



Northern Ireland
Assembly

Committee on Standards and
Privileges
Legacy Report 2017 - 2022

Report: NIA 215/17-22

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List of abbreviations and acronyms used in the report

AIMS:	Assembly Information Management System
APG:	All-Party Group
MLA:	Member of the Legislative Assembly
NDNA:	New Decade New Approach political deal
RaISe:	Research and Information Service
The Commissioner:	Assembly Commissioner for Standards
The Committee:	Committee on Standards and Privileges
The Group:	Working Group on an Unacceptable Behaviours Policy
The 2011 Act	The Assembly Members (Independent Financial Review and Standards) Act (Northern Ireland) 2011

Powers and Membership of the Committee

Powers

The Committee on Standards and Privileges is a Standing Committee of the Northern Ireland Assembly established in accordance with paragraph 10 of Strand One of the Belfast Agreement and under Assembly Standing Order Nos. 51 and 57. Further provisions on the Committee's functions are also included in Standing Orders 69, 69A, 69B, 69C and 70. The Committee has 9 members including a Chairperson and Deputy Chairperson and a quorum of 5.

The Committee has power:

- to consider specific matters relating to privilege referred to it by the Assembly;
- to oversee the work of the Assembly Clerk of Standards;
- to examine the arrangement for the compilation, maintenance and accessibility of the Register of Members' Interests and any other registers of interest established by the Assembly, and to review from time to time the form and content of those registers;
- to consider any specific complaints made in relation to the registering or declaring of interests referred to it;
- to consider any matter relating to the conduct of Members;
- to recommend any modifications to any Assembly code of conduct as may from time to time appear to be necessary.

The Committee is appointed at the start of every Assembly, and has power to send for persons, papers and records that are relevant to its enquiries.

Membership of the Committee

The Committee has 9 members, including a Chairperson and Deputy Chairperson, and a quorum of five members. The current membership of the Committee is as follows:

- Ms Linda Dillon MLA (Chairperson)
- Vacant (Deputy Chairperson)
- Dr Steve Aiken OBE MLA
- Ms Sinéad Bradley MLA
- Mrs Pam Cameron MLA
- Mr Stewart Dickson MLA
- Ms Áine Murphy MLA
- Mr Declan McAleer MLA
- Mr Patsy McGlone MLA

Review of 2017 – 2022 Mandate

Committee Work Areas

Consideration of complaints against Members

1. The Assembly appointed a new Commissioner for Standards ('the Commissioner'), Dr Melissa McCullough, for a five-year term from 7 September 2020. Given that the post had remained vacant from September 2017, as outlined in her [Annual Report 2020-21](#), the new Commissioner faced a backlog of complaints. Whilst the majority of the complaints turned out to be inadmissible, the Committee, when undertaking its strategic planning for the mandate, had nonetheless agreed to build flexibility into its work programme to prioritise consideration of the Commissioner's investigation reports on admissible complaints, as and when they were received.
2. During the course of the mandate the Committee:
 - published a total of 5 [reports](#) on its adjudication of complaints against Members (which included the related Commissioner investigation reports);
 - approved the resolution of 2 complaints against Members under the [rectification procedure](#) (in that regard, the Committee also put in place administrative arrangements for the operation of this procedure);
 - gave further consideration to decisions of the Commissioner in which she had deemed 9 complaints against Members to be inadmissible (the Committee agreed with the Commissioner's decision in each case); and
 - considered a total of 10 cases in which the Commissioner sought permission to discontinue consideration of the complaints (the Committee granted approval for discontinuation in each case).
3. Arising from its most recent report on a complaint against a Member, published shortly before the end of the mandate, the Committee has made recommendations for its successor Committee to take forward early in the next

Assembly (see below section on ‘Suggested Issues for the successor Committee).

