

**Committee on Standards and Privileges**

**Report on complaints against  
Mr Jim Wells MLA from  
Ms Carál Ní Chuilín MLA and  
from Ms Mary McArdle**

**Together with the Reports of the interim Assembly Commissioner for Standards and  
other evidence considered by the Committee**

**Ordered by the Committee on Standards and Privileges to be printed on 17 October 2012  
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**REPORT EMBARGOED  
UNTIL COMMENCEMENT OF THE  
DEBATE IN PLENARY**



# 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.
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 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 Alastair Ross (Chairperson)  
 Mr Kieran McCarthy (Deputy Chairperson)  
 Mr Stephen Agnew  
 Mr Cathal Boylan  
 Ms Paula Bradley  
 Mr Jonathan Craig  
 Mr Colum Eastwood <sup>2</sup>  
 Mr Fra McCann  
 Mr David McIlveen  
 Mr Francie Molloy <sup>3,4</sup>  
 Mrs Sandra Overend <sup>1</sup>
5. The Report and evidence of the Committee are published by the Stationery Office by order of the Committee. All publications of the Committee are posted on the Assembly's website: ([www.niassembly.gov.uk](http://www.niassembly.gov.uk))
6. All correspondence should be addressed to:
 

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<sup>1</sup> With effect from 26 September 2011 Mrs Sandra Overend replaced Mr Michael Copeland.

<sup>2</sup> With effect from 23 April 2012 Mr Colum Eastwood replaced Mr Patsy McGlone.

<sup>3</sup> With effect from 3 July 2012 Mr Alex Maskey replaced Mr Pat Doherty.

<sup>4</sup> With effect from 11 September 2012 Mr Francie Molloy replaced Mr Alex Maskey.



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# Report

1. The Committee on Standards and Privileges has considered two reports from Dr Tom Frawley in his former capacity as the interim Assembly Commissioner for Standards (interim Commissioner). The reports are on investigations into separate complaints made by Ms Carál Ní Chuilín MLA and Ms Mary McArdle about the conduct of Mr Jim Wells MLA. The interim Commissioner's reports and each of the complaints are appended to this report.

## **Complaint from Ms Ní Chuilín MLA**

2. Ms Ní Chuilín's complaint related to an exchange she had with Mr Wells in Parliament Buildings. In her letter of complaint to the interim Commissioner Ms Ní Chuilín alleged that at approximately 12.15pm on 8 June 2011 Mr Wells had confronted her on the West staircase in Parliament Buildings in an aggressive and threatening manner. She said that Mr Wells had pointed his finger very close to her face and told her that she would not be welcomed by the Ulster-Scots Community and that neither she nor her Special Adviser would be going to South Down. At this time Ms Ní Chuilín's Special Adviser was Ms McArdle (the other complainant). South Down is Mr Wells' constituency.
3. At a subsequent interview with the interim Commissioner on 27 March 2012 Ms Ní Chuilín said that during the exchange in question Mr Wells had said to her "You needn't think you are to bring that murderer to South Down". This was a reference to Ms McArdle. Ms Ní Chuilín described Mr Wells as having been very angry, venomous and intimidating. She said that he had pointed and wagged his finger at her and that she had found the exchange to have been completely unexpected and unsettling.
4. Mr Wells met the interim Commissioner on 21 December 2011 when he confirmed that he did have an exchange with Ms Ní Chuilín on 8 June 2011. Mr Wells said he had told Ms Ní Chuilín that he disagreed with the appointment of Ms McArdle as her Special Adviser. He considered that he had most likely made a remark along the lines of "You had better not bring her to South Down".
5. Mr Wells said he was unable to recall if he had pointed his finger at Ms Ní Chuilín during the exchange. While he believed he may have wagged his finger towards her, he had no recollection of having pointed his finger at Ms Ní Chuilín in an aggressive manner. Mr Wells said that he did not consider his demeanour to have been intimidating and that he did not believe that Ms Ní Chuilín had thought so at that time either, adding that Ms Ní Chuilín had remained quite calm during the exchange.

## **Complaint from Ms McArdle**

6. Ms McArdle's complaint related to an exchange she had with Mr Wells in Parliament Buildings. In her letter of complaint to the interim Commissioner Ms McArdle alleged that at approximately 1.17pm on 27 June 2011 Mr Wells had passed her on the first floor corridor in Parliament Buildings and had said to her "There's the murderer herself". Ms McArdle said that Mr Wells had told her that she had murdered a young woman coming from her place of worship, that she was a disgrace and that she better not dare come to South Down.
7. Ms McArdle said that the whole exchange lasted 1 – 2 minutes and during the entire time Mr Wells wagged his finger in her face. At a subsequent interview with the interim Commissioner on 27 March 2012 Ms McArdle said that Mr Wells had "verbally assaulted her". Ms McArdle described Mr Wells as having been forceful, aggressive and intimidating during the encounter and said that she considered his conduct to be an abuse of power. She said that she did not expect anyone to be subjected to such behaviour in the workplace.
8. When Mr Wells met the interim Commissioner on 21 December 2011 he confirmed that he had had an exchange with Ms McArdle on 27 June 2011. Mr Wells said that Ms McArdle's account of the exchange in her letter of complaint was broadly correct. However, he disputed

the allegation that he had called her a murderer although he did say that he had mumbled a snide remark as he had passed her. At this interview Mr Wells declined to tell the interim Commissioner what this remark was. However, in subsequent correspondence to the interim Commissioner on 9 March 2012, Mr Wells said that he had used the phrase “monster advisor”.

9. Mr Wells also said at the interview on 21 December 2011 that after having been challenged by Ms McArdle on making his initial remark he had gone on to say “You murdered Mary Travers coming out of her Catholic place of worship”. Mr Wells said that he may well have said to Ms McArdle that she was a disgrace and that she better not come to South Down. However, he disputed that he had used the word “dare” in this context.
10. Mr Wells told the interim Commissioner that his remarks to Ms McArdle about her not coming to South Down had not been intended as a threat but that he considered her presence would cause offence and that she would cause outrage if she were to attend certain events in the Ulster-Scots community in the constituency. Mr Wells referred to the murder of Mary Travers and said that he had made it clear to Ms McArdle that he considered what she had done had been absolutely wrong. Mr Wells said that he should not be denied the right to express his views on Ms McArdle’s appointment to the Special Advisor post.

#### **The interim Commissioner’s Consideration of the Complaints**

11. There is no dispute that there was an exchange between Ms Ní Chuilín and Mr Wells on 8 June 2011 and that there was a separate exchange between Ms McArdle and Mr Wells on 27 June 2011. Nor is there any dispute as to the general tenor of each of these encounters. There are, however, some specific differences between the complainants’ and Mr Wells’ accounts of the respective exchanges.
12. The interim Commissioner spoke to a number of Assembly ushers who would have been in the vicinity of the exchange between Ms Ní Chuilín and Mr Wells on 8 June 2011 and a number of Assembly ushers who would have been in the vicinity of the exchange between Ms McArdle and Mr Wells on 27 June 2011. However, none of these individuals were able to recall having witnessed either exchange. The interim Commissioner was therefore unable to obtain any independent evidence that corroborated either Ms Ní Chuilín’s or Mr Wells’ account of the exchange that had taken place between them or that corroborated either Ms McArdle’s or Mr Wells’ account of the exchange that had taken place between them.
13. The interim Commissioner has therefore advised the Committee that in the absence of independent evidence he has been required to examine the provisions of the Code of Conduct against the conduct that Mr Wells has acknowledged in responding to each of the complaints against him.
14. In respect of the complaint from Ms Ní Chuilín, the interim Commissioner has concluded that Mr Wells’ conduct did not meet the standard that the Code of Conduct requires. The interim Commissioner has explained that in his view the manner in which Mr Wells approached Ms Ní Chuilín was contrary to a requirement to treat other Members with courtesy, consideration and respect and not to subject other individuals to unreasonable and personal attack.
15. In coming to this view the interim Commissioner was mindful of Ms Ní Chuilín’s account of her perception of Mr Wells’ demeanour and attitude towards her during the exchange, and of its impact on her. While the interim Commissioner accepts that Mr Wells may have had no intention of expressing his views to Ms Ní Chuilín in an aggressive or intimidating manner, and that he may consider that he did not do so, he is satisfied that Ms Ní Chuilín perceived his conduct on that occasion to be such and that she found the encounter to have been unsettling.
16. In respect of the complaint from Ms McArdle, the interim Commissioner has also concluded that Mr Wells’ conduct did not meet the standard that the Code of Conduct requires. The interim Commissioner has explained that he considers that as Mr Wells made a snide remark



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to Ms McArdle - by referring to her as a monster advisor - and as he cautioned her in such a forceful manner against accompanying the Minister on official engagements in South Down, he did not meet a requirement to treat the staff of other Members with courtesy, consideration and respect and not to subject other individuals to unreasonable and personal attack.

#### **Committee's Consideration of the Matter**

17. Before the Committee received the interim Commissioner's reports on these complaints it arranged for Mr Wells to be provided with advance copies. Mr Wells was informed that he was entitled to provide the Committee with his own comments in respect of any matter raised in either of the reports. Mr Wells was also informed that he could choose to appear before the Committee to make his comments in person and to answer any questions that members of the Committee may have had. Mr Wells did not choose to either provide the Committee with comments in writing or to appear before the Committee.
18. The Committee considered the interim Commissioner's reports at its meetings on 4 July 2012 and 4 September 2012. At each of these meetings the interim Commissioner attended and provided an explanation to the Committee as to how he had arrived at his conclusions.
19. The Committee noted that Mr Wells had told the interim Commissioner that he should not be denied the right to express his views on Ms McArdle's appointment to the Special Adviser post. The Committee agrees with this assertion (as did the interim Commissioner). The Committee is clear that all Members should be free, within the law, to express any political opinion that they may hold and that the Assembly should not seek to prevent or limit any political opinion being expressed legally. The Committee also acknowledges that Members are entitled to express their opinions in a robust and forceful manner and that this is to be accepted in the normal cut and thrust of political life.
20. Nonetheless, Members do have a duty in respect of the manner in which they express their opinions. Beyond a certain point the forceful expression of an opinion can become unduly confrontational. Members are not entitled to be aggressive or threatening and individuals should not be subjected to unreasonable or excessive personal attack. In fact, the Code of Conduct requires, under the principle of Respect, that Members must treat other Members and the staff of other Members with courtesy and respect.
21. Having taken all of these factors into consideration, and having given careful consideration to the evidence gathered by the interim Commissioner and his judgement of the matter, the Committee has ultimately concluded that, on each of the two occasions in question, Mr Wells' conduct went beyond what is acceptable under the Code of Conduct. The Committee agrees with the interim Commissioner's conclusion that in respect of both exchanges Mr Wells failed to comply with the requirements of the Code of Conduct. **Both complaints are therefore upheld.**
22. The Committee wrote to Mr Wells on 4 September 2012 informing him of the Committee's decision that he had breached the Code of Conduct and telling him that he should write a letter of apology to the two complainants and that a copy of the letters of apology should be sent to the Committee for inclusion in the Committee's Report. The Committee had agreed that an appropriate apology in writing from Mr Wells to the complainants would allow it to report that the matter had been resolved and the correspondence to Mr Wells set this position out. The correspondence went on to state that should Mr Wells not provide the Committee with a copy of an appropriate written apology to each of the complainants by 18 September 2012, the Committee would have to give consideration to recommending to the Assembly that a sanction be imposed.
23. Mr Wells responded to the Committee on 18 September 2012. In his response Mr Wells stated that he could not apologise to either of the complainants and he set out his reasons for his position.

