



Northern Ireland
Assembly

Committee on Standards and Privileges

Report on a complaint against Mr Basil McCrea MLA

Together with the Report of the Assembly Commissioner for
Standards; other evidence considered by the Committee; and the
Minutes of Proceedings of the Committee

Ordered by the Committee on Standards and Privileges to be printed on 1st March 2016

**THE REPORT REMAINS EMBARGOED UNTIL
10:01AM on 3rd March 2016**

Committee Powers and Membership

1. 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. The Committee has 11 members including a quorum of 5.
2. 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.
3. 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.
4. The membership of the Committee is as follows:

Mr Paul Givan^{1 2} (Chairperson)

Ms Anna Lo (Deputy Chairperson)³

Mr Steven Agnew

Mr Robin Newton^{4 5 6}

Mr Cathal Boylan

Mr Gordon Dunne^{7 8 9 10}

Mr Gerard Diver^{11 12}

Mr David Hilditch^{13 14}

Mr Declan McAleer^{15 16 17 18}

Mr Fra McCann

Mrs Sandra Overend¹⁹

¹ With effect from 10 December 2014 Mr Jimmy Spratt replaced Mr Alastair Ross as Chairperson

² With effect from 28th September 2015 Mr Paul Givan replaced Mr Jimmy Spratt

³ With effect from 1 October 2013 Ms Anna Lo replaced Mr Kieran McCarthy

⁴ With effect from 7 May 2013 Mr Sydney Anderson replaced Mr David McIlveen

⁵ With effect from 16 September 2013 Mr Mervyn Storey replaced Mr Sydney Anderson

⁶ With effect from 6 October 2014 Mr Robin Newton replaced Mr Mervyn Storey

⁷ With effect from 3 December 2012 Mr Ian McCrea replaced Ms Paula Bradley

⁸ With effect from 8 December 2014 Mr Sammy Douglas replaced Mr Ian McCrea

⁹ With effect from 18 May 2015 Mr Tom Buchanan replaced Mr Sammy Douglas

¹⁰ With effect from 5 October 2015 Mr Gordon Dunne replaced Mr Tom Buchanan

¹¹ With effect from 23 April 2012 Mr Colum Eastwood replaced Mr Patsy McGlone

¹² With effect from 7 January 2016 Mr Gerard Diver replaced Mr Colum Eastwood

¹³ With effect from 15 April 2013 Ms Paula Bradley replaced Mr Jonathan Craig

¹⁴ With effect from 6 October 2014 Mr David Hilditch replaced Ms Paula Bradley

¹⁵ With effect from 3 July 2012 Mr Alex Maskey replaced Mr Pat Doherty

¹⁶ With effect from 7 September 2012 Mr Francie Molloy replaced Mr Alex Maskey

¹⁷ With effect from 7 April 2013 Mr Francie Molloy resigned as a Member

¹⁸ With effect from 15 April 2013 Mr Declan McAleer replaced Mr Francie Molloy

¹⁹ With effect from 26 September 2011 Mrs Sandra Overend replaced Mr Michael Copeland

5. The Report and evidence of the Committee are published by order of the Committee. All publications of the Committee are posted on the Assembly's website: (www.niassembly.gov.uk.)
6. All correspondence should be addressed to the Clerk to the Committee on Standards and Privileges, Committee Office, Northern Ireland Assembly, Room 254, Parliament Buildings, Stormont, Belfast BT4 3XX. Tel: 02890 520333; e-mail: committee.standards&privileges@niassembly.gov.uk

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Report

Introduction

1. The Committee on Standards and Privileges has considered a report from the Northern Ireland Assembly Commissioner for Standards (“the Commissioner”) on the investigation into complaints against Mr Basil McCrea MLA. A copy of the Commissioner’s report is included at Appendix 1.
2. During consideration of the Commissioner’s Report, the Committee agreed to write to the Commissioner as per the provisions of Standing Order 69A(3)(d), to request that the Commissioner carry out further investigation under section 26 of the Assembly Members (Independent Financial Review and Standards) Act (Northern Ireland) in order to assist the Committee in reaching a decision. A copy of the Commissioner’s Addendum report is at Appendix 2.

The Commissioner’s Investigation

3. The Commissioner’s report is on an investigation into a range of allegations made by three complainants: Mr John McCallister MLA, Miss Ashleigh Murray and Mr Alan Patterson.
4. The Commissioner outlines that there was an overlap between a number of the allegations made by each of these three complainants and that it quickly became apparent that a number of the witnesses would be common to allegations made by more than one of them. Because of these close relationships the Commissioner decided to conjoin the investigations and to submit a single report in respect of them.
5. The Commissioner decided to group the numerous allegations into the twelve complaints. A summary of each complaint, its provenance and the Commissioner’s key conclusions are set out below.
6. The Commissioner decided to commence an investigation on 12 August 2014. During the course of the investigation he acquired a significant amount of evidence. Documents were obtained either voluntarily or following service of a Notice requiring production. The Commissioner interviewed a range of witnesses, having resolved to take evidence, other than that of a purely formal nature, on oath. He interviewed Mr McCrea on a number of occasions. In

relation to the complainants, he interviewed Mr Patterson and Miss Murray (although not in relation to all the issues raised in her complaint).

7. The Commissioner did not interview Mr McCallister due to the fact that in relation to a number of allegations, Mr McCallister made clear in his letter of complaint that he had no direct knowledge of the subject matter and that he had relied entirely on what he was told by Miss Murray when he met her on 14 May 2014. In those circumstances the Commissioner did not consider it necessary to interview Mr McCallister regarding the particular matters in question.
8. The Committee considered the Commissioner's report at its meetings on 18 and 25 November and 2 December. The Commissioner presented his report to the Committee and answered Members' questions in relation to his report.
9. At the meeting on 2 December, the Committee requested that the Commissioner undertake a further investigation in relation to complaint 7 specifically to establish whether, as claimed by Mr McCrea in his statement to the Commissioner on 23 June 2015, that there was another person in the room when he threw an object at Miss Neglia.

