

Guidance for Witnesses

Introduction

This note provides you with information about your role as a witness. I recommend that you read it carefully.

Role of Commissioner

My main role as the Commissioner for Standards is to investigate complaints that MLAs have broken the provisions of the Code of Conduct. In carrying out my investigation I will interview people, like you, whom I believe can provide me with useful information. I will also gather relevant documentary evidence. In doing so I must comply with certain Directions issued by the Committee on Standards and Privileges about the procedure from my investigation.

Arranging the Interview

Although the law gives me power to require you to attend to give evidence the process will normally start when I write to you asking you to contact my Personal Secretary to agree a mutually convenient time and place for an interview.

When a time and place have been agreed I will send you a formal notice requiring you to attend at the agreed time and place and setting out the matters about which I will ask you at the interview. The notice will also set out any documents I require you to produce to be at the interview.

This notice will be sent by recorded or signed for post. That is a legal requirement and nothing to worry about.

Normally interviews will take place between 11.00 am and 3.00 pm at my office at Parliament Buildings at Stormont. However, if this would be very inconvenient for you it may be possible to make other arrangements. Please discuss this with my Personal Secretary when you contact her.

Attendance at Interview

If you are travelling by car you should park either in the Visitors' Car Park to the right of Parliament Buildings as you face it or along the Prince of Wales Avenue (the road from the main entrance up the hill to Parliament Buildings).

There is a regular metro bus service (20A and 23) to and from the Stormont Estate. There is a bus stop approximately 100 metres from Parliament Buildings.

You should allow a minimum of 15 minutes from parking your car or getting off the bus for passing through security, walking to the main entrance of Parliament Buildings and being escorted to my room.

If you have any special access requirements please tell my Personal Secretary.

When you reach the Reception desk inside the main entrance to Parliament Buildings please give your name and tell the staff that you are present for a meeting with the Standards Commissioner. They will contact my Personal Secretary who will meet you and escort you to my room.

The Interview

Normally your evidence will be taken on oath. At the start of the interview I will ask you whether you wish to swear on the Bible or whether you wish to make an affirmation to tell the truth. The choice is entirely for you. The legal effect of the two is identical.

Interviews are normally digitally recorded. In addition, my Personal Secretary will be present to take notes. You may make your own recording of the interview and take notes.

You may be accompanied by one person of your choice provided they are not in any way connected with the investigation I am conducting.

Once you have taken the oath I will ask you and any person with you to state their name. This is to enable the person who transcribes the recording to identify each speaker.

I will then ask you questions about the matters on which I believe you can assist me in my investigation. It is important that you listen carefully to each question. If you do not understand any question or if you do not know the answer to any question you should just say so. You must restrict your answers to what you have seen and heard rather than what others have told you happened. You must tell the truth when answering my questions. It is a criminal offence not to do so.

You are required by law to answer all the questions I ask you even if the answer is embarrassing for you or for another person. You can only decline to answer a question if you could decline to answer it in a court because, for example, the answer would incriminate you in a criminal offence.

Any person you have brought with you to the interview cannot answer questions on your behalf, but you can consult with them, in private if you wish, before you respond to any question.

You should bring with you any document I have required you to produce to me. You must bring the original: a photocopy is not acceptable. You should bring with you any other document you think might be relevant to my investigation. I will give you a receipt for any documents you give me and will, if you wish, provide you with a copy of it.

At the end of the interview I will ask you if you wish to change or add to any of the answers you have given. I will also ask you if you have any complaint about the arrangements for the interview or the interview itself. I will do my best to deal with any concerns you may have. If you are not satisfied with my response you may wish to contact one of your MLAs or the Committee on Standards and Privileges. In certain circumstances it may be open to you to seek a judicial review.

After the Interview

As soon as possible after the interview I will send you a draft of the transcript or, if the interview was not digitally recorded, of the note of the meeting. Where possible this will be sent by email. If you do not receive it within 14 days of the interview, please contact my Personal Secretary who will send you a further copy.

When you receive the draft you should read it carefully. If you think that any part of the draft is not an accurate record of what was said you have the right to propose revisions. You must tell me the precise words that you think should be deleted and exactly what should be substituted for them. Where possible you should do this by way of tracked changes.

I will carefully consider any changes you propose. If I accept them the draft will be corrected and finalised. If I do not accept them your request will be included in the report of my investigation together with my reasons for not accepting them.

Please note that normally you have only 21 days from the date on which the draft is sent to you to propose revisions to it.

Sometimes a draft transcript will contain text in red. This indicates that there were words on the recording which it was not possible to make out. If you can remember what was said you should propose a revision to the draft.

The revision process can be used only to correct errors in the accuracy of the transcription or note. It cannot be used to change what was actually said. If after you have read the draft you realise that something that was said was wrong you must let me know.

My Report

When I have finished my investigation I will submit a report of it to the Committee on Standards and Privileges. The transcript or note of your interview will be included in my report. Once the Committee has considered my report it will be published on the Assembly website.

If there are any parts of your evidence that you do not think should be published you should write to me explaining why. I will forward your request to the Committee for consideration.

Confidentiality

To avoid the risk of prejudicing my investigation you should not discuss either the evidence you give or the questions I ask you with any person who is connected with that investigation.

Criminal Offences

I am sure you will wish to co-operate with my investigation and do your best to tell the truth. If that is so you need not worry about these criminal offences.

However, you should be aware that it is a criminal offence, punishable by imprisonment, if you, without reasonable excuse –

- (a) refuse or fail to attend for interview;
- (b) refuse or fail to answer a question;
- (c) give a false or misleading answer to a question;
- (d) fail to produce to me any document I have required you to produce; or
- (e) intentionally alter, suppress, conceal or destroy any such document.

Expenses

I will consider making payment in respect of your reasonable travel and other expenses necessarily incurred as a result of attending for interview. Normally the amount I pay will be limited to the amount that would be paid by the Public Prosecution Service to a witness attending court. Receipts will be required where appropriate. If you wish to claim expenses please contact my Personal Secretary who will send you a claim form.

Further Information

If you wish further information on your role as a witness please contact me on standardscommissioner@niassembly.gov.uk or my Personal Secretary on (028) 9052 1338. The Code of Conduct and the Direction by the Committee on Standards and Privileges on General Procedures under which I am required to operate can be viewed on the Assembly website www.niassembly.gov.uk. The Assembly Members (Independent Financial Review and

Standards) Act (Northern Ireland) 2011, which makes provision regarding my powers and the offences, can be viewed on <http://www.legislation.gov.uk/nia/2011/17/contents>.