24. It is highly regrettable that Mr Wells did not apologise to the complainants. Both the interim Commissioner and the Committee had concluded that he had breached the Code of Conduct. Mr Wells should have acknowledged and accepted this outcome and apologised for his breaches. An appropriate apology from Mr Wells to the complainants would, in the Committee's view, have provided a fitting and proportionate resolution to the matter.
25. Mr Wells' decision not to apologise means the Committee has no option but to recommend that the Assembly impose a sanction upon him for his failure to comply with the Code of Conduct. Having considered the matter carefully, and having had regard to Mr Wells' failure to apologise, the Committee has agreed that Mr Wells should be suspended from proceedings of the Assembly for a period of seven days.
26. Standing Order 69B (2) provides that, in consideration of a report from the Committee on Standards and Privileges where the Committee has found that a member has failed to comply with a provision of the Code of Conduct, the Assembly may impose a sanction upon that member. Standing Order 69B (3)(c) provides for the Assembly to impose the sanction of exclusion of the member from proceedings of the Assembly for a specified period.
27. The Committee on Standards and Privileges recommends that the Assembly imposes upon Mr Wells the sanction of exclusion from proceedings of the Assembly for a period of seven days. The Committee shall bring forward a motion to this effect.
28. The Committee takes this opportunity to remind all Members of their duty to observe the principles of conduct as set out in the Assembly's Code of Conduct. These principles include the principles of Respect and Good Working Relationships. Members must treat other Members and staff with courtesy and respect.



Northern Ireland  
Assembly

Appendix 1

# Reports from the interim Assembly Commissioner for Standards



**ASSEMBLY OMBUDSMAN**  
**f o r N o r t h e r n I r e l a n d**

Our Ref: S 3/11

*20/5* June 2012

Mr Paul Gill  
Clerk to the Committee on Standards and Privileges  
Northern Ireland Assembly  
Parliament Buildings  
Ballymiscaw  
Stormont  
BELFAST  
BT4 3XX

STANDARDS & \_\_\_\_\_

25 JUN 2012

PRIVILEGES \_\_\_\_\_

Dear *Mr. Gill,*

**COMMITTEE ON STANDARDS AND PRIVILEGES**

I enclose my report to the Committee in respect of the complaint against Mr Jim Wells MLA that was referred to me by Ms Caral Ní Chuilín MLA.

I am happy to discuss my views with the Committee and to answer any questions on my report, if that is considered helpful.

Yours sincerely

**T FRAWLEY CBE**  
Interim Commissioner for Standards

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S 3/11

**Report by the Interim Commissioner for Standards  
to the Northern Ireland Assembly  
Committee on Standards and Privileges  
on a complaint from  
Ms Carál Ní Chuilín MLA  
against  
Mr Jim Wells MLA**

**This report is privileged and is the property of the Interim Assembly  
Commissioner for Standards.**

**It has been prepared for presentation to the Committee on Standards and  
Privileges (the Committee). Neither the report nor its contents should be  
disclosed to any person unless such disclosure is authorised by the Interim  
Commissioner or the Committee.**

**The report remains confidential until such time as it is published by the  
Committee.**

## **Role of the Interim Assembly Commissioner for Standards**

1. I have prepared this report in my role as the Interim Commissioner for Standards of the Northern Ireland Assembly. In this role, I consider any matter relating to the conduct of Members of the Assembly that is referred to me by any person or by the Clerk to the Committee on Standards and Privileges (the Clerk of Standards), including specific complaints in relation to alleged breaches of the Code of Conduct for Members. My purpose is to undertake an independent investigation of the matter or complaint referred to me and to present my findings to the Committee on Standards and Privileges (the Committee). Any decision or action beyond my investigation is then a matter for the Committee.

## **The Complaint**

2. I have been asked to examine a complaint made by Ms Carál Ní Chuilín MLA against Mr Jim Wells MLA. In her letter of complaint, a copy of which is at Appendix 1, Ms Ní Chuilín has stated that at approximately 12.15pm on 8 June 2011, as she was about to enter the Assembly Chamber, she had an exchange with Mr Wells. Ms Ní Chuilín alleged that Mr Wells “confronted [her] in a very aggressive and threatening manner”; that “he pointed his finger very close to [her] face”; and that he “told [her] that [she] would not be welcomed by the Ulster-Scots Community” and that “neither [she] nor [her] Special Adviser would be going to South Down”.
3. Ms Ní Chuilín has stated that she considers that Mr Wells’ conduct on that occasion was not “befitting behaviour for an elected member of the Assembly”, and that it constituted a breach of the Members’ Code of Conduct. Specifically, Ms Ní Chuilín has alleged that Mr Wells failed to observe the Principle of Conduct concerning ‘Good Working Relationships’.
4. Also in her letter of complaint, Ms Ni Chuilin has alleged that “there are several other incidents which have taken place from this initial incident which involved the same member, [herself] and [her] member of staff”, however, she did not provide any detail of those other incidents.

## **The Code of Conduct**

5. The Code of Conduct for Members of the Northern Ireland Assembly (the Code) provides advice and guidance to Members on the standards of conduct expected of them in discharging their duties as Members of the Assembly. The Code aims to cover the conduct of Members with respect to anything they say or do in their capacity as an elected Member. It recognises that Members are entitled to express legally any political opinion they may hold but requires that in doing so, they do not express opinions in a manner that is manifestly in conflict with the Principles of Conduct.

6. The Code requires Members to observe a number of Principles of Conduct. These are the Seven Principles of Public Life (the Nolan Principles), and other principles agreed by the Assembly. The Principles of Conduct address the areas of public duty; selflessness; integrity; objectivity; accountability; openness; honesty; leadership; equality; promoting good relations; respect; and good working relationships.

7. Ms Ní Chuilín has referred specifically in her letter of complaint to 'good working relationships'. In this regard, the Code states:

"Members should work responsibly with other Members of Assembly for the benefit of the whole community. Members must treat other Members and the staff of other Members with courtesy and respect. Members must abide by the Assembly Standing Orders and should promote an effective working environment within the Assembly".

8. In relation to the principle of 'respect', the Code states:

"It is acknowledged that the exchange of ideas and opinions on policies may be robust but this should be kept in context and not extend to individuals being subjected to unreasonable and excessive personal attack. Members should keep in mind that rude and offensive behaviour may lower the public's regard for, and confidence in, Members and the Assembly itself. Members should therefore show respect and consideration for others at all times".



## Conduct of the Investigation

9. I initially received Ms Ní Chuilín's letter of complaint on 30 June 2011 via the Clerk of Standards. Although Ms Ní Chuilín's name was printed on the letter, it was unsigned. I therefore asked Ms Ní Chuilín to confirm whether she had submitted the letter to the Clerk and, if so, to resubmit a signed letter directly to me. By the time I received Ms Ní Chuilín's signed letter of complaint, the Assembly's summer recess had commenced. In the circumstances, I considered it appropriate to wait until the end of the recess before advising Mr Wells about Ms Ní Chuilín's complaint.
  
10. I wrote to Mr Wells on 2 September 2011, providing him with a copy of Ms Ní Chuilín's letter of complaint and seeking his comments on the allegations she had made against him. I also informed Mr Wells that I was content to arrange a meeting with him that would enable him to respond to me in person. In correspondence dated 16 November 2011, Mr Wells accepted my invitation to meet with him. I met with Mr Wells on 21 December 2011 and put a number of questions to him regarding Ms Ní Chuilín's complaint. (I also made enquiries to Mr Wells at the same meeting about the separate complaint against him that had been submitted to me by Ms Mary McArdle, the former Special Adviser to the Minister for Culture, Arts and Leisure, about an exchange she had with Mr Wells on 27 June 2011 (complaint reference S4/11)). Following the meeting, Mr Wells was provided with a copy of the note that had been made of our discussion. Mr Wells agreed the factual accuracy of the note on 29 February 2012. A copy of the agreed meeting note (which has been redacted to remove information relating solely to the separate complaint submitted by Ms McArdle) is at Appendix 2.
  
11. Having made some further enquiries of Mr Wells following our meeting, I met with Ms Ní Chuilín on 27 March 2012. Following the meeting, Ms Ní Chuilín was provided with a copy of the note that had been made of our discussion. Ms Ní Chuilín agreed the factual accuracy of the note on 9 May 2012. A copy of the agreed meeting note is at Appendix 3.

12. In responding to my enquiries, Mr Wells and Ms Ní Chuilín both informed me that some Assembly Ushers had been in the vicinity of their exchange on 8 June 2011. Since these individuals were potential witnesses to the conduct complained of, I arranged for my Deputy, Mrs Marie Anderson, to make enquiries to them on my behalf. The meetings with the Assembly Ushers took place on 14 May 2012.

### **Evidence Obtained**

13. At our meeting on 21 December 2012, Mr Wells confirmed that he did have an exchange with Ms Ní Chuilín on 8 June 2011. He informed me that the exchange took place, by chance, in the corridor outside the door behind the Speaker's chair, as Ms Ní Chuilín had been leaving the Chamber.
14. Mr Wells explained the context of his exchange with Ms Ní Chuilín by referring to his views on the appointment of Ms Mary McArdle to the post of Special Adviser to the Minister for Culture, Arts and Leisure. Mr Wells' stated views in this regard are documented in the note of our meeting (Appendix 2). Mr Wells commented that there had been "much controversy" about Ms McArdle's appointment and that it had been reported extensively in the media at the time (May 2011). He stated that he had contributed to the debate as he had felt strongly about the issue. He also highlighted that he considered that he should not be denied the right to express his views on Ms McArdle's appointment to the Special Adviser post.
15. Mr Wells described his exchange with Ms Ní Chuilín on 8 June 2011. He informed me that it lasted for approximately 20 seconds, during which time, he had told Ms Ní Chuilín that he disagreed with the appointment of Ms McArdle as her Special Adviser and that she (Ms Ní Chuilín) should not bring Ms McArdle on any official visits to South Down. He considered that he had most likely made a remark along the lines, "You had better not bring her to South Down". Mr Wells also described how Ms Ní Chuilín had responded by stating that she did not agree with his view on Ms McArdle's appointment and that they had both then walked away from each other.