Complaint 1 – Obtaining Cash from OCE Account by Deception

10. Complaint 1 is that Mr McCrea improperly obtained cash from his Office Cost Expenditure (OCE) by authorising a pay rise for Mr Mackrell, who was employed by him and so paid for out of his OCE, on the understanding that Mr Mackrell would keep the extra funds separately and use them to cover expenditure by Mr McCrea. This complaint was made only by Mr McCallister who said that he had been informed of this allegation by Miss Murray. Mr McCrea denied the allegation.
11. The evidence in relation to this matter comes from Mr Mackrell, Mr McCrea and from the records of the Assembly. Having considered the evidence, the Commissioner made a number of findings of fact including the following:
 1. Mr Mackrell was in the paid employment of Mr McCrea from 1 June 2011 until 17 May 2013
 2. Until 1 July 2012 he was contracted to work 16 hours per week;
 3. From 2 July 2013 until the end of his employment his contracted hours were increased to 40 per week; and

4. From 2 July 2012 his hourly rate of pay was increased from £7.00 to £7.08 per hour.

12. The Commissioner in his reasoned decision outlined that the records showed that when in July 2012 Mr Mackrell's contracted hours were increased from 16 to 40 his hourly rate of pay changed from £7.00 to £7.08 and not by £1.00 per hour as he alleged at interview. Accordingly, the Commissioner did not find it established that there was any misuse or attempted misuse of OCE by Mr McCrea as alleged in Mr McCallister's complaint.

13. The Committee agreed with the Commissioner's conclusion that no misuse or attempted misuse of OCE in relation to this complaint has been established.

14. Complaint 1 is therefore not upheld.

Complaint 2 – Misuse of Assembly Stationery

15. Complaint 2 is that Mr McCrea used Assembly notepaper and envelopes for party political purposes contrary to the rules set out in the Financial Support for Members Handbook. This complaint was made by both Miss Murray and Mr McCallister (who said that he had been informed of this allegation by Miss Murray). Mr McCrea denied the allegation.

16. Miss Murray alleged that she had been instructed by Mr McCrea to print out invites on 300 or more Assembly headed paper and envelopes paid for out of his Office Cost Expenditure.

17. The evidence in relation to this matter comes from Miss Murray, Ms Holden, Mrs Tabahe and Mr McCrea and from the records of the Assembly Secretariat. Having considered the evidence, the Commissioner made a number of findings of fact including:

- Miss Murray did not collect '300 or more' first class pre-paid envelopes and headed paper from the Assembly Stationery Store;
- Mr McCrea did not instruct Miss Murray to use Assembly stationery for any improper purpose;
- Ms Holden, perhaps acting on instructions from Mr McCallister, told Miss Murray that it was intended to use OCE to cover the cost of envelopes and stamps for the invitations; and

- The cost of the paper, envelopes and stamps for the invitations was met from NI21 funds.

18. The Commissioner in his reasoned decision states that he did not find it established that there was any misuse or attempted misuse of OCE by Mr McCrea as alleged in Miss Murray's and Mr McCallister's complaints.

19. The Committee agreed with the Commissioner's conclusion that no misuse or attempted misuse of OCE in relation to this complaint has been established.

20. Complaint 2 is therefore not upheld.

Complaint 3 – Attempt to Obtain Cash by Deception from OCE Account

21. Complaint 3 is that Mr McCrea attempted, by means of a scheme similar to that alleged in relation to Complaint 1, to improperly obtain money from his OCE. Miss Murray rather than Mr Mackrell is the person alleged to have been involved. This complaint is made only by Mr McCallister. Miss Murray makes no mention of this matter in her complaint document but during interview with the Commissioner said that she now wished to complain about it.

22. The evidence in relation to this matter comes from Miss Murray, Mr McCrea and from documents obtained in the course of the Commissioner's investigation. Having considered the evidence, the Commissioner made a number of findings of fact including:

- Between 17 July and 8 August 2013 Mr McCrea made cheque payments totalling £549 to Miss Murray to tide her over until she was paid through the Assembly pay-roll;
- Miss Murray knew or ought to have known that these payments were a loan to be repaid in full when she was paid through the pay-roll;
- Miss Murray has repaid only £140 of the sum due, leaving a balance of £409 due by her to Mr McCrea;
- Mr McCrea did not attempt to engage Miss Murray in an attempt to obtain funds from his OCE; and
- There was no reason why Miss Murray could not have made this complaint within one year from the date of the alleged events.

23. The Commissioner in his reasoned decision outlines that Mr McCrea's account of this matter is extensively documented in his own records, documents he obtained

from the Assembly, his bank and from Miss Murray. It is further supported by documents provided to the Commissioner by Miss Murray. The Commissioner therefore has no hesitation in accepting Mr McCrea's account as accurate.

24. Accordingly, the Commissioner did not find it established that there was any misuse or attempted misuse of OCE by Mr McCrea as alleged in Mr McCallister's complaint and by Miss Murray at interview.

25. The Committee agreed with the Commissioner's conclusion that no misuse or attempted misuse of OCE in relation to this complaint has been established.

26. Complaint 3 is therefore not upheld.

Complaint 4 – Use of Media to Blacken Miss Murray's Name

27. Complaint 4 is that after allegations about improper conduct by Mr McCrea towards Miss Murray had appeared in the media he used the media in an attempt to blacken her name and so discredit her. This complaint was made only by Miss Murray. Mr McCrea denied the allegation.

28. Miss Murray referred to two instances of use of the media by Mr McCrea in this complaint, namely, an interview on the BBC programme 'The View' during which she states that Mr McCrea lied when he said that he knew nothing of the allegations against him, and an interview he allegedly gave to the Sunday Life newspaper. However, at interview with the Commissioner, she told him that she no longer alleged that Mr McCrea had used the TV interview in an attempt to blacken her name.

29. Miss Murray also alleged that Mr McCrea had approached the Sunday Life newspaper and given sensitive personal information about her which appeared in an article of 25 May 2014. She further alleged that the photographs that accompanied the article had been provided to the newspaper by Mr McCrea.

30. The evidence in relation to this complaint comes from Miss Murray and Mr McCrea and from documents provided by each of them and by the BBC. Having considered the evidence, the Commissioner made a number of findings of fact including:

- Miss Murray no longer alleges that when appearing on 'The View' broadcast on 22 May 2015 Mr McCrea attempted to blacken her name;

- Mr McCrea did not leak the letter from his solicitors to the News Letter to the media;
- The only material that Mr McCrea provided to the Sunday Life was his written statement which gave no personal information about Miss Murray;
- All the personal information about Miss Murray given in the Sunday Life article published on 25 May 2014 had been put in the public domain by her at least 20 months before that date; and
- Mr McCrea was approached by other media outlets seeking his comments on the allegations against him. He gave no such comments.

31. The Commissioner was not satisfied that, in respect of this complaint, any breach of the code occurred.

32. The Committee agreed with the Commissioner's conclusion that there was no breach of the code in relation to this complaint.

33. Complaint 4 is therefore not upheld.

Complaint 5 – Taking and Possession of Voyeuristic Photographs

34. Complaint 5 is that that during a visit to Canada in 2013 Mr McCrea took voyeuristic photographs of Miss Jacquelyn Neglia, which he stored on his office computer. This complaint is made by Mr McCallister but is referred to by Mr Patterson. Miss Neglia, the 'victim' of the alleged conduct has made no complaint about it. Mr McCrea has denied the allegation.