Review of the Code of Conduct

4. The Committee identified a general review of the *Assembly Code of Conduct and Guide to the rules relating to the Conduct of Members* (‘the Code and Guide’) as a strategic priority for the mandate. It was planned that this would be undertaken in two stages: with stage 1 addressing urgent and straightforward amendments; and stage 2 covering more complex and detailed issues (including the arrangements for handling complaints of inappropriate/unacceptable behaviours).
5. The [report on Stage 1](#) of the review was published on 24 February 2021. The issues considered included:
 - updating monetary thresholds for the registration (and/or exemption from registration) of certain categories of interests;
 - introducing a requirement on Members to register the value or estimated value of gifts/benefits/hospitality and visits;
 - and various consequential amendments and textual improvements to clarify existing provisions and achieve consistency in both the Code and the Guide.
6. The proposed amendments from the Stage 1 review aimed to reduce risk of non-compliance, increase transparency, and help promote public confidence in the Assembly. The Committee’s recommended amendments were approved by the Assembly on 23 March 2021 and the [updated Code and Guide](#) took effect from 12 April 2021.
7. As regards Stage 2 of the review, in November 2020, the Speaker (as Chairperson of the Assembly Commission) and the Committee agreed to form a working group, comprising members of the Assembly Commission and members of the Committee, to take forward development of a policy on the handling of complaints of inappropriate behaviour/unacceptable behaviours involving Members, Members’ staff, Party staff and Assembly Commission employees. The Committee did not, therefore, proceed with the Stage 2 review

given that the working group would be covering much of the ground envisaged, including reviewing the Code, procedures and processes to identify necessary improvements which take account of the sensitive nature of complaints under the policy.

Unacceptable Behaviours Policy

8. On 3 March 2022, the Working Group on an Unacceptable Behaviours Policy ('the Group') agreed [a report](#) on the outcome of its policy development work. The report includes a draft policy which aims to provide a consistent message to everyone working for or within the Assembly in relation to standards of behaviour and, in particular, the unacceptable behaviours which will not be tolerated, whether by the Assembly as an institution, by the Assembly Commission as an employer, by MLAs as employers or by political parties as employers. The draft policy includes clear descriptions of the range of unacceptable behaviours covered, including bullying, harassment, sexual harassment and victimisation. It also sets out how complaints may be raised and provides for applicable investigative and adjudication processes, which take account of the sensitive nature of complaints under the policy.
9. The report by the Group also includes a range of recommended reforms for the Committee to consider taking forward, including inter alia:
 - amendments to the Code in order to highlight the importance of the policy;
 - procedural amendments to enable minor breaches of the policy to be resolved informally;
 - amendments to Standing Orders to provide that investigation reports pertaining to complaints against MLAs (which are raised under the policy) will be considered by a sub-committee/panel of the Committee comprising the (proposed) three lay members of the Committee;
 - amendments to Standing Orders to enable the Assembly, where applicable, to impose sanctions on a Member who has breached the policy without the full details of the complaint case being debated publicly in plenary; and

- potential legislative amendments to underpin the confidentiality arrangements attaching to complaints and investigations.
10. At its final meeting of the mandate, the Committee considered the Group's report and agreed, in principle, that it is content with the proposed reforms and that it would recommend that its successor Committee considers taking these forward early in the next mandate as applicable.

The Register of Members' Interest

11. The Committee continued to exercise its responsibility for examining the arrangements for the compilation, maintenance and accessibility of the Register of Members' Interests and for reviewing, from time to time, the form and content of the Register. In that regard, the information on Members' interests is held on the AIMS database, which is updated to reflect the interests submitted by Members through their Registration of Interests forms and the regular updates which they provide throughout the Assembly mandate. The finalised content of the database is publicly available on the Assembly [webpage](#) as a live version of the Register of Members' Interests, with formatted versions of the Register also published on the site on an occasional basis.
12. In September 2020, the Committee commissioned the Assembly's Information Systems Office to undertake urgent software development work to upgrade the AIMS database in the short term. The Committee also noted longer-term proposals to develop an online interface to enable Members to register and update their interests directly, which would achieve future efficiencies.