16. Mr Wells commented to me that most Ulster-Scots and sporting groups in South Down had at least one member who had been a victim of the Troubles and that those groups would have found it “deeply offensive” if Ms McArdle had accompanied Ms Ní Chuilín, in her capacity as Minister, to any official events in the constituency. Mr Wells also commented to me that he considered that the groups to which he had referred would not hold the same view with regard to the Minister herself, since she had secured a mandate, and he emphasised his view that it would be Ms McArdle, and not Ms Ní Chuilín, who would be unwelcome in South Down. He informed me that he did not recall having explained to Ms Ní Chuilín why he considered that she Ms McArdle should not accompany her to South Down.
17. Mr Wells told me that he was unable to recall if he had pointed his finger at Ms Ní Chuilín during their exchange but believed that he may well have done so. He also said he had no recollection of having pointed his finger at Ms Ní Chuilín in an aggressive manner but that he believed he may have waved his finger towards her. In addition, Mr Wells told me that he did not consider his demeanour towards Ms Ní Chuilín to have been intimidating and that he did not believe that she had considered it intimidating at that particular time either; he considered that she had only formed this view some weeks later, after his subsequent exchange with Ms McArdle (on 27 June 2011). Mr Wells also commented that he considered that the Assembly Ushers in the vicinity of his exchange with Ms Ní Chuilín would have intervened had he been behaving aggressively. He commented that he had not formed the view that any of the Ushers had regarded the exchange as anything other than a normal occurrence.
18. Ms Wells also commented to me that Ms Ní Chuilín had remained “quite clam” during the exchange and that he considered their encounter to have been a normal expression of views, within the context of “the cut and thrust of politics”.
19. Mr Wells advised me that he spoke to Ms Ní Chuilín on only one occasion, that is, the occasion referred to in her complaint (8 June 2011), and that as far as he was concerned, there were no other incidents involving him and Ms Ní Chuilín (or him and Ms McArdle), as Ms Ní Chuilín had alleged in her letter of complaint.

20. At our meeting on 27 March 2012, Ms Ní Chuilín described her exchange with Mrs Wells on 8 June 2011. She informed me that she had just come down the west staircase on her way into the Assembly Chamber when she had encountered Mr Wells coming from the Chamber. Ms Ní Chuilín informed me that Mr Wells had remarked, as he passed her, "You needn't think you are to bring that murderer to South Down". She also told me that she had responded by saying that she (Ms Ní Chuilín) would be going to South Down. Ms Ní Chuilín described Mr Wells as having been very angry, "almost venomous" and intimidating during the exchange and that he had pointed and wagged his finger at her.
21. Ms Ní Chuilín informed me that she had found the exchange with Mr Wells to have been completely unexpected and unsettling, and that she considered his conduct to have been markedly different to the civil demeanour she had observed on his part previously. She commented that while she accepted that questions were at times asked and answered by Members in a robust manner, she considered the encounter with Mr Wells' on 8 June 2011 to have been more than a heated exchange within the usual 'cut and thrust of politics' and that his attitude to her on that occasion had been personal and aggressive.
22. Ms Ní Chuilín informed me that she was aware that Assembly Ushers had been in the vicinity of the exchange with Mr Wells on 8 June 2011. She commented, however, that since the Ushers had been sitting inside the Chamber, they may not have witnessed what had been said.
23. In relation to the other incidents involving Mr Wells, to which she had referred in her letter of complaint, Ms Ní Chuilín informed me that these had taken place within the Chamber. As such, she was aware that they were not matters that fell within my remit as Interim Commissioner for Standards, and that she would be addressing them through the Speaker's Office.
24. The Assembly's Director General informed me that four Assembly Ushers were on duty at approximately 12.15pm on 8 June 2011 in the vicinity of the exchange that took place between Mr Wells and Ms Ní Chuilín. My Deputy, Mrs Marie Anderson, met with each of the Ushers but none had any recollection of an

exchange between Ms Ní Chuilín and Mr Wells or even of having seen either Member in that location at that time.

### **Analysis of Evidence and Findings**

25. My investigation has found some discrepancy in the accounts Ms Ní Chuilín and Mr Wells provided to me with regard to the precise circumstances that preceded the events on 8 June 2011 that have resulted in this complaint being made. Ms Ní Chuilín has stated that she encountered Mr Wells coming from the Chamber as she was on her way there while Mr Wells has informed me that the exchange took place, by chance, as Ms Ní Chuilín was leaving the Chamber. There is no dispute, however, that there was an exchange between the two Members on that occasion in the corridor outside the door at the back of the Assembly Chamber. In addition, there is a general consensus as to the nature of the comments that were made by Mr Wells at that time (regarding the appointment of Ms McArdle as the Minister's Special Adviser).
26. However, there is a clear difference between Ms Ní Chuilín and Mr Wells' opinions on what was actually said; the manner in which it was said; and indeed the entire tone of exchange itself. Ms Ní Chuilín has told me that Mr Wells referred to Ms McArdle as "that murderer" when he told her (Ms Ní Chuilín) that she should not bring Ms McArdle to South Down. She has also informed me that that she considered Mr Wells was very angry, intimidating, aggressive and "almost venomous" during their exchange and that he pointed and wagged his finger at her. In addition, she has described how she found the experience to have been completely unexpected and unsettling. Mr Wells has described the exchange as one in which he told Ms Ní Chuilín that he disagreed with Ms McArdle's appointment and that she "had better not" bring her to official engagements in South Down. He has told me he considered that his demeanour towards Ms Ní Chuilín was not intimidating and that while he may well have pointed and/or waved his finger towards her, this had not been in an aggressive manner. In addition, Mr Wells has informed me that he regarded the nature of the exchange as normal within "the cut and thrust of politics" and that Ms Ní Chuilín had remained "quite calm" and had responded with her own view before walking away.

27. Although I have established that a number of Assembly Ushers were in the vicinity of the exchange between Ms Ní Chuilín and Mr Wells, those individuals have been unable to provide me with any evidence that might corroborate either version of events. My judgement as to whether Mr Wells' conduct on 8 June 2011 constituted a breach of the Code must therefore be based solely on the accounts that he and Ms Ní Chuilín have provided to me.
28. In responding to my enquiries, Mr Wells has made it clear that he has very strong personal views about the appointment of Ms McArdle to the post of Special Adviser to the Minister of Culture, Arts and Leisure, and I am aware that he expressed those views in the local press shortly after his exchange with Ms Ní Chuilín<sup>1</sup>. There is no dispute that Mr Wells is entitled to hold such personal views and to express them in an appropriate forum and manner, and within the law. My consideration of this complaint is concerned with the way in which Mr Wells, as a Member of the Assembly, articulated his views to another Member, Ms Ní Chuilín, on 8 June 2011 and, specifically, whether his conduct on that occasion constituted a breach of the Code.
29. As I have already recorded, the Code states that "Members must treat other Members and the staff of other Members with courtesy and respect" and that they "should promote an effective working environment within the Assembly". In addition, while the Code acknowledges that the exchange of opinions may be robust, it requires that individuals are not "subjected to unreasonable and excessive personal attack". It also requires Members to "show respect and consideration for others at all times" and it highlights that "rude and offensive behaviour may lower the public's regard for, and confidence in, Members and the Assembly itself".
30. The absence of any independent evidence to corroborate Ms Ní Chuilín's specific account of her exchange with Mr Wells means I have been required to examine the provisions of the Code against the conduct that Mr Wells has acknowledged in responding to the allegations made against him. Having done so, I have formed the view that Mr Wells' conduct during his exchange with on

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<sup>1</sup> Newsletter, 17 June 2011



Ms Ní Chuilín on 8 June 2011 did not meet the standards that the Code requires of Members. Specifically, I consider that the fact that Mr Wells took a “by chance” encounter with Ms Ní Chuilín as they were passing in the corridor outside the Chamber as an opportunity to communicate his disagreement with her decision to appoint Ms McArdle as her Special Adviser (a decision that Ms Ní Chuilín, as Minister, was entitled to make) and to caution against Ms McArdle accompanying the Minister on official engagements in the South Down constituency, and the strong possibility that he pointed or wagged his finger at her while doing so (whether aggressively or otherwise) are contrary to the requirement for Members to treat other Members with “courtesy”, “consideration” and “respect” and to not subject other individuals to “unreasonable and personal attack”.

31. In addition, I am mindful of Ms Ní Chuilín’s account of her perception of Mr Wells’ demeanour and attitude towards her during the exchange, and of its impact on her. While I accept that Mr Wells may have had no intention of expressing his views to Ms Ní Chuilín in an aggressive or intimidating manner, and that he may consider he did not do so, I am satisfied that she perceived his conduct on that occasion to be such and that she found the encounter to have been “unsettling”. It is my view, therefore, that Mr Wells’ actions did little to “promote an effective working environment within the Assembly”, which is what the Code expects of him, and also that his conduct may well have been perceived by Ms Ní Chuilín as the “rude and aggressive behaviour” that the Code highlights as having the potential to lower “the public’s regard for, and confidence in, Members and the Assembly itself”.

## **Conclusion**

32. I recognise Mr Wells’ right to express his personal views on the appointment of Ms McArdle to the post of Special Adviser to the Minister for Culture, Arts and Leisure. However, as a Member of the Assembly, Mr Wells has a particular responsibility for the manner in which he does so. In this case, on the basis of the evidence made available to me during my investigation, I am satisfied, for the reasons outlined in paragraphs 30 and 31 above, that Mr Wells’ conduct during his exchange with Ms Ní Chuilín in Parliament Buildings on 8 June 2011

constituted a breach of the provisions of the Code. Specifically, I consider that Mr Wells' actions on that occasion were in conflict with the Principles of Conduct regarding 'Respect' and 'Good Working Relationships'.

**T FRAWLEY CBE**  
**Interim Commissioner for Standards**

20<sup>th</sup> June 2012



**S 3/11 - APPENDIX 1**

Member's complaint against Mr Jim Wells MLA.



8<sup>th</sup> June 2011

At approximately 12.15, I was walking down the West Staircase to go into the Chamber for a vote, a division had been called. Mr Jim Wells was walking down the stairs behind me and confronted me in a very aggressive and threatening manner. He pointed his finger very close to my face and told me that I would not be welcomed by the Ulster-Scots Community and that neither I nor my Special Advisor would be going to South Down.

I asked Mr Wells to stop pointing his finger at my face and informed him that I would be going to South Down. I do anticipate from time to time there may be heated exchanges during a debate that is all part of the cut and thrust of politics. However I do not expect any member to behave in an intimidating and threatening manner, which in my view is not befitting behaviour for an elected member of the Assembly.

**Under the heading "Good working relationships "**

Members should work responsibly with other members of the assembly for the benefit of the whole community. Members must treat other members and the staff of other members with courtesy and respect. Members must abide by the assembly standing orders and should promote an effective working environment within the assembly.

