

REPORT OF THE BUSINESS COMMITTEE
PROPOSAL TO CHANGE STANDING ORDERS

PURPOSE

1. Standing Order 23 deals with complaints procedures. Such a Standing Order is necessary to meet the requirements of section 70(5) of the *Government of Wales Act 1998* ("the 1998 Act"). It needs to be amended to:
 - a) correct an anomaly relating to the publication of complaints procedures;
 - b) take account of the introduction of the *Public Services Ombudsman (Wales) Act 2005* ("the 2005 Act").

ISSUES

2. Section 70(5) requires that the Standing Orders must include provision for establishing procedures for the investigation of complaints about actions or failures on the part of the Assembly and for publishing details of those procedures.
3. As part of the process of separation between the Assembly and the Welsh Assembly Government, separate (but similar) complaints codes have been drafted to deal with public complaints in respect of (a) Welsh Assembly Government staff and (b) Assembly Parliamentary Service staff so far as maladministration, poor service, failures to comply with information disclosure requirements and such like issues are concerned.
4. In preparing these Codes, the anomaly of the provision in Standing Order 23.2 that the Presiding Officer must arrange for the publication of the Codes has become apparent. While the Presiding Officer might properly have had such a role when the Corporate Body was a reality, it no longer seems appropriate for him to have the role of publishing complaints procedures about the Welsh Assembly Government.
5. The Business Committee therefore proposes that the duty to publish should rest upon the Permanent Secretary. The Presiding Officer is content with this proposal. The Permanent Secretary retains responsibility for APS until legal separation in 2007, and it is therefore appropriate for him to have this duty in respect of both parts of the Assembly's Civil Service.
6. The introduction of the 2005 Act requires the following changes to be made to Standing Order 23:
 - a) transitional provision needs to be made for the consideration of reports by the Public Services Ombudsman that concern events that occurred solely before 1 April 2006 and were the subject of an appropriate complaint. Section 38 of the 2005 Act provides that such matters must

be determined in accordance with pre-existing legislation (for the purposes of this Standing Order, the 1998 Act and the *Health Services Commissioners Act 1993*).

- b) to meet the statutory obligation under section 24(3) of the 2005 Act, specific provision needs to be made in Standing Orders in respect of special reports relating to the Assembly.

7. The changes are essentially technical in nature, and have been introduced to ensure compliance with the 2005 Act.

Proposal

8. The Business Committee agreed on 2 May 2006 the amendments to effect the necessary changes to Standing Order 23 (Annex 1) and the Assembly is invited to formally approve them.

Chamber Secreteriat

May 2006

STANDING ORDER 23 - Complaints Procedures

Internal Procedures for Considering Complaints

23.1 The Permanent Secretary shall ensure that procedures are in place so that:

- (i) complaints about the Assembly's actions or omissions are acknowledged and properly investigated; and
- (ii) complainants are kept informed about the progress of investigations and replied to, with remedies provided as appropriate.

23.2 The ~~Presiding Officer~~ Permanent Secretary shall arrange for the publication of these procedures.

Procedures for Consideration of the Reports of the Welsh Administration Ombudsman and the under the Act and the Health Service Commissioners for Wales Act 1993 ("the 1993 Act").

23.3 Standing Orders 23.4 to 23.11 shall apply in respect of investigations by the Public Services Ombudsman under the Act and the 1993 Act.

23.34 When ~~either the Welsh Administration Ombudsman or the Health Service Commissioner for Wales~~ proposes to investigate a complaint about action taken by the Assembly, and has given the Assembly the opportunity to comment on any allegations contained in the complaint, the Permanent Secretary shall be responsible for communicating its the Assembly's comments to the Ombudsman.

23.45 The Permanent Secretary shall ensure that information or documents which the Ombudsman ~~or the Commissioner~~ requires for their his or her investigations are produced.

23.56 Within 5 working days of receiving a report of the results of an investigation by the Ombudsman ~~or the Commissioner~~, the First Minister shall send a copy to the appropriate Minister.

23.67 Where the report states that the complainant has suffered injustice or hardship as a result of maladministration, the Minister shall, normally within 20 working days of receiving the report, submit it to the relevant Subject Committee together with a proposed response to the report setting out the action taken or proposed to be taken.

23.78 Following the Subject Committee's consideration of the proposed response, but not later than 20 working days after the Committee received it, the Minister shall submit it, with or without amendments, to the First Minister

who shall notify the Ombudsman ~~or the Commissioner~~ as the case may be of the action taken or proposed.

~~23.89~~ If the Ombudsman ~~or the Commissioner~~ prepares a further report about the matter, the First Minister shall as soon as possible lay a copy of the report before the Assembly and also lay before it a response which either:

- (i) records the action which has been taken or proposed to the satisfaction of the Ombudsman ~~or the Commissioner~~ following the receipt of the further report; or
- (ii) records his or her intent to propose that the Assembly approve the recommendations specified in the further report.

~~23.910~~ Any motion under Standing Order ~~23.89~~(ii) of which notice has been given shall be put before the Assembly as soon as reasonably practicable. The First Minister shall notify the Ombudsman ~~or the Commissioner~~ of the Assembly's decision on that motion.

~~23.101~~ Where a report or further report relates to a matter within the responsibility of the House Committee, the provisions in this Standing Order which relate to the involvement of Ministers (other than the First Minister) and of Subject Committees shall, so far as appropriate, not apply, but the chair of the House Committee shall make appropriate arrangements with the First Minister for the report to be considered by that Committee and for its response to be sent to the First Minister.

Procedures for Consideration of Reports under the Public Services Ombudsman (Wales) Act 2005 ("the 2005 Act")

23.12 Standing Orders 23.13 to 23.17 shall apply in respect of investigations by the Public Services Ombudsman under the 2005 Act.

23.13 When the Ombudsman proposes to investigate a complaint about action taken by the Assembly, and has given the Assembly the opportunity to comment on any allegations contained in the complaint, the Permanent Secretary shall be responsible for communicating the Assembly's comments to the Ombudsman.

23.14 The Permanent Secretary shall ensure that information or documents which the Ombudsman requires for his or her investigations are produced.

23.15 If the Ombudsman prepares a special report under section 24 of the 2005 Act, the First Minister shall:

- (i) lay a copy of the special report before the Assembly, and
- (ii) unless action to the satisfaction to the Ombudsman has been taken or proposed, give the Assembly notice of his or her intention to move

that the Assembly resolve to approve the recommendations contained in the special report.

23.16 Any motion under Standing Order 23.15 of which notice has been given shall be moved by the Assembly as soon as reasonably practicable.

23.17 Where a special report relates to a matter within the responsibility of the House Committee, the chair of the House Committee shall make appropriate arrangements with the First Minister for the report to be considered by that Committee and for its response to be sent to the First Minister.