

Y Pwyllgor Safonau Ymddygiad

SOC(3)-02-08 (p4): Dydd Mawrth 3 Mehefin 2008

Teitl: Mesur Arfaethedig - Comisiynydd Safonau - y cyfnod ymgynghori

Y cefndir

1. Mae'r papur hwn yn nodi rôl y Pwyllgor wrth ddatblygu ei Fesur arfaethedig; mae'n awgrymu ymagwedd ac amserlen ar gyfer ei waith; ac mae'n nodi rhai cwestiynau posibl ar gyfer yr ymgynghori.
2. Ar ôl cael ei gyflwyno, bydd Mesur arfaethedig y Pwyllgor yn dod o dan yr un weithdrefn ag unrhyw Fesur arfaethedig, ac eithrio nad yw'r egwyddorion cyffredinol yn cael eu hystyried mewn pwyllgor deddfau. Y rheswm am hyn yw y disgwylir y bydd y Pwyllgor Safonau Ymddygiad wedi gwneud y gwaith hwnnw fel rhan o baratoi ei gynneg. Rôl y pwyllgor ar hyn o bryd, felly, yw dechrau ystyried egwyddorion cyffredinol y Mesur.
3. Cyn i fanylion Mesur y Pwyllgor gael eu drafftio, awgrymir bod y Pwyllgor yn ymgynghori ar rai cwestiynau sylfaenol am rôl ac annibyniaeth y Comisiynydd Safonau. Byddai'r ymatebion i'r ymarfer ymgynghori hwn yn galluogi'r Pwyllgor i gytuno ar gyfarwyddiadau drafftio i gyfreithwyr Gwasanaeth Seneddol y Cynulliad fel bod y Mesur, o'i gyflwyno, yn adlewyrchu'r canlyniad polisi a ddymunir.
4. Does dim gofynion penodol yn y Rheolau Sefydlog sy'n llywodraethu sut y dylai'r Pwyllgor wneud hyn, ond y rhagdybiaeth yw y gallai'r pwyllgor ddymuno ymgynghori â phartion a rhanddeiliaid sydd â buddiannau yn hyn o beth neu wahodd sylwadau oddi wrthyn nhw, ac y caiff gymryd tystiolaeth mewn ysgrifen ac ar lafar i fwydo gwaith drafftio'r Mesur arfaethedig.
5. Mae awgrym ar gyfer sut i fynd ati wedi'i nodi yn yr Atodiad, ynghyd ag awgrym ar hyd a lled posibl gweithgareddau'r Pwyllgor.

Camau i'w cymryd

6. Gwahoddir y Pwyllgor:

i ystyried ymagwedd y Pwyllgor a chytuno arni (fel y mae wedi'i hamlinellu yn yr Atodiad) a chytuno y gall trefniadau priodol gael eu gwneud y tu allan i'r Pwyllgor;

i ystyried a chytuno ar hyd a lled gwaith y Pwyllgor tuag at y Mesur arfaethedig a'r cwestiynau posibl ar gyfer ymgynghori (fel y maen nhw wedi'u hamlinellu yn yr Atodiad); ac

i ystyried a chytuno ar y rhestr o rhanddeiliaid/ymgyngoreion (sydd wedi'i hamlinellu yn yr Atodiad).

Gwasanaeth y Pwyllgorau

Annex 1

1. At its meeting on 29 January the committee decided that it would like to pursue the possibility of a proposed Measure to make the Commissioner for Standards into a role established in statute.

Role of the committee

2. It is the role of the committee, before the Measure is introduced, to consider the general principles of the proposal. In considering the general principles it would be usual to undertake a consultation exercise on some of the fundamental questions about the role and independence of the Commissioner for Standards.

Committee's approach to consultation

3. In terms of consulting on the principles underpinning the Measure, a suggested approach is outlined below.
4. This would be to set an initial deadline before the summer recess for written submissions from key organisations or individuals and a later date for the completion of the public consultation as a whole.
5. This would allow work to be undertaken over the summer recess, whilst providing sufficient opportunities for engagement, so that the committee could press on with its work in earnest in the autumn term.
6. The general call for evidence could then remain open over the summer period to allow maximum opportunity for the public to respond to key questions about the nature of the role of a Standards Commissioner. The Commission would ensure appropriate resource is available to publicise the consultation.
7. If the Committee chooses to carry out a consultation of this nature, steps will be taken to make sure that the process is not overly burdensome on organisations and individuals e.g. by providing specific questions for response, tailored to the audience.

8. A list of suggested consultees has been drawn up and is attached at Annex 2.

Further Stages

9. When 'policy' consultation has taken place on general principles the committee can complete its initial drafting of the proposed Measure and an Explanatory Memorandum. These would take account of the committee's consultation, a summary of the outcome and individual responses received to the consultation. At this stage the committee may wish to undertake further consultation on the wording of the Measure itself, for example the committee could make its draft wording available for consideration and ask witnesses invited to the Oral Evidence stage for further comment on its general principles and to give evidence on it, as a stage 1 committee would.