I believe Mr Jim Wells has breached this rule, there are several other incidents which has taken place from this initial incident which involved the same member, myself and my member of staff

Ms Carol Ni Chuilin

## S 3/11 - APPENDIX 2

S3/11 and S 4/11

### NOTE OF MEETING WITH JIM WELLS MLA ON 21 DECEMBER 2011 REGARDING COMPLAINTS BY CARAL NI CHUILIN MLA AND MARY McARDLE

**Present:** Mr Jim Wells MLA  
Mr Tom Frawley, Interim Commissioner for Standards  
Mrs , Investigating Officer (Notetaker)

1. At the outset of the meeting Mr Wells thanked Mr Frawley for offering to meet with him. Mr Wells stated that until he had received Mr Frawley's letter of 2 September 2011, he had been unaware that Ms Ni Chuilin and Ms McArdle had made complaints against him. He said that he saw no reason why he had not been informed earlier about the complaints, given that the conduct complained of by Ms Ni Chuilin and Ms McArdle was alleged to have occurred in June 2011. Mr Wells confirmed that he had been involved in verbal exchanges with Ms Ni Chuilin and Ms McArdle but that he considered the delay in him being informed that the two complainants were asserting the exchanges constituted breaches of the Assembly's Code of Conduct had "prejudiced his position" as he had not had an opportunity to make contemporaneous notes of the encounters in order that he could respond fully to the allegations that had been made against him.
2. Mr Frawley explained that Ms Ni Chuilin and Ms McArdle's letters of complaint had been unsigned when they had been referred to him initially by the Clerk of the Committee on Standards and Privileges at the end of June 2011. He had therefore found it necessary to ask Ms Ni Chuilin and Ms McArdle to confirm if they had submitted the letters to the Clerk and, if so, to resubmit signed letters to him (Mr Frawley) directly. Mr Frawley also explained that when the signed letters had been returned to him he had considered it best to wait until the end of the Assembly's summer recess, which by that time had commenced, before advising Mr Wells about the complaints. Mr Frawley apologised if this was now causing Mr Wells any difficulty in having to responding to the allegations made against him.
3. Mr Wells explained the context of his exchanges with Ms Ni Chuilin and Ms McArdle. He detailed his views on the appointment of Ms McArdle to the post of Special Advisor to the Minister of Culture, Arts and Leisure. Mr Wells referred to how Ms McArdle had been convicted of the murder of Mary Travers, the daughter of magistrate Tom Travers. He described how Miss Travers had been shot coming out

of church in 1984, and he spoke of how he had been "horrified" by "that insidious crime" and of how it had remained at the forefront of his memory since. Mr Wells said that there had been "much controversy" about Ms McArdle's appointment to the Special Advisor post and extensive coverage about it in the media around the time of the appointment (May 2011). He added that he had contributed to that debate as he had felt strongly about the issue.

4. Mr Frawley outlined the allegations that Ms Ni Chuilin had made against him (as stated in her letter of complaint dated 8 June 2011, which had been copied to Mr Wells on 2 September 2011) and explained that Ms Ni Chuilin viewed his conduct as having breached the Code of Conduct for Members of the Assembly. Mr Frawley also highlighted that in her letter of complaint, Ms Ni Chuilin had referred to "several other incidents" involving him (Mr Wells) that had taken place since the particular exchange that was alleged to have taken place on 8 June 2011, and which the subject of her complaint, but that she had not provided any detail at this time on those further incidents.
5. Mr Wells said that he had only ever spoken to Ms Ni Chuilin on one occasion, that is, on the occasion referred to in her letter of 8 June 2011.

**- REDACTED -**

Consequently, he said, as far as he was concerned, there were no "other incidents".

6. Mr Frawley asked Mr Wells if his exchange with Ms Ni Chuilin had happened by chance. Mr Wells confirmed that this had been the case. He stated that the exchange had taken place just outside the Chamber as Ms Ni Chuilin was leaving. Mr Wells described how he had told Ms Ni Chuilin that he disagreed with the appointment of Ms McArdle to the Special Advisor post. He had also told Ms McArdle that she should not bring Ms McArdle on any official visits to South Down. Mr Wells told Mr Frawley that he had most likely said something along the lines of, "You had better not bring her to South Down". He explained that most Ulster Scots and sporting groups in that constituency would have at least one member who had been a victim of the Troubles and that those groups would therefore have found it "deeply offensive" if Ms McArdle had accompanied the Minister to any events in the constituency. Mr Wells said that the groups would not have held the same view

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about the Minister herself visiting, as she had secured a mandate, and he emphasised that it was Ms McArdle and not Ms Ni Chuilin who was unwelcome in South Down. Mr Wells pointed out that around the time of the exchange, "feelings had been running high" about Ms McArdle's appointment and there had been much media coverage, including a BBC Spotlight programme about the issue. Mr Wells advised Mr Frawley that he did not recall having had the opportunity to explain to Ms Ni Chuilin why he considered that she should not bring Ms McArdle to South Down as their exchange had lasted for only approximately 20 seconds.

7. Mr Frawley asked Mr Wells if he had pointed his finger at Ms Ni Chuilin. Mr Wells responded that he was unable to recall but surmised that he may well have done so. He said that he had no recollection of having pointed his finger at Ms Ni Chuilin in an aggressive manner but that he may have waved his finger towards her. Mr Wells described how Mr Ni Chuilin had responded to his comments by stating that she did not agree with his view on Ms McArdle's appointment. He had then walked away, as did she. Mr Wells advised that the exchange had taken place in the corridor just outside the door behind the Speaker's chair and that a number of security personnel had been in the vicinity. He commented that he had had no impression that any of those security personnel had considered the exchange to have been anything other than a normal occurrence.
8. Mr Frawley asked Mr Wells if his demeanour towards Ms Ni Chuilin had been intimidating. Mr Wells replied that he did not consider this to have been the case and that he did not believe that Ms Ni Chuilin had thought so at the time either. Rather, he said, he believed she had only formed that view some weeks later, after his exchange with Ms McArdle. Mr Wells said that he believed that had he been behaving aggressively towards Ms Ni Chuilin, the security personnel nearby would have stepped in. He highlighted that he believed he should not be denied the right to express his view on the appointment of Ms McArdle to a Special Advisor post, for which, he considered, she had no relevant knowledge, experience or expertise.
9. Mr Frawley then asked Mr Wells about the allegations that had been made against him by Ms McArdle.

**- REDACTED -**

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**- REDACTED -**

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**- REDACTED -**

12.

**- REDACTED -**

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**- REDACTED -**

Mr Wells said that Ms Ni Chuilin had not raised her voice and had remained "quite calm"; he had regarded their encounter as a normal expression of views, the likes of which often takes place "in the cut and thrust of politics" and of which he had had experience himself on many occasions in the past.

13.

**- REDACTED -**

14. Mr Frawley concluded the meeting by advising Mr Wells that he would now make arrangements to speak to Ms Ni Chuilin and Ms McArdle, and to other witnesses who could be identified from the information provided to him. Mr Frawley also advised that when he had completed his enquiries, he would consider the evidence gathered and test it against the Code of Conduct and then report to the Committee. He explained that it would then be for the Committee to consider his report and take a view on his findings. Finally, Mr Frawley advised that a note of the meeting would be prepared and forwarded to Mr Wells for his comment/agreement.

15. The meeting ended at 3.35 pm.

I agree that this note is a true and accurate account of my discussions with the Interim Commissioner for Standards, Mr Tom Frawley, on 21 December 2011, and that the information conveyed to the Interim Commissioner on that date is true to the best of my knowledge and belief. I am aware that this information may be used in any proceedings by the Assembly.

Signed: \_\_\_\_\_

Jim Wells MLA

Date: 29/02/2012

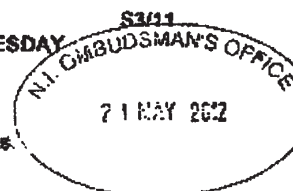
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S 3/11 - APPENDIX 3

**NOTE OF MEETING WITH MS CARÁL NÍ CHUILÍN MLA ON TUESDAY  
27 MARCH 2012 AT 3.10PM IN PARLIAMENT BUILDINGS**

**Present: Carál Ní Chuilín MLA  
Tom Frawley, Interim Commissioner for Standards,  
Investigating Officer (Notetaker)**



1. Mr Frawley opened the meeting by thanking Ms Ni Chuilín for meeting with him. Mr Frawley explained that he had arranged to meet with Ms Ni Chuilín in order to obtain a fuller understanding of her perspective of the events that caused her to submit a complaint about the conduct of Mr Jim Wells MLA. Mr Frawley advised Ms Ni Chuilín that he had already met with Mr Wells.
2. Mr Frawley asked Ms Ni Chuilín to describe the exchange with Mr Wells on 8 June 2011, to which she had referred in her letter of complaint. Ms Ni Chuilín explained that she had just come down the west staircase on her way into the Assembly Chamber when she had encountered Mr Wells coming from the Chamber. She described how Mr Wells, as he passed by, had said, "You needn't think you are to bring that murderer to South Down", and how she had responded that she (Ms Ni Chuilín) would be going to South Down. Ms Ni Chuilín said that Mr Wells had been very angry, 'almost venomous', and intimidating, and had pointed and wagged his finger at her. She described how she had found the experience to have been completely unexpected and unsettling. Ms Ni Chuilín also described how Mr Wells' conduct on that occasion had been markedly different to that which she had observed previously, when she had judged his demeanour to be civil.
3. Mr Frawley advised Ms Ni Chuilín that he had noted that in her letter of complaint, she had acknowledged that there may at times be 'heated exchanges' within the 'cut and thrust of politics'. He asked Ms Ni Chuilín if she considered that her exchange with Mr Wells on 8 June 2011 had been more than such a 'heated exchange'. Ms Ni Chuilín told Mr Frawley that she accepted that at times questions were asked, and were answered, in a forthright manner but that Mr Wells' attitude towards her on 8 June 2011 had been different; in her view it had been personal and aggressive and not within what she would describe as the usual cut and thrust of politics.

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4. Mr Frawley asked Ms Ní Chuilín if anyone had witnessed her exchange with Mr Wells on 8 June 2011. Ms Ní Chuilín advised that the Assembly door keepers had been in the vicinity but that as they had been sitting on the other side of the door, they may not have heard the exchange.
5. Mr Frawley asked Ms Ní Chuilín about the reference, in her letter of complaint, to 'several other incidents' involving Mr Wells since the time of the exchange on 8 June 2011. Ms Ní Chuilín informed Mr Frawley that she believed that Mr Wells had taken exception to the appointment of Mary McArdle as her Special Advisor. She explained that the manner in which Mr Wells was manifesting his views on this matter was unacceptable and bordering on the aggressive. Ms Ní Chuilín told Mr Frawley that she considered that Mr Wells had also behaved inappropriately within the Assembly Chamber and that she would be addressing this matter through the Speaker's Office. Ms Ní Chuilín confirmed that the other incidents involving Mr Wells, to which she had referred in her letter of complaint, had been in relation to Mr Wells' conduct within the Chamber. She advised Mr Frawley that she was aware that these matters were beyond the scope of his remit.
6. Mr Frawley asked Ms Ní Chuilín if she had any further information that might assist in his investigation. Ms Ní Chuilín indicated that she had nothing further to add.
7. Mr Frawley explained that a note of the meeting would be prepared and forwarded to Ms Ní Chuilín for her comment/agreement. He also explained that when he had completed his enquiries, he would consider the evidence gathered and test it against the Code of Conduct and then report to the Committee. It would then be for the Committee to consider his report and take a view on its content before making a decision on her complaint.
8. Mr Frawley ended the meeting at 3.25pm by thanking Ms Ní Chuilín for meeting with him.

**I agree that this note is a true and accurate account of my discussion with the Interim Commissioner for Standards, Mr Tom Frawley, on 27 March 2012, and that the information conveyed to the Interim Commissioner on that date is true**

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**to the best of my knowledge and belief. I am aware that this information may be used in any proceedings by the Assembly.**

**Signed:** \_\_\_\_\_  
Carál Ní Chuilín MLA

**Date:** 9<sup>th</sup> May 2012

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**ASSEMBLY OMBUDSMAN**  
for Northern Ireland

Our Ref: S 4/11

20<sup>th</sup> June 2012

Mr Paul Gill  
Clerk to the Committee on Standards and Privileges  
Northern Ireland Assembly  
Parliament Buildings  
Ballymiscaw  
Stormont  
BELFAST  
BT4 3XX

**STANDARDS &  
25 JUN 2012  
PRIVILEGES**

Dear *Mr. Gill,*

**COMMITTEE ON STANDARDS AND PRIVILEGES**

I enclose my report to the Committee in respect of the complaint against Mr Jim Wells MLA that was referred to me by Ms Mary McArdle.