35. Mr McCallister alleges that the photographs taken were voyeuristic and retained by Mr McCrea and violated Miss Neglia's dignity and amounted to discrimination.

36. Miss Neglia told the Commissioner that whilst in Toronto Mr McCrea took a number of photographs of her. She knew that he had taken some of these photographs but that she only realised that he had taken others when she saw them on a computer at Parliament Buildings in 2013. She said that she had no concerns about Mr McCrea having taken any of the photographs and would have given him permission to take all of them but that she was upset on finding the photographs she did not realise had been taken in a folder on Mr McCrea's office computer that was open to a number of his staff.

37. The evidence in relation to this complaint comes from Miss Neglia, and Mr McCrea together with documents produced by each of them or obtained from the

Assembly's records. Having considered the evidence, the Commissioner made a number of findings of fact in relation to this complaint including:

- Mr McCrea visited Canada on holiday in August 2012;
- No part of that trip was funded out of his OCE;
- Mr McCrea was not acting in his '*capacity as an elected Member of the Assembly*' whilst on that trip;
- Whilst in Canada he was shown some of the sights of Toronto by Miss Neglia whom he had first met a few weeks earlier when she was on a programme in Northern Ireland;
- Whilst in Toronto Mr McCrea took a large number of photographs some of which were of, or included, Miss Neglia;
- None of these photographs was voyeuristic;
- The three 'photographs' submitted by Mr McCallister in support of his allegation were taken by Mr McCrea;
- These three photographs have been heavily 'doctored' by a person unknown in a vain attempt to make them appear in some way improper;
- Mr McCrea believed that Miss Neglia was aware of all photographs of, or including, her that he took. Miss Neglia either consented, or would have consented, to the taking of all such photographs;
- All the photographs taken by Mr McCrea in Canada were, along with all other photographs taken by him, transferred automatically to a computer in his office at Stormont;
- Miss Neglia along with Miss Murray and a number of other staff had access to that computer and to all the photographs stored on it; and that
- Miss Neglia was upset when she found that the photographs of, or including, her taken by Mr McCrea in Toronto were stored on the computer.

38. The Commissioner has found that nothing that took place during Mr McCrea's visit to Canada is within the scope of the Code as he was not acting in his '*capacity as an elected Member of the Assembly.*' The Commissioner also considered whether the upset caused to Miss Neglia when she found the stored photographs constituted a breach of the Code. The Commissioner was satisfied that any failure by Mr McCrea to inform Miss Neglia that photographs from Canada were stored on his office computer and available for staff to view came nowhere near the high threshold required to breach the Respect principle or of any other provision of the Code.

39. The Committee agreed with the Commissioner's conclusion that this complaint is not within the scope of the Code as Mr McCrea was not '*acting in his capacity as an elected Member of the Assembly*' at the time the conduct complained about occurred. The Committee also agreed that any failure by Mr McCrea to inform Miss Neglia that the photographs from Canada had been transferred automatically to a computer in his office at Stormont and were available for staff to view does not amount a breach of the Code.

40. Complaint 5 is therefore not upheld.

41. The Committee understands why Miss Neglia would be upset at finding that pictures taken of her, some of which without her knowledge, had been stored on a work computer that a number of people had access to.

42. Although accepting that this conduct did not amount to a breach of the Code of Conduct, the Committee was concerned about Mr McCrea's failure to notify Miss Neglia about these pictures. The Committee would point out to Mr McCrea that if he is taking multiple pictures of people and then storing them on a work computer to which others have access, it is both appropriate and advisable to keep the photographed person fully informed.

Complaint 6 – Sexual Misconduct towards Jacquelyn Neglia

43. Complaint 6 is that during the Sinn Féin Summer School 2013 Mr McCrea 'groped' Miss Neglia. The allegation is made only by Mr McCallister. Miss Neglia, the 'victim' of the alleged conduct has made no complaint about it. Mr McCrea denied the allegation.

44. Miss Neglia during her telephone interview with the Commissioner advised that a week after starting work for Mr McCrea in June 2013 she went with him, and a number of others to the Sinn Féin Summer School in Cork and that on the first night of that trip all of them went out for a drink and on returning to their hotel, whilst someone was looking for the key, '*he (Mr McCrea) grabbed my butt*'. Miss Neglia advised that she said nothing at the time but later that night told another person what had occurred.

45. The evidence in relation to this complaint comes from Miss Neglia, and Mr McCrea, together with documents produced by each of them or obtained from the

Assembly's records or the internet. Having considered the evidence, the Commissioner made a number of findings of fact in relation to this complaint including:

- On 28 and 29 June 2013 Mr McCrea attended and spoke at the Sinn Féin Summer School near Cork;
- No part of the cost of that trip was paid for out of Mr McCrea's OCE;
- Mr McCrea was accompanied on the trip by Miss Neglia who had started work for him earlier that week;
- He was also accompanied by three NI21 supporters;
- Miss Neglia made no complaint to Mr McCrea about his alleged misconduct either at the time it is alleged to have occurred or at any time thereafter; and that
- Mr McCrea attended the Summer School as a Unionist who had taken a stance on the flags issue and as the Leader of NI21 and not in his '*capacity as an elected Member of the Assembly*'.

46. The Commissioner has found that nothing done by Mr McCrea during the trip to Cork was within the scope of the Code as he did not undertake that speaking engagement in his '*capacity as an elected Member of the Assembly*.' The Commissioner also outlines that the only direct evidence of the alleged incident comes from Miss Neglia and Mr McCrea and that both appear to the Commissioner to be giving what they believed was a truthful account of events. The Commissioner concluded that on the basis of the evidence, he cannot be satisfied on the balance of probabilities, that Mr McCrea behaved in the manner alleged by Miss Neglia.

47. The Committee agreed with the Commissioner's conclusion that nothing done by Mr McCrea during the trip to Cork was within the scope of the code as he did not undertake that engagement in his '*capacity as an elected Member of the Assembly*'. The Committee also noted the Commissioner's statement that if anything did occur Mr McCrea was at the time acting in a personal capacity.

48. Complaint 6 is therefore not upheld.

Complaint 7 – Bullying and Harassment of Jacquelyn Neglia

49. Complaint 7 is that Mr McCrea mistreated, bullied and harassed Miss Neglia.

This complaint is made by Mr McCallister and Mr Patterson. Miss Neglia has made no complaint. Mr McCrea denied the allegation.

50. Because of an ongoing police investigation it has not been possible for the Commissioner to interview Mr McCallister and he has therefore been unable to fully investigate this complaint. The Commissioner says that a further report will be submitted on this particular aspect of the complaint when the risk of prejudice to the police investigation has ended and it is possible to interview Mr McCallister. In light of this decision, the Committee has redacted references to this aspect of the complaint and makes no further references to it in this report.

