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FDA Cymru|Wales Response to Standards of Conduct Committee's Inquiry into Dignity and Respect

Introduction and background

FDA Cymru|Wales represents civil servants and senior professionals from HEO to SCS working for the devolved administration, the Senedd Commission, and Welsh Government sponsored bodies.

FDA Cymru|Wales welcomes the opportunity to contribute to this consultation.

The FDA led the long-running campaign for a fully independent complaints process in the House of Commons.

In Dame Laura Cox's inquiry into bullying and harassment of House of Commons staff, she found that bullying and harassment had been allowed to thrive because of the culture in Parliament that both tolerated and concealed bullying and harassment. She recommended a fully independent policy for complaints in which MPs would play no part in the process up to and including decisions on sanctions. She also recommended that, because there had been an inadequate process in Parliament, staff should be able to bring past cases forward to be investigated in the new system. These recommendations were exactly what the FDA had been calling for.

In June 2020 the House of Commons approved the final stage of the independent process by voting through a motion to establish the new Independent Expert Panel (IEP) to make decisions on sanctions on upheld complaints of bullying, harassment and sexual harassment against MPs. The final stage of the process was designed by the FDA's House of Commons branch, and I offer any and all support from the FDA in the implementation of an independent process for the Senedd.

FDA Cymru|Wales notes, with interest, that as part of the recent internal review of the Dignity and Respect policy several respondents 'suggested that the system for reporting concerns about dignity and respect should be administered and run by an independent body'. We also note that the review refers to Plaid Cymru's 'Prosiect Pawb' report published in May 2023 and that report's recommendation of the appointment of an independent external investigator to investigate all complaints of sexual harassment. Both of those mirror FDA's consistent call for the Senedd to introduce an independent complaints process.

Appendix B of the Dignity and Respect policy review helpfully sets out the approach taken to complaints about Members in other institutions - including the establishment of the Independent Complaints and Grievance Scheme (ICGS) and IEP at Westminster.

In responding to this consultation, a key expectation from FDA Cymru|Wales is that the Senedd must now implement a fully independent process for dealing with complaints of bullying, harassment and sexual harassment, similar to that in place in Westminster.

It should also be noted that in December 2023 the House of Commons Commission released proposals for a risk based exclusion policy for Members who are subject to serious allegations relating to a violent or sexual offence - an example the Senedd would do well to follow.

The objective of the Senedd should be to have a robust policy to deal with complaints against elected officials that is broadly comparable to an employer's disciplinary policy. Members of staff should feel confident to put in their complaint and that it will be investigated independently and fairly, and a sanction determined free from political interference. The public also expects fair and equal treatment for all elected officials and complainants regardless of political party, status or seniority.

It is the FDA's experience, from all corners of the UK, that only an independent process that is completely free from political interference can work. If there is any opportunity for self-regulation, politics will take precedence over fairness and the victims of bullying, harassment and sexual harassment will be failed. It is a fundamental right that everyone deserves to be treated with dignity and respect in the workplace.

Our responses to the questions posed by the consultation and the issues and recommendations arising from the recent internal review of the policy are set out below.

Consultation Questions:

Question: Do you feel there are any barriers to raising concerns about the inappropriate behaviour of a Member of the Senedd or somebody who works on the Senedd estate?

1. It remains the view of FDA Cymru|Wales that the process to find a complaint admissible remains unclear and may deter members of staff from putting in a complaint due to the 'pre-investigation' stage.
2. In addition, FDA Cymru|Wales considers the Commissioner's discretion to dismiss a complaint before reaching a final decision, and the requirement that the complainant should state how the conduct complained of is thought to breach the Code, could make the process less accessible.
3. In its July 2022 [Review of the Procedure for Dealing with Complaints against Members of the Senedd](#) the Welsh Parliament's Standards of Conduct Committee reduced the time limit to submit a complaint about the behaviour of a Senedd member from twelve months to six months, with Committee Chair Vikki Howells MS stating:
"In order to ensure that recollection of events is still fresh and evidence readily available, the Committee has set the timescale for admissibility of complaints at six months. However, I would like to provide reassurance that the

Commissioner will consider complaints relating to incidents outside of this timescale where there is good cause for delay.”

The FDA’s evidence to that review said that “when the procedure is introduced, there must be a window of opportunity for staff to bring forward historic complaints to be investigated”.

The FDA also commented that “whether complaints made after the six month timescale are investigated should not be at the discretion of the Commissioner - there should be a clearly defined process under which exceptional cases can be considered”.

FDA Cymru|Wales believes the imposition of a six month time limit and the inability to make complaints against former MSs were a mistake and could incentivise MSs to “run down the clock”. There may be circumstances in which staff do not feel comfortable raising a complaint until an MS has left the Senedd, and this is more likely to be the case with very serious allegations such as sexual harassment.

Under the procedure in place at the House of Commons there is a one year time limit for raising complaints of bullying but there is no time limit for complaints of sexual misconduct. As a result, a number of historic sexual misconduct complaints were made, which otherwise would not have been investigated. The Senedd should follow that example.

4. FDA Cymru|Wales believes the decision to remove an appeals process was a mistake. Based on our experience in other administrations, the lack of a fully independent appeals process - one that is independent of MSs at all stages - will lead to accusations of unfair treatment and will not gain the trust and confidence of Senedd staff, the Senedd authorities or MSs.

Question: Do you have any suggestions regarding how the complaints procedure could be improved?

- **Is the guidance clear?**
- **Is the language used simple to understand?**
- **Does the document help you understand who you should contact about different types of complaints?**
- **If you were a victim of inappropriate behaviour, would you feel confident in using the procedure as it currently stands?**

FDA Cymru|Wales believes the current arrangements:

- a) are too complex, with the possibility of leading to delays in dealing with complaints; and
- b) lack full independence - the arrangements involve MSs, including the whole Senedd, taking final decisions on breaches of the code. As is the case in the House of Commons there should be no involvement of elected politicians at any stage of the process.

FDA Cymru|Wales again calls on the Senedd to follow the House of Commons in implementing a truly independent process by introducing an Independent Expert Panel, similar to that now in place in the House of Commons.

The panel’s functions should be:

- a) to determine outcome and appropriate sanction in cases referred to it by the Independent Commissioner,
- b) to hear appeals against outcome decisions; and

c) to hear appeals against a sanction.

If not already in place, the Senedd should introduce:

- a helpline for complainants,
- comprehensive training for those investigating complaints along with a diverse pool of trained investigators; and
- provision for effective data gathering to record multiple complaints against identified MSs.

Finally, the Senedd should also follow the example of the House of Commons and introduce proposals for a risk based exclusion policy for Members who are subject to serious allegations relating to a violent or sexual offence.