I am happy to discuss my views with the Committee and to answer any questions on my report, if that is considered helpful.

Yours sincerely

**T FRAWLEY CBE**  
Interim Commissioner for Standards

Enc

S 4/11

**Report by the Interim Commissioner for Standards  
to the Northern Ireland Assembly  
Committee on Standards and Privileges  
on a complaint from  
Ms Mary McArdle  
against  
Mr Jim Wells MLA**

**This report is privileged and is the property of the Interim Assembly  
Commissioner for Standards.**

**It has been prepared for presentation to the Committee on Standards and  
Privileges (the Committee). Neither the report nor its contents should be  
disclosed to any person unless such disclosure is authorised by the Interim  
Commissioner or the Committee.**

**The report remains confidential until such time as it is published by the  
Committee.**

### **Role of the Interim Assembly Commissioner for Standards**

1. I have prepared this report in my role as the Interim Commissioner for Standards of the Northern Ireland Assembly. In this role, I consider any matter relating to the conduct of Members of the Assembly that is referred to me by any person or by the Clerk to the Committee on Standards and Privileges (the Clerk of Standards), including specific complaints in relation to alleged breaches of the Code of Conduct for Members. My purpose is to undertake an independent investigation of the matter or complaint referred to me and to present my findings to the Committee on Standards and Privileges (the Committee). Any decision or action beyond my investigation is then a matter for the Committee.

### **The Complaint**

2. I have been asked to examine a complaint made by Ms Mary McArdle (who at the time of submitting her complaint was the Special Adviser to the Minister for Culture, Arts and Leisure) against Mr Jim Wells MLA. In her letter of complaint, a copy of which is at Appendix 1, Ms McArdle has stated that at approximately 1.17pm on 27 June 2011, as she was walking along the first floor corridor of Parliament Buildings, she had an exchange with Mr Wells. Ms McArdle has alleged that when he had passed by her, Mr Wells stated, "There's the murderer herself". She has also alleged that Mr Wells told her that she was a disgrace and that she had better not dare come to South Down. In addition, Ms McArdle has stated that throughout the exchange, which lasted for one to two minutes, Mr Wells "was wagging his finger in [her] face".
3. Ms McArdle has stated that she considers that Mr Wells' conduct on that occasion "is totally contrary" to the Principle of Conduct set out in the Code of Conduct for Members of the Assembly in relation to 'Good Working Relationships'.

### **The Code of Conduct**

4. The Code of Conduct for Members of the Northern Ireland Assembly (the Code) provides advice and guidance to Members on the standards of conduct expected of them in discharging their duties as Members of the Assembly. The

Code aims to cover the conduct of Members with respect to anything they say or do in their capacity as an elected Member. It recognises that Members are entitled to express legally any political opinion they may hold but requires that in doing so, Members do not express opinions in a manner that is manifestly in conflict with the Principles of Conduct.

5. The Code requires Members to observe a number of Principles of Conduct. These are the Seven Principles of Public Life (the Nolan Principles), and other principles agreed by the Assembly. The Principles of Conduct address the areas of public duty; selflessness; integrity; objectivity; accountability; openness; honesty; leadership; equality; promoting good relations; respect; and good working relationships.
6. Ms McArdle has referred specifically to 'good working relationships'. In this regard, the Code states:

“Members should work responsibly with other Members of Assembly for the benefit of the whole community. Members must treat other Members and the staff of other Members with courtesy and respect. Members must abide by the Assembly Standing Orders and should promote an effective working environment within the Assembly”.

7. In relation to the principle of “respect”, the Code states:

“It is acknowledged that the exchange of ideas and opinions on policies may be robust but this should be kept in context and not extend to individuals being subjected to unreasonable and excessive personal attack. Members should keep in mind that rude and offensive behaviour may lower the public's regard for, and confidence in, Members and the Assembly itself. Members should therefore show respect and consideration for others at all times”.

### **Conduct of the Investigation**

8. I initially received Ms McArdle's letter of complaint on 30 June 2011 via the Clerk of Standards. Although Ms McArdle's name was printed on the letter, it was unsigned. I therefore asked Ms McArdle to confirm whether she had

submitted the letter to the Clerk and, if so, to resubmit a signed letter directly to me. By the time I received Ms McArdle's signed letter of complaint, the Assembly's summer recess had commenced. In the circumstances, I considered it appropriate to wait until the end of the recess before advising Mr Wells about Ms McArdle's complaint.

9. I wrote to Mr Wells on 2 September 2011, providing him with a copy of Ms McArdle's letter of complaint and seeking his comments on the allegations she had made against him. I also informed Mr Wells that I was content to arrange a meeting with him that would enable him to respond to me in person. In correspondence dated 16 November 2011, Mr Wells accepted my invitation to meet with him. I met with Mr Wells on 21 December 2011 and put a number of questions to him regarding Ms McArdle's complaint. (I also made enquiries to Mr Wells at the same meeting about the separate complaint against him that had been submitted to me by Ms Carál Ní Chuilín MLA about an exchange she had with Mr Wells on 8 June 2011 (complaint reference S3/11)). Following the meeting, Mr Wells was provided with a copy of the note that had been made of our discussion, which he agreed on 29 February 2012. A copy of the agreed meeting note (which has been redacted to remove the references that relate solely to the separate complaint submitted by Ms Ní Chuilín) is at Appendix 2.
10. Having made some further enquiries of Mr Wells following our meeting I met with Ms McArdle on 27 March 2012 regarding her complaint. Following the meeting, Ms McArdle was provided with a copy of the note that had been made of our discussion. Ms McArdle agreed the factual accuracy of the note on 5 April 2012. A copy of the agreed meeting note is at Appendix 3.
11. I also arranged for my Deputy, Mrs Marie Anderson, to make enquiries, on my behalf, to the Assembly Ushers who were on duty in the vicinity of the exchange between Mr Wells and Ms McArdle on 27 June 2011 and who may therefore have witnessed the conduct complained of. The meetings with the Assembly Ushers took place on 14 May 2012.

## Evidence Obtained

12. At our meeting on 21 December 2011, Mr Wells confirmed that he did have an exchange with Ms McArdle in the first floor corridor of Parliament Buildings. He was uncertain of the exact date of the exchange but recalled that it had taken place on a sitting day in the Assembly.
13. Mr Wells explained the context of his exchange with Ms McArdle by referring to his views on her appointment to the post of Special Adviser to the Minister for Culture, Arts and Leisure. Mr Wells' stated views in this regard are documented in the note of our meeting (Appendix 2). Mr Wells commented that there had been "much controversy" about Ms McArdle's appointment and that it had been reported extensively in the media at the time (May 2011). He stated that he had contributed to the debate as he had felt strongly about the issue. He also highlighted that he considered that he should not be denied the right to express his views on Ms McArdle's appointment to the Special Adviser post.
14. Mr Wells informed me that Ms McArdle's account of their exchange, as provided in her letter of complaint, was broadly correct but that he could not be certain that he had used the precise words she had reported. In response to my enquiry as to whether he had said, "There's the murderer herself", as Ms McArdle had alleged, Mr Wells informed me that he had mumbled "a snide remark" as they had passed each other but that he had not used the exact words Ms McArdle had attributed to him. He stated that he did not say the word "murderer" in addressing Ms McArdle but that he could understand why she believed that he had done so. During our meeting, Mr Wells declined to disclose the word he had used in speaking to Ms McArdle. Subsequently, in written correspondence dated 9 March 2012, Mr Wells informed me that the phrase he had used was "monster advisor". A copy of Mr Wells' letter is at Appendix 4.
15. Mr Wells informed me at our meeting that Ms McArdle had responded to his initial comment to her by turning to him forcefully and enquiring what he had just said. He also informed me that at that point he had said to Ms McArdle, "You murdered Mary Travers coming out of her Catholic place of worship".

16. In response to my enquiry as to whether he had told Ms McArdle that she was “a disgrace” and that she had better not come to South Down, as had been stated in the letter of complaint, Mr Wells stated that he may well have done so as the comment sounded “like something [he] would say”. He disputed, however, having used the word “dare”, as Ms McArdle had alleged.
17. Mr Wells informed me that his remarks to Ms McArdle about her not coming to South Down had not been intended as a threat; rather the issue had been that he considered her presence would cause offence and that she would cause “outrage” if she were to attend certain events in the Ulster-Scots community in the constituency. He commented to me that most Ulster-Scots and sporting groups in South Down had at least one member who had been a victim of the Troubles and that those groups would have found it “deeply offensive” if Ms McArdle had accompanied Ms Ní Chuilín, in her capacity as Minister, to any events in the constituency.
18. Mr Wells informed me that he believed others had been present in the corridor of Parliament Buildings at the time of his exchange with Ms McArdle. He was unable to recall who had been there but believed that they would have been able to overhear what had been said.
19. Mr Wells confirmed to me that he had not spoken to Ms McArdle since their exchange on 27 June 2011.
20. At our meeting on 27 March 2012, Ms McArdle described her exchange with Mr Wells on 27 June 2011. She informed me that she had been in the first floor corridor of Parliament Buildings, approaching Room 145. She had encountered Mr Wells about to go into another room. Ms McArdle stated that Mr Wells had made a comment to her, she had turned towards him and he had then “verbally assaulted” her, wagging his finger at her face. She also said that Mr Wells had said that she was a disgrace; had referred to her having killed a young girl coming from her place of worship; and had warned her she should not go to South Down.



21. Ms McArdle told me that the comment Mr Wells had made to her initially was "There's the murderer herself", and that when she had turned back to him, he had added, "Don't you dare think you can go to South Down". When I pointed out to Ms McArdle that Mr Wells had informed me that he had used the word "monster advisor" rather than "murderer" when addressing her, Ms McArdle said that she had not heard Mr Wells' comment as that. She pointed out that, in any case, it would also have been unacceptable for him to have used the word "monster", and she would have challenged him about it.
22. Ms McArdle described Mr Wells' demeanour during the exchange as "forceful" and "aggressive", and she informed me that she had been taken aback by his conduct as she had expected to be treated courteously in her place of work. She also described Mr Wells' conduct as having been "hostile", "intimidating" and "unprofessional", and said that she had considered it "an abuse of power". In addition, Ms McArdle commented that she did not expect anyone to be subjected to such behaviour in their workplace.
23. Ms McArdle was unable to recall if anyone else had been present in the corridor, or within hearing distance, at the time of her exchange with Mr Wells or if there had been any Assembly Ushers in the vicinity.
24. Ms McArdle confirmed to me that she had had no other exchanges with Mr Wells, either prior to or since 27 June 2011.
25. The Assembly's Director General provided me with details of the three Assembly Ushers who were on duty at approximately 1.17pm on 27 June 2011 in the vicinity of the exchange that took place between Ms McArdle and Mr Wells. My Deputy, Mrs Marie Anderson, met with each of the Ushers but none had any recollection of an exchange between Ms McArdle and Mr Wells or even of having seen either of them in that location at that time.

