</sup> [Eighth Report to the Sixth Senedd under Standing Order 22.9](#)

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## 4. Other work

- 27.** I again provided awareness sessions for Members from all parties. For the first time I provided a similar session for Members' support staff and party staff. All these sessions were well attended and the feedback received was positive.
- 28.** I identified and reported further areas in which the Measure and the Procedure could be improved. The Measure has now been in place, without any amendment for 15 years. During that period a number of deficiencies have been identified. Amongst the most important of these is the absence of a provision empowering the Commissioner to initiate an investigation without the need for a complaint. A power for the Commissioner to initiate an investigation is common in other jurisdictions. The absence of it in Wales renders Rule 18 (duty to comply with the Procedure); Rule 20 (duty not to lobby the Standards Commissioner) and Rule 23 (duty not to make frivolous, vexatious or manifestly unfounded complaints) of the Code of very limited value as it is hard to see how anyone other than the Commissioner could make a complaint about them. Whilst I appreciate the pressures on Senedd time I do not consider that reform of the Measure should remain on the 'back burner.'
- 29.** I met with the Leader of the Welsh Conservatives and the Acting Leader of Plaid Cymru to discuss the adequacy their party's procedures for dealing with complaints made by staff about the conduct of Members. Although the Leader of Welsh Labour did not take up my offer of such a meeting, he provided me with comprehensive information about the action taken and planned to ensure that the internal complaints process was fit for purpose.
- 30.** I renewed my contacts with the Northern Ireland Assembly Commissioner for Standards and met with Daniel Greenberg following his appointment as the Parliamentary Standards Commissioner. I again attended the Standards Network where I was able to discuss matters of mutual interest with Commissioners and their staff from across the British Isles.
- 31.** I participated in the Abuse in Politics event organised by the Welsh Government.
- 32.** My staff and I again responded to numerous requests for advice about the complaints process and other matters some of which had nothing to do with my functions as Commissioner. In all instances they were dealt with sympathetically and, where appropriate, the person was directed to the appropriate organisation.

## 5. Expenditure

**33.** Under section 3 and paragraph 5 of the Schedule to the Measure, the Senedd Commission must pay to the Commissioner the salary and allowances agreed in the terms and conditions of appointment. The Commission must also pay all reasonable expenses lawfully incurred by the Commissioner in employing staff, securing the provision of goods or services, and paying allowances or expenses to witnesses.

**34.** The expenditure by the Commissioner's office for the year ended 31 March 2024 is shown in Table 4.



Table 4 – Expenditure of Commissioner’s office

	2019 - 20	2020-21	2021-22	2022-23	2023-24
	£	£	£	£	£
<b>Commissioner employment costs (Note 1)</b>	17,446	0	30,538	34,692	48,847
<b>Commissioner T &amp; S</b>	376	0	1,014	4,264	5,199
<b>Commissioner other costs</b>		0	0	0	0
<b>Acting Commissioner employment costs (Note 1)</b>	10,188	42,517	0	0	0
<b>Acting Commissioner T &amp; S</b>	2,655	105	0	0	0
<b>Acting Commissioner other costs</b>		0	0	0	0
<b>Total Commissioner and Acting Commissioner expenditure</b>	30,665	42,622	31,552	38,955	54,045
<b>Employment costs (Note 2)</b>	123,630	92,834	70,874	71,115	74,448
<b>Staff T &amp; S</b>	511	0	0	0	0
<b>Staff other costs</b>	0	0	0	0	0
<b>Total Staff costs</b>	124,141	92,834	70,874	71,115	74,448
<b>Other liabilities incurred<sup>21</sup></b>	1,528	25,259	4,957	9,524	5,498
<b>TOTAL COMMISSIONER OFFICE EXPENDITURE</b>	156,334	<b>160,715</b>	<b>107,383</b>	<b>119,595</b>	<b>133,992</b>

Note 1 - Commissioner remuneration + employer NIC

Note 2 - Staff salary + employer NIC + employer pension contribution

**35.** The increase in the cost of running the Commissioner’s office was due to the substantial increase in the number of complaints received, the increased number of full investigations undertaken and the further work in relation to my investigation of the complaint against Rhys ab Owen MS. Despite that increase, the total cost remains more than 16% less than the expenditure in 2020-21.

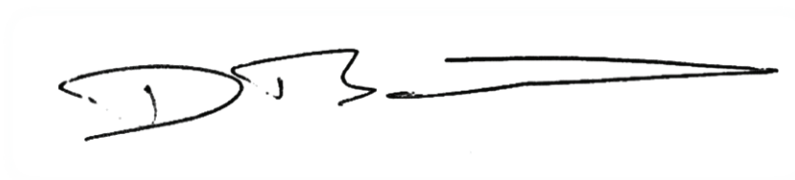
<sup>21</sup> This included payments for legal services, transcription, media handling and witness expenses.

## 6. The year ahead

- 36.** In addition to dealing with complaints, I shall during 2024-25 continue to work closely with the Committee and its staff to make the complaints process more effective and efficient by identifying anything in the Measure, the Code and the Procedure that could be improved.
- 37.** I shall deliver further awareness sessions for Members and their staff.
- 38.** The work to update and relaunch Commissioner's website will be completed.
- 39.** I shall continue my consideration of lessons to be learned from the investigation of the complaint against Rhys ab Owen MS.
- 40.** I shall continue to liaise with those undertaking similar work in other jurisdictions with a view to identifying and introducing best practice.

## 7. Acknowledgements

**41.** Once again, I have been most ably supported by Jonathan Thomas, my Investigations and Complaints Manager. I was also much assisted in my work by the professional and helpful approach of Merial Singleton, the Clerk to the Standards of Conduct Committee. I am most grateful to them and to the many other Senedd Commission staff who helped me to discharge my duties.

A handwritten signature in black ink, appearing to read 'Douglas Bain', written on a light-colored background.

**Douglas Bain CBE TD**

Senedd Commissioner for Standards

15 July 2024