10. Once the committee agrees a draft for its proposed Measure this will be introduced, along with the Explanatory Memorandum and accompanied by a 'statement of legislative competence' by the Presiding Officer setting out whether in his opinion the Assembly has the power to make the proposed Measure; and fall into the standard legislative process, with a member of the committee leading on taking it through its further stages.

11. As a committee proposed Measure Stage 1 consists of consideration of the general principles of the proposed Measure by the Assembly. If the Assembly agrees the general principles, the Measure progresses to Stage 2 and a Legislative Committee would need undertake line by line scrutiny and consider amendments. This stage would be expected to last up to 9 weeks.

12. Standing Orders provide for both the Finance Committee and the Subordinate Legislation Committee to report on the relevant aspects of proposed Measures. It would be helpful to advise the relevant Chairs of these Committees of the timetable for developing the Measure.

Meetings of the Committee

13. It is likely that the committee will need to meet more frequently than usual at key times; to take evidence (written and/or oral); consider key issues and agree the proposed Measure. The number of meetings needed by the committee will be dependent on the approach that the committee decides to take to consultation and collecting evidence.

14. Timetable slots will need to be requested from the Business Committee. It is suggested that a meeting be requested for the latter part of this term and that a fortnightly slot should be requested following on from the summer recess (though it is unlikely that all these will be required) and that this is built into the general committee timetable put to the Business Committee for agreement.

15. A draft work programme to reflect the Committee's preferred approach will be drawn up and circulated for agreement.

Scope of Committee's Scrutiny

16. In establishing the general principles of the Measure for Stage 1 it is proposed that the Committee works within the framework of the following questions:

- i. Is there a need for an Assembly Measure to establish a statutory role of Commissioner for Standards?
- ii. What should be the role of the Commissioner for Standards?
- iii. What fundamental principles should underpin the establishment of the Office?

17. In consulting on the proposed Measure, above issues will form the basis of its consultation. The Committee might wish to ask some more detailed questions, Annex 3 indicates the type of questions that could be used.

Annex 2

Possible consultees:

Standards Commissioner

Public Services Ombudsman (as being responsible for investigating complaints about LG standards)

Assembly Commissioners

First Minister (particularly relating to the Ministerial Code) and other Party Leaders in the Assembly

WLGA (along with PSOW to comment on Local Government standards regime and the relationship in terms of Standards in Public Life)

UK Parliaments (i.e. Parliaments and Scottish Standards Commissioner & Parliamentary Commissioner for Standards, Republic of Ireland independent commissioner)

Study of Parliament Group

Auditor General

Professor Diana Woodhouse

The Law Society Office for Wales

Cymru Yfory - Tomorrow's Wales

The public (open call for views)

Annex 3

Standards of Conduct

Members of the National Assembly for Wales are expected to adhere to high standards in their public life. There is a Code of Conduct for AMs that gives guidance on the way they should carry out their public duties and on the standards of conduct expected during the course of their parliamentary duties.

Code of Conduct is backed up by the Standards Commissioner and the Committee on Standards. AMs are required to register a wide range of financial interests they may have which are relevant to their parliamentary work.

The Standards Commissioner is currently a non-statutory role

Possible more detailed consultation questions:

The Measure relates to establishing a statutory Commissioner for Standards. Would it be better for the Assembly to tackle the issue in an alternative way?

The Auditor-General for Wales and the Public Service Ombudsman for Wales are "watchdog" bodies which are independent of the National Assembly for Wales and established in law. Should the status of the Standards Commissioner be established in law in the same way?

The Auditor-General for Wales and the Public Service Ombudsman for Wales are currently appointed by the Monarch on the recommendation of the Assembly. How should the Standards Commissioner be appointed?

The Standards Commissioner is currently appointed for a 4 year period. The Auditor-General for Wales is appointed for 5 years and the Public Service Ombudsman for Wales for 7 years. The Scottish Standards Commissioner is appointed for 6 years and the Parliamentary Standards Commissioner of 5 years. How long should the Standards Commissioner be appointed for?

The current Standards Commissioner is paid an annual retainer and receives fees on a basis of days worked. The posts of Auditor-General for Wales and the Public Services Ombudsman for Wales are funded from the Welsh Consolidated Fund. How should the post of Standards Commissioner be funded?

The Standards Commissioner is currently supported by Assembly Parliamentary Service staff who are not appointed exclusively to support his work. Should the Standards Commissioner have dedicated staff and should he or she be able to appoint his/her own staff, or be supported by another organisation such as the office of the Public Services Ombudsman?

Should the Standards Commissioner have a role in promoting a framework for high standards in public life?

Should the Standards Commissioner be able to give general advice on standards of conduct?

Should the Standards Commissioner advise Assembly Members on their conduct as well as investigating complaints?

Should the Standards Commissioner have independent discretion to decide whether or not a complaint merits investigation or to initiate an investigation?

Should the Commissioner have the powers to be able to summon persons, and require papers and records to be provided?

Should the Standards Commissioner have the ability to make findings and conclusions public?

Should the Standards Commissioner report directly to the Assembly, or to the Standards of Conduct Committee?

Should the Standards Commissioner have the same role relating to Ministers as for other Assembly Members?

What will be the practicalities of making the system work and how should the proposed Measure make provision for these?