### **Analysis of Evidence and Findings**

26. In response to my enquiries, Mr Wells has confirmed that he did have an exchange with Ms McArdle in the first floor corridor of Parliament Buildings on 27 June 2011. However, he has disputed Ms McArdle's account of that

exchange. Ms McArdle has informed me that she heard Mr Wells say, "There's the murderer herself" and that he "verbally assaulted" her, telling her that she was "a disgrace" and that she "dare" not think she could go to South Down. She has described his demeanour during the exchange as "forceful", "aggressive", "hostile", "intimidating" and "unprofessional" and stated that Mr Wells wagged his finger "at her face". She has also informed me that she was taken aback by Mr Well's conduct, which she regarded as "an abuse of power" and not something that anyone should be subjected to in their place of work. Mr Wells has informed me that he "mumbled a snide remark" to Ms McArdle as they had passed in the corridor. He has told me that he did not say the word "murderer" in addressing Ms McArdle and advised me subsequently that the phrase he had used was in fact "monster advisor". Mr Wells has accepted that he may well have told Ms McArdle that she was "a disgrace" and that she had better not come to South Down, although he has disputed that he used the word "dare" in this context.

27. Although I have established that a number of Assembly Ushers were in the vicinity of the exchange between Ms McArdle and Mr Wells, those individuals have been unable to provide me with any evidence that might corroborate either version of events. My judgement as to whether Mr Wells' conduct on 27 June 2011 constituted a breach of the Code must therefore be based solely on the accounts that he and Ms McArdle have provided to me.
28. In responding to my enquiries, Mr Wells has made it clear that he has very strong personal views about Ms McArdle's appointment to the post of Special Adviser to the Minister of Culture, Arts and Leisure, and I am aware that he had already expressed those views in the local press shortly before his exchange with her<sup>1</sup>. There is no dispute that Mr Wells is entitled to hold such personal views and to express them in an appropriate forum and manner, and within the law. My consideration of this complaint is concerned with the way in which Mr Wells, as a Member of the Assembly, articulated his views to Ms McArdle on 27 June 2011 and, specifically, whether his conduct on that occasion constituted a breach of the Code.

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<sup>1</sup> Newsletter, 17 June 2011

29. As I have already recorded, the Code states that “Members must treat other Members and the staff of other Members with courtesy and respect” and that they “should promote an effective working environment within the Assembly”. In addition, while the Code acknowledges that the exchange of opinions may be robust, it requires that individuals are not “subjected to unreasonable and excessive personal attack”. It also requires Members to “show respect and consideration for others at all times” and it highlights that “rude and offensive behaviour may lower the public’s regard for, and confidence in, Members and the Assembly itself”.
30. The absence of any independent evidence to corroborate Ms McArdle’s specific account of her exchange with Mr Wells means I have been required to examine the provisions of the Code against the specific conduct that Mr Wells has acknowledged in responding to the allegations made against him. Having done so, I have formed the view that Mr Wells’ conduct during his exchange with Ms McArdle on 27 June 2011 did not meet the standards that the Code requires of Members. Specifically, I consider that by making what he described to me as “a snide remark” as he passed by Ms McArdle; by referring to her as a “monster advisor”; and by cautioning in such a forceful manner against her accompanying the Minister on official engagements in the South Down constituency, Mr Wells did not meet the requirement for Members to treat the staff of other Members with “courtesy”, “consideration” and “respect” and to not subject other individuals to “unreasonable and personal attack”.
31. In addition, I am mindful of Ms McArdle’s comments regarding Mr Wells’ demeanour towards her during the exchange, and of its impact on her. While I accept that Mr Wells may have had no intention of expressing his views to Ms McArdle in a “forceful”, “aggressive”, “hostile” or “intimidating” manner, and that he may consider he did not do so, I am satisfied that she perceived his conduct on that occasion to be such and that she was taken aback by the encounter. It is my view, therefore, that Mr Wells’ actions did little to “promote an effective working environment within the Assembly”, which is what the Code expects of him, and also that his conduct may well have been perceived by Ms McArdle as the “rude and aggressive behaviour” that the Code highlights as

having the potential to lower “the public’s regard for, and confidence in, Members and the Assembly itself”.

### **Conclusion**

32. I recognise Mr Wells’ right to express his personal views on the appointment of Ms McArdle to the post of Adviser to the Minister of Culture, Arts and Leisure. However, as a Member of the Assembly, Mr Wells has a particular responsibility for the manner in which he does so. In this case, on the basis of the evidence made available to me during my investigation, I am satisfied, for the reasons outlined in paragraphs 30 and 31 above, that Mr Wells’ conduct during his exchange with Ms McArdle in Parliament Buildings on 27 June 2011 constituted a breach of the provisions of the Code. Specifically, I consider that Mr Wells’ actions on that occasion were in conflict with the Principles of Conduct regarding ‘Respect’ and ‘Good Working Relationships’.

**T FRAWLEY CBE**  
**Interim Commissioner for Standards**

*20<sup>th</sup>* June 2012

S4/11 - APPENDIX 1

Complaint against Mr Jim Wells MLA.



Tuesday 28<sup>th</sup> June 2011

To Whom It May Concern:

On 27 June 2011 at around 1.17 pm I was walking along the first floor corridor and I met Jim Wells. He smiled and I said hello. When he had passed me he said "There's the murderer herself". I turned around to face him and said excuse me what did you say. He told me that I was a disgrace and that I better not dare to come to South Down.

He said that I had murdered that young woman coming from her place of worship. The entire time he was wagging his finger in my face, and repeating that I better not dare come to South Down and that I was a disgrace. I said that he could not tell me where I could and couldn't go, and how dare he speak to me that way. The whole exchange lasted 1 - 2 minutes.

In the Code of Conduct Under the heading :

**"Good Working Relationships"**

It states;

**"Members should work responsibly with other members of the assembly for the benefit of the whole community. Members must treat other members and the staff of other members with courtesy and respect. Members must abide by the assembly standing orders and should promote an effective working environment within the assembly."**

I believe the actions of Mr Wells is totally contrary to this

Mary McArdle

## S4/11 - APPENDIX 2

S3/11 and S 4/11

### **NOTE OF MEETING WITH JIM WELLS MLA ON 21 DECEMBER 2011 REGARDING COMPLAINTS BY CARAL NI CHUILIN MLA AND MARY McARDLE**

**Present: Mr Jim Wells MLA  
Mr Tom Frawley, Interim Commissioner for Standards  
Investigating Officer (Notetaker)**

1. At the outset of the meeting Mr Wells thanked Mr Frawley for offering to meet with him. Mr Wells stated that until he had received Mr Frawley's letter of 2 September 2011, he had been unaware that Ms Ni Chuilin and Ms McArdle had made complaints against him. He said that he saw no reason why he had not been informed earlier about the complaints, given that the conduct complained of by Ms Ni Chuilin and Ms McArdle was alleged to have occurred in June 2011. Mr Wells confirmed that he had been involved in verbal exchanges with Ms Ni Chuilin and Ms McArdle but that he considered the delay in him being informed that the two complainants were asserting the exchanges constituted breaches of the Assembly's Code of Conduct had "prejudiced his position" as he had not had an opportunity to make contemporaneous notes of the encounters in order that he could respond fully to the allegations that had been made against him.
2. Mr Frawley explained that Ms Ni Chuilin and Ms McArdle's letters of complaint had been unsigned when they had been referred to him initially by the Clerk of the Committee on Standards and Privileges at the end of June 2011. He had therefore found it necessary to ask Ms Ni Chuilin and Ms McArdle to confirm if they had submitted the letters to the Clerk and, if so, to resubmit signed letters to him (Mr Frawley) directly. Mr Frawley also explained that when the signed letters had been returned to him he had considered it best to wait until the end of the Assembly's summer recess, which by that time had commenced, before advising Mr Wells about the complaints. Mr Frawley apologised if this was now causing Mr Wells any difficulty in having to responding to the allegations made against him.
3. Mr Wells explained the context of his exchanges with Ms Ni Chuilin and Ms McArdle. He detailed his views on the appointment of Ms McArdle to the post of Special Advisor to the Minister of Culture, Arts and Leisure. Mr Wells referred to how Ms McArdle had been convicted of the murder of Mary Travers, the daughter of magistrate Tom Travers. He described how Miss Travers had been shot coming out

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of church in 1984, and he spoke of how he had been "horrified" by "that insidious crime" and of how it had remained at the forefront of his memory since. Mr Wells said that there had been "much controversy" about Ms McArdle's appointment to the Special Advisor post and extensive coverage about it in the media around the time of the appointment (May 2011). He added that he had contributed to that debate as he had felt strongly about the issue.

4. Mr Frawley outlined the allegations that Ms Ni Chuilfin had made against him

**- REDACTED -**

- 5.

He also said that he had spoken only once to Ms McArdle, that is, on the occasion referred to in her letter of 28 June 2011. Consequently, he said, as far as he was concerned, there were no "other incidents".

- 6.

**- REDACTED -**

He explained that most Ulster Scots and sporting groups in that constituency would have at least one member who had been a victim of the Troubles and that those groups would therefore have found it "deeply offensive" if Ms McArdle had accompanied the Minister to any events in the constituency.

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**- REDACTED -**

Mr Wells pointed out that around the time of the exchange, "feelings had been running high" about Ms McArdle's appointment and there had been much media coverage, including a BBC Spotlight programme about the issue.

7. **- REDACTED -**

8. **- REDACTED -**

9. Mr Frawley then asked Mr Wells about the allegations that had been made against him by Ms McArdle. Mr Wells confirmed that an exchange with Ms McArdle had taken place in the first floor corridor of Parliament Buildings. He also confirmed that

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Ms McArdle's account of the exchange was broadly correct but that he could not be certain that he had used the exact words she had reported in her letter of complaint.

10. Mr Frawley asked Mr Wells if he had stated, "There's the murderer herself", as had been alleged by Ms McArdle. Mr Wells replied that he had mumbled "a snide remark" to Ms McArdle as they had passed by each other but that he had not used the specific words she had attributed to him. He clarified that he had not used the word, "murderer". Mr Wells said that he did recall the particular word he had used and that he would seek legal advice on whether he should disclose it to Mr Frawley. He added that he could understand why Ms McArdle had thought he had used the word, "murderer". Mr Wells went on to describe how Ms McArdle had turned back to him forcefully, asking what he had just said to her. He had then said, "You murdered Mary Travers coming out of her Catholic place of worship". Mr Wells described how in response to his comment, Ms McArdle had said something along the lines of, "What of it?" Mr Wells went on to comment to Mr Frawley that he had been "especially outraged that Mary Travers [had been] murdered coming from her place of worship", a place he regarded as "a sanctuary", and that he had made it clear to Ms McArdle that he considered that what she had done had been "absolutely wrong". Mr Wells also commented to Mr Frawley that he believed that he had the right to express such a view.
11. Mr Frawley asked Mr Wells if he had told Ms McArdle that she was "a disgrace" and that she had better not come to South Down. Mr Wells responded that he may well have done so as the comment sounded like something that he would say. Furthermore, he said, he considered that Ms McArdle's appointment to the Special Adviser post was a disgrace and that she would cause "outrage" if she came to certain events in the Ulster Scots community in South Down. Mr Wells told Mr Frawley that he had, however, not used the word, "dare", as Ms McArdle had alleged and he emphasised that his comments about Ms McArdle not coming to South Down had not been intended as a threat; the issue had been that her presence there would cause offence.
12. Mr Wells told Mr Frawley that he was unable to recall the date of his exchange with Ms McArdle but that it had taken place on a Sitting day in the Assembly and that others had been present in the corridor at the time. Mr Wells was unable to recall

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who had been in the corridor at the time but believed that they would have overheard his exchange with Ms McArdle. He added that he considered that his exchange with Ms McArdle had been different in tone to that that which had taken place previously with Ms Ni Chuilin.