51. Mr Patterson alleged that Mr McCrea made comments to him about whether to continue Miss Neglia's employment; that Mr McCrea appeared to object to Miss Neglia's preparedness to query Mr McCrea's actions; and that Miss Neglia appeared to have personal concerns about Mr McCrea's conduct.

52. The evidence in relation to this complaint comes from Miss Neglia, Mr Patterson, and Mr McCrea. Having considered the evidence, the Commissioner made a number of findings of fact in relation to this complaint including:

- Mr McCrea did not discuss in an inappropriate manner whether or not to continue the employment of Miss Neglia;
- Mr McCrea did not object in an inappropriate way to Miss Neglia questioning his actions;
- In August 2013 during the World Police and Fire Games Mr McCrea, with Miss McClay's agreement, accompanied Miss Neglia and Miss McClay to a pub in Belfast. Nothing untoward occurred;
- When he was interrupted by Miss Neglia whilst he was doing a live down the line radio interview Mr McCrea threw an object at Miss Neglia. He apologised for doing so as soon as he finished the interview but reprimanded her the next day for interrupting the interview;
- Mr McCrea did not allege that Miss Neglia was sexually immoral;
- Despite Mr McCrea's alleged misconduct towards her, Miss Neglia sought an extension to her employment in August 2013, sent him an email at Christmas 2013 praising him as her employer and in January 2014 she sought appointment as the NI21 Youth Director;
- Less than three weeks after she left Mr McCrea's employment Miss Murray advised Miss Neglia to '*dig up the dirt*' on Mr McCrea; and

- Alan Patterson worked, on a voluntary basis, for NI21 from mid July 2013 until 17 September 2013. For a period of about four weeks ending on 14 August 2013 he was the de facto Party Secretary. Whilst Party Secretary Mr Patterson spent approximately two days per week at Stormont.

53. The Commissioner states that there is simply no evidence of anything that could constitute a breach of the Code of Conduct in respect to the first two aspects of Mr Patterson's complaint and they do not merit further consideration. In respect of the third aspect of Mr Patterson's complaint, the Commissioner says that the evidence of Miss Neglia and Mr Clements lends some support to the generalised allegation of mistreatment of staff.

54. The Commissioner outlines that the only dispute on the facts regarding the incident when Miss Neglia interrupted Mr McCrea whilst he was giving a live down the line radio interview is whether it was a baseball, as she asserts, or a ball of paper, as he asserts, that was thrown. The Commissioner stated that there was no independent evidence to indicate which version is correct and he initially made no finding on that matter.

55. At its meeting on 2 December 2015, the Committee was briefed by the Commissioner on this aspect of the complaint and highlighted in evidence that there was mention of a person being present when the incident occurred. Accordingly, the Committee agreed to write to the Commissioner as per the provisions of Standing Order 69A(3)(d), to request that the Commissioner carry out further investigation under section 26 of the Assembly Members (Independent Financial Review and Standards) Act (Northern Ireland) on this specific issue of whether a baseball or a piece of paper was thrown at Miss Neglia.

56. At its meeting on 3 February 2016, the Commissioner briefed the Committee on the further investigation that he carried out. The Commissioner advised that he interviewed Miss McClay, Mr McCrea and Ms McAteer. The Commissioner made the following revised findings of fact:

- On the evening of 28 October 2013 Mr McCrea gave a live 'down the line' interview to the BBC Evening Extra programme;
- Mr McCrea gave the interview whilst seated at his desk in Room 357 in Parliament Buildings;

- Room 357 is a standard size room facing the ground to the rear of Parliament Buildings and measures 7.44metres by 3.88metres (25'4" x 12'8"). Mr McCrea's desk was near the window at the opposite end of the room to the door which is on the internal short side of the room;
- Prior to the interview Mr McCrea told his staff, including Miss Neglia that he would be giving an interview and that they needed to be quiet. In addition a notice to that effect had been placed on the outside of the door;
- Shortly after the start of the interview Mr McCrea was distracted and became flustered because of noise made by Miss Neglia who was at her desk situated on a side wall of the room close to the door;
- Miss McClay, who was the only other person present, made an unsuccessful attempt to attract Miss Neglia's attention and get her to be quiet;
- Miss McClay's desk was on the same side wall between the desks of Mr McCrea and Miss Neglia;
- Mr McCrea, also in an attempt to attract Miss Neglia's attention and get her to be quiet, made a ball of paper from a sheet of A6 paper taken from a pad on his desk and threw it towards Miss Neglia;
- The ball of paper fell well short of Miss Neglia and did not strike her;
- Miss Neglia left the room banging the door behind her;
- After a few moments she re-entered the room, collected something, and left again banging the door;
- At the time Mr McCrea had a baseball which was normally kept in a transparent plastic box. It was displayed, along with other items that had been presented to him, in a glass fronted cabinet close to his desk;
- Mr McCrea did not at any time throw the baseball;
- On 31 October 2013 Mr McCrea asked Miss Neglia to attend for interview about a text she had sent him that day;
- That meeting took place on the morning of 1 November 2013. The events of 28 October were not discussed;
- On 18 November 2013, less than three weeks after she left Mr McCrea's employment, Miss Murray advised Miss Neglia to '*dig up the dirt*' on Mr McCrea. As a consequence Miss Neglia provided Miss Murray with '*something*'; and
- There is no mention in the nearly 3000 text messages recovered between Miss Neglia and a close friend and Miss Murray of any jokes or offensive comments by Mr McCrea about Miss Neglia's sexual conduct. No witness, other than Miss Neglia, claimed to have heard any such comments or

jokes by Mr McCrea or to have heard any complaint by Miss Neglia about such alleged comments.

57. The Commissioner concluded that on the basis of the evidence, no breach of the code occurred in relation to the matters dealt with in this report.

58. The Committee agreed with the Commissioner's conclusion that no breach of the code occurred.

59. These aspects of Complaint 7 are therefore not upheld.

60. However, the Committee noted that the Commissioner outlined that the evidence of Miss Neglia and Mr Clements lends support to a more general picture of occasional poor treatment of staff. The Committee was concerned, when considering a number of these complaints, about the way that Mr McCrea apparently spoke to and treated his staff. The Committee understands that MLA offices at times can be unavoidably stressful places to work, not just for Members but also for their staff. There are often difficult and sensitive issues to manage, competing pressures and last minute deadlines to meet. Although in these circumstances it may be understandable if exchanges become heated this is no way would justify Members subjecting their staff (or anyone else) to unreasonable and excessive personal attack. Members should lead by example when managing stressful and difficult occasions at work and while the Committee has agreed that Mr McCrea has not breached the Code in this case it also believes that the manner in which Mr McCrea occasionally treated his staff fell short of the standard it would encourage.