All-Party Groups

13. The Committee continued to exercise its role in approving the formation of All-Party Groups (APGs), which provide a useful forum for MLAs from different parties to meet in order to consider and discuss shared interests in particular subjects. The Committee has continued to maintain the high-level [Rules on APGs](#) and to oversee the compilation of a [Register of APGs](#).
14. During the course of the mandate, 25 groups (which existed in the previous Assembly) re-established at the beginning of the current mandate, 23 new

groups were established and 2 groups were removed from the register. This brings the total number of current APGs to 46 at the end of the mandate.

15. In April 2020, the Committee issued guidance to APGs which provided the necessary flexibility to enable them to meet remotely in the context of the COVID-19 pandemic and the related government advice. Supplementary guidance followed and APGs met virtually on a regular basis throughout the current pandemic, which was a testament to how well they adapted during this time. As this proved an effective and efficient approach, which has also reduced demand for meeting rooms in Parliament Buildings, the Committee encouraged APGs to continue to meet virtually where possible (while recognising that the resumption of activities in Parliament Buildings meant that APGs could return to holding physical meetings, provided that this was done in accordance with the up-to-date health protection regulations).

Appointment of lay members to the Committee

16. Arising from its strategic planning, the Committee noted the Executive commitment in *New Decade New Approach* (paragraph 1.12 of Annex A) that:

‘The Assembly Committee on Standards and Privileges will be enhanced by the appointment of 3 independent lay members with voting rights.’

17. The Committee commissioned comparative research on similar provisions in the House of Commons and obtained legal advice on how best the NDNA recommendation could be implemented. On 28 April 2021, the Committee agreed, in principle, to seek an amendment to Standing Orders to make provision for the appointment of lay members to the Committee. It was noted that the Committee would require to consider procedural options further before it submits its proposals on any necessary changes to Standing Orders to the Committee on Procedures. It is therefore proposed that the successor Committee progresses the implementation of this measure.

Complaints against Ministers

18. The Committee considered the need to put in place procedures for the Commissioner to consider and investigate complaints of alleged breaches of the Ministerial Code of Conduct. This requirement arose from [section 5](#) of the Functioning of Government (Miscellaneous Provisions) Act (Northern Ireland) 2021, which commenced on 22 March 2021 and extended the powers of the Commissioner to investigate and report on complaints against Ministers.
19. On 9 June 2021, the Committee agreed the necessary amendments to the Assembly Members (Independent Financial Review and Standards) Act (Northern Ireland) 2011 (General Procedures) Direction 2016 ('the General Procedures Direction'), to ensure that the procedures for the Commissioner's consideration and investigation of complaints against Ministers for alleged breaches of the Ministerial Code of Conduct align, as applicable, to the existing procedures for complaints against Assembly Members in relation to alleged breaches of the Assembly Code of Conduct. The new [General Procedures Direction](#) took effect from 14 June 2021.
20. The Committee also considered a range of policy options in respect of whether/how it would exercise a role in considering reports by the Commissioner on investigations into alleged breaches of the Ministerial Code of Conduct. In February 2022, the Committee ultimately decided that its preferred approach will be to seek procedural changes to ensure that it has no role in this regard. The Committee also agreed to recommend that the incoming Committee takes forward this matter in the next Assembly mandate, including consideration of any consequential issues arising from this decision and the necessary procedural changes.

Review of procedural practices for adjudication role

21. In December 2021, the Committee agreed to undertake a review of the procedural practices for the operation of its adjudication role. In order to inform this work, [comparative research](#) was commissioned from RaISe and a briefing was received from the Commissioner.

22. At its meeting on 23 February 2022, the Committee agreed that, given the limited time remaining in the current Assembly mandate and the potential need to consider further information in relation to these matters (including the abovementioned report by the Working Group on the development of an Unacceptable Behaviours Policy), it would recommend that its successor Committee considers taking forward this work.