**- REDACTED -**

13. Mr Frawley asked Mr Wells if he had had any further contact with Ms McArdle since their exchange in the corridor. Mr Wells replied that he had had no further contact with Ms McArdle. He said that he had seen her in the dining room with Ms Ni Chuilin but had not spoken to her.

14. Mr Frawley concluded the meeting by advising Mr Wells that he would now make arrangements to speak to Ms Ni Chuilin and Ms McArdle, and to other witnesses who could be identified from the information provided to him. Mr Frawley also advised that when he had completed his enquiries, he would consider the evidence gathered and test it against the Code of Conduct and then report to the Committee. He explained that it would then be for the Committee to consider his report and take a view on his findings. Finally, Mr Frawley advised that a note of the meeting would be prepared and forwarded to Mr Wells for his comment/agreement.

15. The meeting ended at 3.35 pm.

I agree that this note is a true and accurate account of my discussions with the Interim Commissioner for Standards, Mr Tom Frawley, on 21 December 2011, and that the information conveyed to the Interim Commissioner on that date is true to the best of my knowledge and belief. I am aware that this information may be used in any proceedings by the Assembly.

Signed: \_\_\_\_\_

Jim Wells MLA

Date: 29/02/2012

S4/11 - APPENDIX 3

S3/11

**NOTE OF MEETING WITH MS MARY McARDLE ON TUESDAY 27 MARCH 2012 AT 3.25PM IN PARLIAMENT BUILDINGS**

**Present:** Mary McArdle  
Tom Frawley, Interim Commissioner for Standards  
Investigating Officer (Notetaker)

1. Mr Frawley opened the meeting by thanking Ms McArdle for meeting with him. Mr Frawley explained that he had arranged to meet with Ms McArdle in order to obtain a fuller understanding of her perspective of the events that caused her to submit a complaint about the conduct of Mr Jim Wells MLA. Mr Frawley advised Ms McArdle that he had already met with Mr Wells.
2. Mr Frawley asked Ms McArdle to describe the exchange with Mr Wells on 27 June 2011, to which she had referred in her letter of complaint. Ms McArdle explained that she had been returning from the canteen to Room 145, Parliament Buildings. Ms McArdle described how, as she had been approaching Room 145, she had encountered Mr Wells just about to go into another room. ~~He had turned towards her and had~~ "verbally assaulted" her, wagging his finger at her face. Ms McArdle told Mr Frawley that Mr Wells had warned her that she should not go to South Down. He had also said that she was a disgrace and that he had referred to her having killed a young girl coming from her place of worship. Ms McArdle described Mr Wells' demeanour as "forceful" and "aggressive".
3. Mr Frawley asked Ms McArdle if Mr Wells had used the word "murderer". Ms McArdle confirmed that Mr Wells had done so. She described how he had said, "there's the murderer herself" and that when she had turned back towards him, he had said, "Don't you dare think you can go to South Down". Mr Frawley advised Ms McArdle that Mr Wells had stated that he had used the word "monster" but not the word "murderer". Ms McArdle responded that she had not heard Mr Wells' remark as such but that even if he had said "monster", that too would have been unacceptable and she would have challenged it. Ms McArdle added that to some extent, the precise word used by Mr Wells was irrelevant as, in her view, his conduct and demeanour had been completely inappropriate.

He made a comment and I turned towards him. He then had verbally...

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4. Mr Frawley asked Ms McArdle if she had been taken aback by Mr Wells' conduct. Ms McArdle replied that she had indeed been taken aback as she expected to be treated courteously in her place of work.
5. Mr Frawley asked Ms McArdle how she had responded to Mr Wells. Ms McArdle advised that her response has been as stated in her letter of complaint. She explained that she had told Mr Wells not to speak to her in such a manner and that she would go wherever she chose.
6. Mr Frawley asked Ms McArdle if anyone had witnessed her exchange with Mr Wells on 27 June 2011. Ms McArdle advised that she could not recall if anyone else had been present in the corridor at the time and that she was uncertain as to whether any security personnel had been in the vicinity. She added that she did not recollect anyone else having been within hearing distance of the exchange.
7. Mr Frawley asked Ms McArdle if there had been any other similar incidents with Mr Wells, either before or after the exchange on 27 June 2011. Ms McArdle advised that there had been no further incidents involving her personally.
8. Mr Frawley asked Ms McArdle if she had any further information that might assist in his investigation. Ms McArdle indicated that she had nothing further to add to the accounts of the exchange she had already provided but commented that she had found Mr Wells conduct to have been "hostile", "intimidating" and "unprofessional to say the least", and an abuse of power. She also said that she did not expect anyone to be subjected to such behaviour in their place of work.
9. Mr Frawley explained that a note of the meeting would be prepared and forwarded to Ms McArdle for her comment/agreement. He also explained that when he had completed his enquiries, he would consider the evidence gathered and test it against the Code of Conduct and then report to the Committee. It would then be for the Committee to consider his report and take a view on its content before making a decision on her complaint.

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10. Mr Frawley ended the meeting at 3.40pm by thanking Ms McArdle for meeting with him:

I agree that this note is a true and accurate account of my discussion with the interim Commissioner for Standards, Mr Tom Frawley, on 27 March 2012, and that the information conveyed to the interim Commissioner on that date is true to the best of my knowledge and belief. I am aware that this information may be used in any proceedings by the Assembly.

Signed: \_\_\_\_\_  
Mary McArdle

Date: 5.4.12

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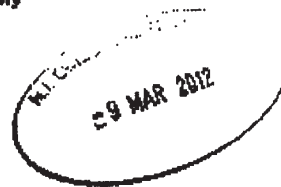
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S 4/11 - APPENDIX 4



Parliament Buildings  
Belfast BT4 3XX

Mr Tom Frawley  
Assembly Ombudsman  
Progressive House  
33 Wellington Place  
Belfast  
BT1 6NN



9<sup>th</sup> March 2012

Dear Mr Frawley,

I refer to your letter dated 27<sup>th</sup> January 2012 regarding the complaint lodged by the Minister of Culture, Arts and Leisure and her Special Advisor.

You requested that I clarify the specific comment made to Ms McArdle and I am now in a position to do this. I used the phrase 'monster advisor' which as you are aware Ms McArdle did not hear correctly.

I remain totally convinced that Ms Ardle's appointment was deeply offensive to the many victims of IRA terrorism – a view confirmed by her refusal to co-operate with the Historical Enquiries Team and her failure to provide the PSNI with any information she may have about other terrorist incidents.

I trust that this is the information you require and if I can be of any further assistance please don't hesitate to contact me.

Yours sincerely,

Jim Wells MLA

Page: 1 of 1

10:08:00 27/01/12

09-MAR-2012 22:39 From:



Northern Ireland  
Assembly

Appendix 2

# Other evidence considered by the Committee





# Correspondence dated 26 June 2012 from the Committee to Mr Jim Wells MLA



## COMMITTEE ON STANDARDS AND PRIVILEGES

STRICTLY CONFIDENTIAL

Room 254  
Parliament Buildings  
Ballymiscaw  
Stormont  
Belfast  
BT4 3XX

Tel: 028 9052 0333  
Email: [paul.gill@niassembly.gov.uk](mailto:paul.gill@niassembly.gov.uk)

Mr Jim Wells MLA  
Room 218  
Parliament Buildings  
Ballymiscaw  
Stormont  
Belfast  
BT4 3XX

26 June 2012

Dear Mr Wells,

Please find enclosed a copy of the interim Assembly Commissioner for Standards' reports into complaints made against you by Ms Carál Ní Chuilín MLA and Ms Mary McArdle. The Committee on Standards and Privileges will consider these reports at its meeting at 1.30pm on Wednesday 4 July 2012.

It is the Committee's position that reports to it from the interim Commissioner should be provided in advance to the Member against whom the complaint has been made. After having read the reports you may, if you wish, provide the Committee with your comments in respect of any matter raised within the reports. If you do wish to provide comments please provide them to me in writing by 10.30 am on Tuesday 3 July 2012. Any such comments will be provided to the Committee at the same time as it receives the interim Commissioner's reports.

You may, if you wish, choose to appear before the Committee on Standards and Privileges as a witness to make your comments in person and to respond to any questions that members of the Committee may have. Please let me know if you do wish to appear before the Committee.

Please note that the interim Commissioner's report is **strictly embargoed** and should not be shared with anyone else until such time as the Committee on Standards and

Privileges has published its own report on this issue. The report should not be copied and should be stored securely by you. The report has not yet been provided to anyone else; this includes members of the Committee on Standards and Privileges. You should not approach any member of the Committee about this case. Please also note that your copy of the interim Commissioner's report has been watermarked with your initials – this copy of the report is unique to you.

Should you have any questions regarding this issue please contact me.

Yours sincerely,

**Paul Gill**  
**Clerk of Standards**

# Correspondence dated 19 July 2012 from the interim Assembly Commissioner for Standards to the Committee



Our Ref: S 3/11

19 July 2012

Mr Paul Gill  
Clerk to the Committee on Standards and Privileges  
Northern Ireland Assembly  
Parliament Buildings  
Ballymiscaw  
Stormont  
BELFAST  
BT4 3XX

**STANDARDS &  
23 JUL 2012  
PRIVILEGES**

Dear Mr Gill

## **COMMITTEE ON STANDARDS AND PRIVILEGES**

I refer to my report on the complaint made by Ms Caral Ní Chuilín MLA against Mr Jim Wells MLA, which the Committee considered at its meeting on 4 July 2012.

The Committee will recall that during the meeting, Mr Jonathan Craig MLA raised a query concerning my findings on a previous complaint submitted by Ms Ní Chuilín against Mr Basil McCrea MLA. I consider it may be helpful to the Committee's further consideration of the complaint against Mr Wells if I clarify why I consider these two complaints are not comparable.

I would remind the Committee of my approach to investigating complaints about breaches of the Code of Conduct for Members of the Assembly (the Code), which is that each case must be determined on its own facts. The complaint highlighted by Mr Craig was made by Ms Ní Chuilín in November 2007 and related to an alleged breach of a different element of the Code from that under consideration in the complaint about Mr Wells' conduct.

In the 2007 complaint, Ms Ní Chuilín stated that on 25 September 2007, Mr McCrea was accompanying two classroom assistants within Parliament Buildings when they engaged (the then Minister for Education) Ms Caitriona Ruane MLA on the West Staircase. Ms Ní Chuilín alleged that Mr McCrea facilitated this obstruction of Ms Ruane, which was photographed by a press photographer. Ms Ní Chuilín asserted that through his involvement in this encounter, Mr McCrea failed in his duty under the Code of Conduct for Members of the Assembly (the Code), to observe the Principle of Conduct concerning 'Leadership'. In referring to Leadership, the Code states, *"Members should promote and support [the Principles of Conduct] by leadership and*

*example in order to establish and maintain the trust and confidence of the people of Northern Ireland, and to ensure the integrity of the Assembly and its Members in conducting business”.*

Having conducted an investigation of this complaint, I concluded that while Mr McCrea could have handled the encounter between his visitors and Ms Ruane in a more responsible manner, his actions did not constitute a breach of the Code. The Committee considered my report at its meeting on 10 September 2008 and accepted my findings, and then published its own report on 17 September 2008.