61. During consideration of the Commissioner's report into the further investigation, the Committee received a document with over 3000 texts which Mr McCrea provided to the Commissioner as evidence. This phone was used by Miss Neglia for both work and personal purposes. The Committee has concerns that Miss Neglia's and possibly others' personal information may have been processed unfairly. It has not been made aware if Mr McCrea had a policy in relation to retaining of work and personal messages for his employees. The Committee has therefore agreed that the texts should not be published in this report and has referred the issue to the Information Commissioner for further consideration.

Complaint 8 – Misconduct towards Alan Patterson

62. Complaint 8 is that is that Mr McCrea breached the provisions of the Code of Conduct by repeatedly making false allegations about and using threatening behaviour towards Mr Patterson; making false representations about Mr Patterson's relationship with NI21 staff principally by providing false information to the News Letter; and by constant undermining behaviour of Mr Patterson's position in NI21. The complaint is made by Mr Patterson. Mr McCrea denied the allegation.

63. The evidence in relation to this complaint comes from Mr Patterson, Mr McCrea and Ms Chalkley and from documents produced. Having considered the evidence, the Commissioner made a number of findings of fact in relation to this complaint including:

- Mr Patterson worked at Stormont as a volunteer for NI21 for a period of about eight weeks ending on 14 August 2013;
- During that period he was present at Stormont for on average two days each week;
- Mr Patterson was never in the paid employment of either by McCrea or NI21. No payments were made to him out of either Mr McCrea's OCE or the NI21 FAPP;
- During the short period that Mr Patterson worked at Stormont NI21 lacked structure;
- Mr Patterson assumed the role of Party Secretary and described himself as such;
- Mr McCrea had no knowledge of the difficulties experienced by Mr Patterson whilst a Principal Clerk at the Assembly until they were mentioned to him by a third party around the time Mr Patterson started as a volunteer;
- Shortly after he became aware of these difficulties, Mr McCrea raised the matter in conversation with Mr Patterson. When asked by Mr Patterson, Mr McCrea declined to disclose the source of his information;
- All interaction between Mr McCrea and Mr Patterson in relation to the latter's work at the Assembly were undertaken by Mr McCrea in his capacity as the Leader of NI21 and not in his capacity as an MLA;

- Mr Patterson did not stand down as de facto Party Secretary or cease his work as a volunteer due to the alleged misconduct of Mr McCrea towards him;
- In response to a request from the Newsletter to comment on information about him provided by Mr Patterson Mr McCrea provided the newspaper with extracts from two emails; and that
- Mr Patterson decided to complain of Mr McCrea's alleged conduct towards him when he became aware of the Carecall investigation.

64. The Commissioner outlined in his report that in considering this complaint it is important to note that Mr Patterson worked at Stormont as a volunteer only for a relatively short period. The Commissioner states that he is satisfied from the evidence that he worked almost exclusively on NI21 party matters and that he had little or no role in relation to Mr McCrea's work as an MLA. In particular the Commissioner is satisfied that in relation to the matters of which Mr Patterson complains Mr McCrea was acting wholly as the Party Leader and not in his capacity as an MLA.

65. The Commissioner concluded that no breach of the code occurred.

66. The Committee agreed with the Commissioner's conclusion that Mr Patterson worked almost exclusively on NI21 party matters and that as he had little or no role in relation to Mr McCrea's work as an MLA the conduct complained of falls outside the scope of the Code.

67. Complaint 8 is therefore not upheld.

68. Although Mr McCrea's conduct towards Mr Patterson falls outside the scope of the Code, the Committee was nonetheless concerned in relation to the allegations of mistreatment of staff. The Committee believes that Mr McCrea could have handled issues of conflict and differences within the office in a more moderate manner.

Complaint 9 – Sexual Misconduct towards Ashleigh Murray

69. Complaint 9 is that of inappropriate sexual conduct by Mr McCrea towards Miss Murray. In her complaint document Miss Murray sets out three instances of alleged misconduct as follows –

- During April 2013 in Mr McCrea's hotel room at La Mon Hotel Mr McCrea made advances towards her but no sexual contact took place;

- On or about 9 April 2013, whilst driving his car near to [redacted], Mr McCrea rubbed her leg repeatedly as a result of which his manner of driving caused the police to stop and breathalyse him; and that
- On unspecified dates at unspecified locations Mr McCrea “would make advances on me and feel bum, legs etc. He would make sexual comments about me”.

The complaint is made by Miss Murray and Mr McCallister. Mr McCrea denied the allegation.

70. The Commissioner explains in his report that he has been unable to interview Miss Murray regarding her serious allegations because of her unfitness to attend for interview. The Commissioner says that the information in support of this complaint comes only from Miss Murray’s complaint document dated 7 August 2014. The Commissioner also interviewed Mrs Tabahe, Ms Chalkley and Mr McCrea in relation to this complaint.

71. Having considered the evidence, the Commissioner made a number of findings of fact in relation to this complaint including:

- On or about 9 April 2013 Mr McCrea gave Miss Murray a lift home in his car following NI21 meetings in Belfast City centre;
- Near to [redacted] he was stopped by the police due to the manner of his driving and provided a negative sample of breath;
- Miss Murray remained in his car for the period it was stopped. She made no complaint to the police about his conduct;
- In April 2013 Mr McCrea, Miss Murray and a number of other supporters of the NI21 concept attended a two day event at La Mon Hotel;
- After business was ended on the first day Miss Murray learned that her dog was ill and went home. She returned to La Mon Hotel the next day;
- The first occasion on which Miss Murray made any complaint about Mr McCrea’s conduct at La Mon Hotel was in September 2013 when she alleged that Mr McCrea had asked her to massage his shoulders. Thereafter Miss Murray gave a number of different accounts of what she alleges took place;
- Miss Murray started paid employment by Mr McCrea in July 2013. Her wages were paid for from his OCE;
- Miss Murray ought reasonably to have made this complaint no later than 1 July 2014. She made it on 7 August 2014; and

- On the day she left Mr McCrea's employment Miss Murray sent him a text making no mention of any alleged misconduct towards her and thanking him for everything he had done for her.

72. The Commissioner states that the only evidence in support of the complaints comes from Miss Murray herself in the form of her unsworn complaint document. The Commissioner states in his Report that less weight falls to be afforded to that evidence than to the sworn and tested evidence from other sources. He states that even if he had accepted Miss Murray complaint document as a credible and reliable source of evidence he would not have been satisfied, in light of the conflicting sworn testimony, that her allegations had been established. Accordingly, the Commissioner was not satisfied that any breach of the Code occurred in respect of any aspect of this complaint.