Other business

23. Given the need to ensure that Committee members are adequately equipped with the necessary specialist knowledge and skills required to discharge their adjudication role in a fair, effective and efficient manner, the Committee procured a bespoke Member Development Programme in this regard. The programme was held over four separate interactive workshops in May - June 2021. In light of the positive feedback from participants, the Committee would recommend that its successor Committee considers arranging a similar programme at the beginning of the next mandate.
24. Following notification from the Commissioner that, due to a conflict of interest, she required to recuse herself from consideration of a complaint against a Member, which was received in July 2021, the Committee approached Mr Douglas Bain (the former Assembly Commissioner and currently the Welsh Standards Commissioner) to establish if he would be available to take on the role of Acting Commissioner in this case and any further related complaints. Following Mr Bain's agreement to take up the position of Acting Commissioner, the Committee tabled a plenary motion to this effect, which was debated and agreed by the Assembly on 18 October 2021.

Suggested Issues for the successor Committee

25. As alluded to above, the Committee considered a number of issues which have yet to be formally concluded. The Committee therefore recommends that its successor Committee considers prioritising the following items in its forward work programme for the next mandate:
- [Report on a complaint against a Member](#) – in this adjudication report, the Committee concluded that, in its view, the circumstances of the case warrant a recommendation being made to the Assembly for the imposition of a sanction upon the Member under Standing Order 69B. However, given that there would be insufficient time remaining in the current mandate for any recommended sanction to be debated in the Assembly, the Committee therefore calls on the successor Committee to identify an appropriate sanction for recommending to the next Assembly and to table the necessary plenary motion as applicable.
 - **Future improvements to rules and procedures/statute, including to underpin the confidentiality of complaints** – In her investigation report on the abovementioned complaint case, the Commissioner made recommendations regarding: amending the wording of rules of conduct 16 and 17 to underpin the confidentiality requirements attaching to complaints; improving the provisions in the 2011 Act regarding notices; and amending the General Procedures Direction to recognise the Commissioner’s discretion on admissibility requirements. The Committee therefore proposes that the successor Committee considers taking forward the Commissioner’s recommendations.
 - Also with a view to underpinning the confidentiality of complaints, as alluded to above, the Committee recommends that its successor Committee examines the case for legislation to amend section 33 of the 2011 Act to make clear that the restriction on the disclosure of information applies to complainants and respondents and to create a statutory offence for breaches of this requirement. Such work will necessitate examination of how any amending legislation might include exceptions to allow for disclosure of information for the purpose of

Members properly declaring their interests and disclosure of information for the purpose of assisting the Committee and the Assembly in relation to their consideration of complaints cases.

- **Proposed reforms arising from Report on the development of an Unacceptable Behaviours Policy** – see paragraphs 8 - 10.
- **Appointment of lay members to the Committee** – see paragraphs 16 – 17.
- **Complaints against Ministers** – see paragraph 20.
- **Review of the procedural practices for the operation of the Committee’s adjudication role** – see paragraphs 21 – 22.
- **Member Development Programme on Committee’s adjudication role** – see paragraph 23.

26. Additional issues which the successor Committee may wish to consider including in its forward work programme and that were not addressed by the current Committee include:

- **Review of Standing Order 70** – the need for this review was identified during the 2011-16 mandate, in light of the introduction of Rule 13 into the Code. In particular, a range of issues which might previously have been described as matters of privilege, including conduct which ‘improperly interferes’ with the performance by the Assembly of its functions, are now considered to be standards issues under Rule 13. Therefore, complaints against MLAs in relation to such matters which are now standards issues would be considered by the Commissioner as alleged breaches of the Code. As such, Standing Order 70 may now be redundant and it may also be appropriate to retitle the Committee to remove the reference to privileges.
- **Engagement** – while the Committee had identified potential benefit in undertaking a fact-finding visit to meet informally with counterpart committees and commissioners in other legislatures, this did not take place due to the circumstances of the pandemic. The successor

Committee may see merit in undertaking a visit for the purpose of benchmarking and to inform its strategic priorities for the next mandate.