73. The Committee agreed with the Commissioner's conclusion as it too is not satisfied that a breach of the Code occurred in respect of any aspect of this complaint.

74. Complaint 9 is therefore not upheld.

75. However, the Committee also wishes to put on record that it did not agree with some of the language used by the Commissioner in relation to his assessment of the credibility of witnesses. In his report the Commissioner has outlined his suspicions in relation to Ashleigh Murray's "unwillingness" to attend further interview. The Committee does not consider it necessary to question these reasons.

76. The Committee notes that this is the second occasion within the Commissioner's report where Mr McCrea has stated that he allowed young women into his hotel rooms. The Committee believes that Mr McCrea has exercised poor judgement by placing himself in this position. Mr McCrea would be well advised to exercise caution in this area in the future.

Complaint 10 – Misconduct towards Karen Tabahe

77. Complaint 10 is that that Mr McCrea bullied and harassed Karen Tabahe. The Commissioner explains that whilst bullying and harassment is not in itself a breach of the Code it could, depending on its degree, constitute a breach of the Respect principle and perhaps other provisions of the Code. The Complaint was made by Mr McCallister and Mr Patterson. Mr McCrea denied the allegation.

78. The evidence comes from Mrs Tabahe, Ms McAteer, Ms Holden, Mr Mackrell, Ms Chalkley, Ms Wilson and Mr McCrea together with documents provided by the Assembly. The Commissioner advises that on almost all key points the evidence of all the witnesses is almost identical.

79. Having considered the evidence, the Commissioner made a number of findings of fact in relation to this complaint including:

- Mrs Tabahe started paid employment, in a secretarial capacity, for Mr McCrea in 2009 and continues to be so employed by him. She is paid for out of his OCE;
- The period from February 2013 until mid-April 2013 was a particularly hectic and stressful one both for Mr McCrea and Mrs Tabahe due to the additional work arising from the forthcoming creation of NI21. Mrs Tabahe found it difficult to adjust to the new duties expected of her. She was also under pressure in relation to issues unconnected with her work;
- During that period Mr McCrea, on a number of occasions, shouted at Mrs Tabahe in an inappropriate manner due to errors she had made in keeping his diary. On all but one of these occasions he apologised for his conduct almost immediately and *'no real harm was taken'*;
- On 16 April 2013 a meeting to discuss the forthcoming 'brainstorming/get to know you' event at La Mon Hotel took place in Mr McCrea's office at Stormont;
- The purpose of that meeting was to sort out the arrangements for the event over which there had been a degree of confusion;
- In the course of that meeting Mr McCrea shouted at Mrs Tabahe in an inappropriate manner causing her distress;
- On 17 April 2013 Mrs Tabahe was unfit for work due to stress. She returned to work after an absence of three weeks;
- Mr McCrea, Mr McCallister, Mrs Tabahe and Ms McAteer were amongst those present;
- Mrs Tabahe continued to work for Mr McCrea until just before Christmas 2013 when she was absent from work for reasons unrelated to her work;

- She was unable to return to work until 17 February 2014;
- Shortly after her return to work she met with Mr McCrea with the intention of explaining how his conduct had affected her and handing in her notice. At that meeting both parties spoke of their concerns and apologised for their errors;
- Following the meeting Mrs Tabahe decided to continue her employment with Mr McCrea. She continues to work for him and has had no problems since then;
- Mrs Tabahe has never made a complaint that Mr McCrea breached any provision of the Code of Conduct;
- On 10 September 2014, after she became aware that others had made a complaint about Mr McCrea's conduct towards her, Mrs Tabahe wrote to me making clear that she did not wish to make a complaint against Mr McCrea and that any employment issues had been '*resolved to my satisfaction*'. No pressure was put on Mrs Tabahe to write that letter;
- The conduct and events referred to in Findings 4 to 7 above were known to Mr McCallister when they occurred. There is no reason why he could not have made a complaint about them within the period of one year specified in the General Procedures Direction; and
- Mr Patterson did not start work at Stormont until after the date on which all the matters of which Mr McCallister complains are alleged to have occurred. He could have no direct knowledge of them.

80. The Commissioner accepts Mrs Tabahe's evidence that '*no real harm was taken*' by the instances of shouting prior to the meeting on 16 April 2013. The Commissioner states that whilst Mr McCrea's conduct was not excusable it was to some extent understandable given the pressure under which both he and Mrs Tabahe were working during that short period. The Commissioner was not satisfied that this admitted conduct was in breach of the Code.

81. The Committee agreed with the Commissioner's conclusion that this admitted conduct was not in breach of the Code.

82. Complaint 10 is therefore not upheld.

83. The Committee noted that Mr McCrea had admitted shouting at his staff on occasions. The Committee reiterates the need for MLAs to show leadership at all times, particularly when managing stressful and difficult issues in the workplace.

While the Committee has agreed that Mr McCrea has not breached the Code in this case, it also believes that Mr McCrea's treatment of Ms Tabahe has on occasions been inappropriate.

Complaint 11 – Misconduct towards Nigel Macauley

84. Complaint 11 is that that Mr McCrea bullied and harassed Mr Macaulay by 'treating him with disdain and contempt', 'making derogatory comments about him, ignoring his verbal contributions at meetings' and making 'undermining, patronizing and belittling comments' about him. The Commissioner says that such conduct, if established, could constitute a breach of the Respect principle of the Code. The complaint was made by Mr McCallister. Mr Macauley, the alleged victim, has made no formal complaint about Mr McCrea's conduct towards him. Mr McCrea denied the allegation.

85. The evidence comes from Mr Macauley, Mr Hutchinson and Mr McCrea. Having considered the evidence, the Commissioner made a number of findings of fact in relation to this complaint including:

- Mr Macauley was in paid employment at Stormont from 13 January 2014 to 31 May 2014. Prior to 13 January 2014 Mr Macauley had worked for Mr McCallister on a voluntary basis. He had worked previously for the UUP when both Mr McCrea and Mr McCallister were in that Party;
- During the period 13 January 2014 to 31 May 2014 Mr Macauley's employment costs were met to the extent of 40% from Mr McCallister's OCE with the remaining 60% being met from the NI21 FAPP. At no time was Mr Macauley employed by Mr McCrea or paid for out of his OCE;
- Mr Macauley was recruited by Mr McCallister when Mr McCrea was abroad on holiday. Mr McCrea had no input into the recruitment and did not approve of Mr Macauley's employment;
- In relation to his work for NI21 Mr Macauley dealt mainly with communications issues including the Party website and the communications strategy;
- Whilst in paid employment at Stormont Mr Macauley reported to Mr McCallister in respect of both his work for Mr McCallister and his work for NI21. He met with Mr McCrea only in the latter's role as Party Leader;
- On Mr McCrea's return from holiday in early 2014 a meeting took place between Mr McCrea and Mr Macauley on the extent of the latter's job

description as NI21 Director of Communications. That meeting lasted for more than an hour and was '*heated*' with some shouting;

- The three other occasions of alleged misconduct by Mr McCrea all took place in relation to NI21 party business: one of them was at an NI21 Executive Committee meeting; and
- Mr Macauley's employment at Stormont was terminated on 31 May 2014 due to lack of funds to pay his wages. It was in no way due to alleged misconduct by Mr McCrea.

86. The Commissioner says it is plain, in light of the evidence available, that none of the conduct complained of, even if it took place, was within the scope of the Code. The Commissioner says that had he reached a different decision in relation to that matter it would have been necessary to consider whether the alleged conduct occurred and, if it did, whether it constituted a breach of the Code. The Commissioner is satisfied that Mr Macauley's account of Mr McCrea's conduct at the meeting about his job description was exaggerated. The Commissioner would not have been satisfied that Mr McCrea's conduct at that meeting constituted a breach of the Code.

87. The Commissioner goes on to say that given the very clear evidence that these incidents all took place in connection with NI21 party business and so were not covered by the Code he considered that the further expenditure of time and money on dealing with these matters could not be justified. Accordingly, the Commissioner was not satisfied that any breach of the Code occurred.

88. The Committee agreed with the Commissioner's conclusion that these incidents took place in connection with NI21 business and therefore are not within scope of the Code.

89. Complaint 11 is therefore not upheld.

90. The Committee notes that there is a pattern in these complaints in relation as to how Mr McCrea managed and dealt with conflict and differences of opinion. The Committee would again reiterate the need for MLAs to show leadership at all times and the need to treat people with respect and did not manage the situation in an appropriate manner.

Complaint 12 – Bullying and Harassment of Ashleigh Murray

91. Complaint 12 is that Mr McCrea broke the provisions of the Code by bullying and harassing Miss Murray. The Commissioner says that bullying and harassment is not itself a breach of the Code but conduct of that nature could depending on the circumstances be in breach of the Respect principle and of other Code provisions. The complaint was made by Miss Murray, Mr McCallister and Mr Patterson. Mr McCrea denied the allegation.

92. There are a number of different strands to this complaint. The first strand is that Miss Murray alleged that she would very often be subject of Mr McCrea's irrational behaviour. The second strand of the complaint by Miss Murray is that after she started work on a paid basis in July 2013 Mr McCrea questioned her repeatedly about poor timekeeping and took steps to check on her attendance. The third strand is that Mr McCrea told other staff that Miss Murray was always late in, wasn't pulling her weight and was not doing what she was told. The fourth strand of Miss Murray's complaint is that Mr McCrea falsely denied instructing her to arrange the delivery of furniture to his Lisburn office and then falsely claimed that she had made a complaint about him arising out of that issue and instructed what she was to say about that complaint. The fifth strand of Miss Murray's complaint relates to the removal of cash from the Lisburn office. Mr Patterson also alleged in his complaint that Mr McCrea had spread rumours about Miss Murray.

93. The evidence in relation to this complaint comes from Miss Murray, Mr Patterson, Mr McCrea, Ms Chalkley, Mrs Tabahe and Mr Clements together with documents made available to the Commissioner. Having considered the evidence, the Commissioner made a number of findings of fact in relation to this complaint including:

- Miss Murray was employed by Mr McCrea and paid for out of his OCE from 15 July 2013 until 1 November 2013;
- From spring 2013 until starting paid employment Miss Murray had worked for Mr McCrea in a voluntary capacity;
- She started as a volunteer after approaching Mr McCrea asking if there were any jobs available;
- Throughout the period that Miss Murray was in the paid employment of Mr McCrea there was a problem with her timekeeping;
- Appropriate action, including changes to her contracted hours of work, were made in a vain attempt to assist her to attend on time;

- No inappropriate action was taken by Mr McCrea in relation to Miss Murray's poor timekeeping;
- Miss Murray has given differing accounts of the alleged events in July 2013 regarding furniture for the Lisburn office;
- Mr McCrea was abroad on holiday at the time of the alleged event;
- Miss Murray was upset when she searched in vain for cash for which she was responsible that Mr McCrea had, unknown to her, removed from the Lisburn office; and
- Mr McCrea did not spread false rumours about Miss Murray or institute a whispering campaign against her.
- On the day she left Mr McCrea's employment Miss Murray sent him a text praising him as an employer and thanking him for all he had done for her; and
- Miss Murray made no complaint about this alleged misconduct for more than nine months after she had left Mr McCrea's employment.

94. The Commissioner was not satisfied that any breach of the Code occurred.

95. The Committee agreed with the Commissioner's conclusion that he was not satisfied that any breach of the code occurred in respect of this complaint.

96. Complaint 12 is therefore not upheld.

97. The Committee wished to put on record that it did not agree with some of the language used by the Commissioner in relation to his assessment of the credibility a witness in this investigation.

98. The Committee would again highlight that it understands that MLA offices at times can be a stressful place to work and that there is a need for elected representatives to lead by example and manage stressful situations. The Committee is of the view that conflict and differences of opinion in his Office could have been managed better by Mr McCrea.

Other Issues Considered by the Committee

99. During consideration of the Commissioner's report the Committee noted that on a number of occasions the Commissioner stated that Mr McCrea was not acting in his capacity as a MLA in relation to some of the conduct which was the subject of complaints. The Committee recognises that at times it can be difficult to establish whether a Member is acting either in their capacity as Member of the Assembly or in some other capacity (e.g. in their private or family life, wider public life or even in the capacity of any other political or public office). The Committee gave careful consideration to this issue more generally during its Review of the Code of Conduct and Guide to the Rules Relating to the Conduct of Members, an extract from the Report looking at this issue is included below and the Report can be found at the following link:

<http://www.niassembly.gov.uk/assembly-business/committees/standards-and-privileges/reports/review-of-the-code-of-conduct-and-guide-to-the-rules-relating-to-the-conduct-of-members/>

When is a Member acting as a Member?