Appendix 1 – Changes in Membership

The Committee has 9 members. The membership of the Committee throughout the current mandate was as follows:

Democratic Unionist Party	Mr Christopher Stalford MLA, Deputy Chairperson ¹ Mrs Pam Cameron
Sinn Féin	Ms Linda Dillon MLA, Chairperson ² Ms Áine Murphy MLA ^{3 4 5} Mr Declan McAleer MLA
Social Democratic and Labour Party	Ms Sinéad Bradley MLA ⁶ Mr Patsy McGlone MLA
Ulster Unionist Party	Dr Steve Aiken OBE MLA ⁷
Alliance Party	Mr Stewart Dickson MLA

¹ From 14 June 2021 until 20 February 2022 Christopher Stalford (deceased) replaced William Irwin as Deputy Chairperson of the Committee.

² From 20 September 2021 Linda Dillon replaced Sinéad Ennis as Chairperson of the Committee.

³ From 5 October 2020 Seán Lynch replaced Colm Gildernew as a member of the Committee.

⁴ On 2 July 2021 Seán Lynch retired as an MLA.

⁵ On 27 September 2021 Áine Murphy joined the Committee.

⁶ From 27 September 2021 Sinéad Bradley replaced George Robinson as a member of the Committee.

⁷ From 6 July 2020 John Stewart replaced Doug Beattie as a member of the Committee. From 19 October 2020 Steve Aiken replaced John Stewart as a member of the Committee.

Appendix 2 – Mandate facts and figures

Committee meetings & visits

Session	Number of meetings held	Percentage minutes public / closed	Number of meetings held outside Parliament Buildings	Number of committee visits
2019/2020	4	Public – 45.40% Closed – 54.60%	-	-
2020/2021	8	Public – 10.14% Closed – 89.86%	-	-
2021/2022	10	Public – 0.00% Closed – 100.00%	-	-

Committee Inquiries / Reviews / Micro inquiries

Session	Name of report	Committee Report (ordered to print)	Date debated in Plenary (if applicable)
2020/2021	<u>Report on the Review of the Assembly Members' Code of Conduct and the Guide to the Rules relating to the Conduct of Members: Stage 1</u>	24/02/2021	23/03/2021

Committee Motions Debated in Plenary (excluding Inquiries / Reviews / Membership changes)

Session	Motion	Date debated in Plenary
2021/2022	<u>Motion on Appointment of Acting Commissioner</u>	18/10/2021

Committee Reports (excluding Bill and Inquiry reports)

Session	Name of report	Date (date approved by Committee)	Date debated in Plenary (if appropriate)
2021/2022	<u>Report on complaints against Mr Maoliosa McHugh MLA</u>	28/09/2021	
2021/2022	<u>Report on a complaint against Mr Paul Givan MLA</u>	13/10/2021	
2021/2022	<u>Report on a complaint against Dr Steve Aiken OBE MLA</u>	23/11/2021	
2021/2022	<u>Report on a complaint against Mr Jim Wells MLA</u>	23/11/2021	
2021/2022	<u>Report on a complaint against Dr Steve Aiken OBE MLA</u>	23/03/2022	

Witnesses

Session	Number of Organisations who gave evidence to the committee
2019/2020	-
2020/2021	-
2021/2022	-

Appendix 3 - Expenditure for the period 1 September 2017 – 28 March 2022

Budget area	Details	Expenditure
Member Development Programme: Adjudication Role	-	£3,800.00
Legislative and Corporate Printing	-	£370.00
General expenses	Cost of refreshments for committee meetings, committee events, working lunches, seminars, room hire, witness expenses, and conference fees for members etc.	£461.75
All budget areas	All details	£4,631.75

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