59. *A question that occasionally arises is whether, in particular circumstances where misconduct is alleged, a Member is acting either in their capacity as Member of the Assembly or in some other capacity (e.g. in their private or family life, wider public life or even in the capacity of any other political or public office). This question previously arose in relation to a complaint about a Member's use of social media and separately in relation to a complaint about a Member's speech given following a parade.*
60. *The Committee said in its issues paper that it would give consideration to whether the scope of the Code should be extended to apply to Members when it could reasonably be presumed that a Member was acting in that capacity. However, in doing so, the Committee acknowledged that it had aimed to define clearly the scope of the Code and set out those circumstances where it does not apply. The Committee therefore recognised the arguments against introducing a more subjective test of reasonable presumption when determining admissibility. But, nonetheless, it said it would give careful consideration to all the evidence it received as part of this review before taking its final decision.*
61. *Dr Tom Walker said in his evidence that the scope should not be extended to cover actions which might reasonably be presumed to have been carried out in a Member's capacity as an MLA. He said that "fairness requires that if enforceable rules are to be applied then the people to whom they apply need to know what is required of them". He also pointed out that "what someone could reasonably think is necessarily a matter of judgement". He suggested that guidance should be provided as to the meaning of 'acting in the capacity of a Member' rather than broadening the scope of the Code.*
62. *At the oral evidence session with the Committee he went on to point out that "there will be disagreement as to what counts as 'reasonable presumption', whether Members can be reasonably presumed to be acting in that role, additional confusion will be added to the code." He also said that there could be a "difference between an MLA's opinion about when they are acting as a Member and that of some members of the public".*
63. *The Ombudsman acknowledged that delineation between public and private conduct can be difficult. He therefore suggested the test of a 'reasonable bystander'. He said this would involve: "...asking the hypothetical question 'what would the perception of a member of the public be of this behaviour' and*

would the behaviour be consistent with the behaviour that would be expected of someone elected to a position of trust.”

64. *The Ombudsman recognised that this would need careful judgement and accepted that these fine judgements could be very challenging.*
65. *The Commissioner said there was a sound argument for extending the Code to include acts or omissions of Members in which it could be reasonably presumed they were acting in their capacity as a Member. He said that the rejection of such complaints could undermine public confidence in the standards regime and even in the Assembly itself. He also said that it was reasonable to expect Members to make clear the capacity in which they are acting and that some Members already do so. He pointed out that the decision as to whether or not the presumption is reasonable would be based on all the available evidence including any clarification that had, or had not, been given by the Member.*
66. *The House of Commons Parliamentary Commissioner for Standards agreed that it is important to clarify the scope of the Code and the Rules for Members and to remove ambiguities. The Ulster Unionist Party said that guidance would be necessary in relation to ‘reasonable presumption’ of personal/professional capacity. Citing the example of attendance by a Member at a function, they asked if this attendance should be viewed as being in the capacity as an MLA or as member of a party, or if the two were inter-twined.*
67. *The Committee has given careful consideration to this issue, including by raising it consistently with the various standards committees at the legislatures it has visited. The Committee accepts that there are occasions when it is difficult to be definitive about the capacity in which a Member is acting – perhaps either because the Member has not given prior consideration to that question or because being a Member only partly accounts for the Member’s actions (e.g. when participating in a media interview, attending a public event or using social media). The Committee has therefore taken the view that the Code should continue to apply in these circumstances except when it is clear that a Member is acting exclusively in another capacity (i.e. when acting exclusively in the capacity of any other political or public office; or when acting exclusively in their private, family or wider public life).*
68. *Of course it shall not be enough for a Member simply to assert that they were not acting as a Member. The Committee would expect the Commissioner to take into consideration all relevant evidence etc. before concluding that a Member was acting exclusively in another capacity.*

100. The Committee also wished to put on record that it did not agree with some of the language used by the Commissioner in relation to his assessment of the credibility of a witness.
101. The Committee also recommends that in the new mandate its successor Committee looks at the issue of documents provided to it by the Commissioner as evidence within his reports. The Committee agreed that there were a number of papers that were irrelevant to the investigation, in possible contravention of the data protection act or which may have breached duties of confidentiality. The Committee received a document with over 3000 texts which Mr McCrea provided to the Commissioner as evidence. The Committee has concerns that Miss Neglia's and possibly others' personal information may have been processed unfairly. It has not been made aware if Mr McCrea had a policy in relation to retaining of work and personal messages for his employees. The Committee has therefore agreed that the texts should not be published in this report and has referred the issue to the Information Commissioner for further consideration.
102. The Committee has currently received three complaints from those interviewed by the Commissioner in relation to the manner in which the Commissioner conducted interviews and a perception of bias from the Commissioner. The Committee would reiterate the need for confidence in the manner in which the Commissioner conducts his investigation and has therefore agreed to make arrangements to have an independent review and report to it on how aspects of this investigation were conducted. The Committee hopes to take this forward at the earliest opportunity.
103. The Committee would also outline that in its report on the Review of the Code of Conduct and Guide to the Rules Relating to the Conduct of Members, the Committee discussed the issue of Members' treatment of their own staff and concluded that as issues of mistreatment could be subject of employment tribunals it would amend the General Procedure Direction so that under the new Code the Commissioner will not investigate those complaints which should properly be resolved in another statutory or official forum. Therefore under the new Code of Conduct a number of these complaints would not have been

admissible as the correct forum for resolving them would have been via an employment tribunal.

Publication of the Commissioner's report

104. As per the provision made in section 27(3) of the of the Assembly Members (Independent Financial Review and Standards) Act (Northern Ireland) 2011, and in Standing Order 69A(3)(e), the Committee is publishing the Commissioner's report on the investigation. It is included in Appendix 1 of this report. The Committee is also publishing the Commissioner's Addendum Report. This is included in Appendix 2 of the report.
105. In line with the Committee's position on any report, the Commissioner has redacted confidential and other personal information from the evidence he received where there is no prejudice to the public interest in knowing how a conclusion has been reached.
106. At its meetings on 2 and 9 December 2015, 13, 20 and 27 January 2016 and 3 and 17 February 2016, the Committee considered the Report in detail and decided to make a number of its own redactions to the Commissioner's report in order to comply with its obligations under the Human Rights Act 1998. The Committee sought legal advice on a number of issues in relation to publication.
107. The Committee is satisfied that the redactions that it has made are necessary and proportionate and do not prevent readers of the report from fully understanding how both the Commissioner and the Committee reached their conclusions.

Appendix 1- Report by the Northern Ireland Assembly Commissioner for Standard

16th October 2015	Report	<u>View Online</u>
16th October 2015	Appendices	<u>View Online</u>

Appendix 2 - Addendum Report by the Northern Ireland Assembly Commissioner for Standards

16th October 2015	Addendum Report	View Online
16th October 2015	Addendum Appendices	View Online

Appendix 3 - Other evidence considered by the Committee

3rd November 2015	Correspondence from Mr McCrea to the Committee	<u>View Online</u>

Appendix 4 - Minutes of Proceedings of the Committee

7th October 2015		View Online
4th November 2015		View Online
18th November 2015		View Online
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1st March 2016		View Online

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