As stated in my report on the complaint against Mr Wells, Ms Ní Chuilín alleged that Mr Wells’ comments and demeanour towards her on 8 June 2012 constituted a breach of the Code in that he failed to observe the Principle of Conduct concerning ‘Good Working Relationships’. In this regard, the Code requires Members to treat other Members and the staff of other Members *“with courtesy and respect”* and expects Members to *“promote an effective working environment within the Assembly”*.

As the Committee is aware, having completed my investigation of this complaint, I concluded that that Mr Wells’ conduct during his exchange with Ms Ní Chuilín in on 8 June 2011 did constitute a breach of the provisions of the Code, in that his actions on that occasion were in conflict with the Principles of Conduct regarding ‘Good Working Relationships’ and ‘Respect’.

It is evident that my consideration of these two complaints resulted in different conclusions as to whether or not the conduct complained of constituted a breach of the Code. However, there is a clear distinction between the complaints, not only with regard to the nature of the conduct complained of, but also in relation to the particular aspect of the Code that was alleged to have been breached. My consideration of any complaint submitted to me is based on the circumstances surrounding the specific conduct complained of and an examination of that conduct against the relevant provisions of the Code. Clearly therefore, these are two entirely different complaints affected by completely different circumstances resulting in different conclusions.

I hope this clarification will be helpful in informing the Committee’s consideration of the complaint about Mr Wells. I would of course be happy to provide further clarification of this matter, should the Committee consider it helpful.

Yours sincerely

**T FRAWLEY CBE**  
**Interim Commissioner for Standards**

# Correspondence dated 4 September 2012 from the Committee to Mr Jim Wells MLA



## COMMITTEE ON STANDARDS AND PRIVILEGES

STRICTLY CONFIDENTIAL

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Parliament Buildings  
Ballymiscaw  
Stormont  
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BT4 3XX

Tel: 028 9052 0333  
Email: [paul.gill@massembly.gov.uk](mailto:paul.gill@massembly.gov.uk)

Mr Jim Wells MLA  
Room 218  
Parliament Buildings  
Ballymiscaw  
Stormont  
Belfast  
BT4 3XX

4 September 2012

Dear Mr Wells,

Further to my correspondence to you of 5 July, I am writing to inform you that at its meeting today the Committee on Standards and Privileges considered again the interim Assembly Commissioner for Standards' reports into complaints made against you by Ms Carál Ní Chuilín MLA and Ms Mary McArdle. I enclose for information each of the interim Commissioner's reports (which you have previously received), together with some further correspondence from the interim Commissioner on this matter.

Having given further consideration to these reports, the Committee has agreed with the interim Commissioner's conclusion that you failed to comply with the Assembly's Code of Conduct, in respect of the conduct referred to in each complaint.

Standing Order 69B provides that where it appears to the Committee that a member has failed to comply with any provision of the Code of Conduct the committee may make a report to the Assembly. The report may include a recommendation that a sanction be imposed upon the member.

The Committee has agreed that, prior to it reporting, you should apologise in writing to each of the complainants and that you should provide the Committee with a copy of your apology. You should do this before 18 September 2012. The Committee has

agreed that an appropriate apology in writing from you to the complainants will allow it to report that the matter has been resolved.

In these circumstances it would not be necessary for the Committee to consider recommending to the Assembly that a sanction be imposed. However, should you not provide the Committee with a copy of an appropriate written apology to each of the complainants by 18 September, the Committee will have to give consideration to recommending to the Assembly that a sanction be imposed. Sanctions may include, but are not limited to –

- (a) a requirement that the member apologise to the Assembly;
- (b) censure of the member by the Assembly;
- (c) exclusion of the member from proceedings of the Assembly for a specified period;
- (d) withdrawal of any of the member's rights and privileges as a member for that period;

and for the avoidance of doubt, the rights and privileges withdrawn under subparagraph (d) may include the rights to salary and allowances.

Please note that the Committee will publish in its report on this matter any response that you provide to it.

Please also note that the interim Commissioner's reports and correspondence and this letter are all strictly embargoed and should not be shared with anyone else until such time as the Committee on Standards and Privileges has published its own report on this matter. These documents should not be copied and should be stored securely by you. You should not approach any member of the Committee about this case. Please also note that your copies of the interim Commissioner's reports have been watermarked with your initials – these copies of the report are therefore unique to you.

Should you have any questions regarding any issue in this letter please let me know.

Yours sincerely,

**Paul Gill**  
**Clerk of Standards**

# Correspondence dated 18 September 2012 from Mr Jim Wells MLA to the Committee



Northern Ireland  
Assembly

Mr Paul Gill  
Clerk for Standards and Privileges  
Northern Ireland Assembly  
Parliament Buildings  
Stormont  
Belfast  
BT4 3XX

Parliament Buildings  
Ballymiscaw  
Stormont  
Belfast  
BT4 3XX

**STANDARDS &  
18 SEP 2012  
PRIVILEGES**

18<sup>th</sup> September 2012

Dear Mr Gill,

I refer to your letter dated 4th September 2012 which relates to the complaints made by the Minister of Culture, Arts and Leisure and her former Advisor - Ms Mary McArdle. I am writing to inform you that I cannot apologise to either individual for the following reasons.

The appointment of Ms McArdle as a Special Advisor caused a public outcry and enormous hurt to the family of the late Mary Travers. The hurt, which still continues, was caused by the role Ms McArdle had in the murder of Mary Travers. The fact that Ms McArdle was subsequently removed from her post would indicate that the DCAL Minister eventually realised the extent of the public concern that her decision had caused.

It is a fundamental right of a public representative to express his or her concern about this type of decision to the Minister and her advisor. I have no doubt that both the Minister and Ms McArdle could claim to have been upset by my protest but this has to be set in the context of the enormous hurt that the original decision caused to so many in our community..

I am aware that this issue has dragged on for 15 months and has taken up a considerable amount of the Committee's time.

I note that the Standards and Privileges Committee has already decided that in the absence of an apology a sanction will be imposed upon me.

For the reasons outlined above I do not intend to withdraw or apologise for my comments. However, apologies are due from the Minister for making the appointment and from Ms McArdle for her role in that terrible murder.

I trust that this response is helpful and if I can be of any further assistance to you or the Committee, please don't hesitate to contact me.

Yours sincerely,

Jim Wells MLA







Northern Ireland  
Assembly

Appendix 3

# Minutes of Proceedings of the Committee relating to the Report



## Wednesday, 4th July 2012

### Room 144, Parliament Buildings

**Present:** Mr Alastair Ross (Chairperson)  
Mr Kieran McCarthy (Deputy Chairperson)  
Mr Steven Agnew  
Mr Cathal Boylan  
Ms Paula Bradley  
Mr Jonathan Craig  
Mr David McIlveen  
Mr Alex Maskey  
Mr Fra McCann  
Mrs Sandra Overend

**In Attendance:** Mr Paul Gill (Assembly Clerk)  
Ms Hilary Bogle (Assistant Clerk)  
Mr Christopher McNickle (Clerical Officer)

**Apologies:** None.

**1.34pm** The meeting commenced in closed session.

#### 5. **Consideration of Reports from the interim Assembly Commissioner for Standards on complaints against a Member**

Members noted the Clerk's paper and two reports received from the interim Assembly Commissioner for Standards on complaints against a Member.

**1.36pm** The Chairperson welcomed Dr Tom Frawley and invited him to brief the Committee on each of his reports.

**1.41pm** Ms Marie Anderson, Ombudsman's Office joined the meeting.

**2.19pm** Ms Bradley and Mr Agnew left the meeting.

**2.22pm** Ms Bradley returned to the meeting.

**2.23pm** Mr Agnew returned to the meeting.

**2.25pm** Following discussion the Committee thanked Dr Frawley and Ms Anderson for attending the meeting.

Following discussion on the interim Commissioner's first report, the Chairperson put the question that the Committee accepts the interim Assembly Commissioner for Standards' conclusion that the Member has breached the Code of Conduct.

<b>Ayes</b>	<b>Noes</b>	<b>Abstention</b>
Mr Alex Maskey	Mr Alastair Ross	None
Mr Fra McCann	Ms Paula Bradley	
Mr Cathal Boylan	Mr Jonathan Craig	
Mr Steven Agnew	Mr David McIlveen	
Mr Kieran McCarthy	Mrs Sandra Overend	

As the votes were equal the motion fell.

The Chairperson then put the question that the Committee rejects the interim Assembly Commissioner for Standards' conclusion that the Member has breached the Code of Conduct.

<b>Ayes</b>	<b>Noes</b>	<b>Abstention</b>
Mr Alastair Ross	Mr Alex Maskey	None
Ms Paula Bradley	Mr Fra McCann	
Mr Jonathan Craig	Mr Cathal Boylan	
Mr David McIlveen	Mr Steven Agnew	
Mrs Sandra Overend	Mr Kieran McCarthy	

As the votes were equal the motion fell.

Following discussion on the interim Commissioner's second report, the Chairperson put the question that the Committee accepts the interim Assembly Commissioner for Standards' conclusion that the Member has breached the Code of Conduct.

<b>Ayes</b>	<b>Noes</b>	<b>Abstention</b>
Mr Alex Maskey	Mr Alastair Ross	None
Mr Fra McCann	Ms Paula Bradley	
Mr Cathal Boylan	Mr Jonathan Craig	
Mr Steven Agnew	Mr David McIlveen	
Mr Kieran McCarthy	Mrs Sandra Overend	

As the votes were equal the motion fell.

The Chairperson then put the question that the Committee rejects the interim Assembly Commissioner for Standards' conclusion that the Member has breached the Code of Conduct.

<b>Ayes</b>	<b>Noes</b>	<b>Abstention</b>
Mr Alastair Ross	Mr Alex Maskey	None
Ms Paula Bradley	Mr Fra McCann	
Mr Jonathan Craig	Mr Cathal Boylan	
Mr David McIlveen	Mr Steven Agnew	
Mrs Sandra Overend	Mr Kieran McCarthy	

As the votes were equal the motion fell.

*Agreed:* The Committee agreed to schedule further consideration of these complaints to a future meeting after the summer recess.

**[EXTRACT]**

## Tuesday, 4th September 2012

### Room 144, Parliament Buildings

**Present:** Mr Alastair Ross (Chairperson)  
Mr Kieran McCarthy (Deputy Chairperson)  
Mr Steven Agnew  
Mr Cathal Boylan  
Ms Paula Bradley  
Mr Jonathan Craig  
Mr Colum Eastwood  
Mr Alex Maskey  
Mr Fra McCann  
Mr David McIlveen

**In Attendance:** Mr Paul Gill (Assembly Clerk)  
Mr Jonathan McMillen (Assembly Legal Adviser)  
Ms Hilary Bogle (Assistant Assembly Clerk)  
Mr Christopher McNickle (Clerical Officer)

**Apology:** Mrs Sandra Overend

**11.05am** The meeting commenced in closed session.

#### **5 and 6. Further consideration of Reports from the interim Assembly Commissioner for Standards and commencement of the Northern Ireland Assembly Commissioner for Standards' Functions.**

Members noted correspondence of 23 July 2012 received from the interim Assembly Commissioner for Standards clarifying an issue raised at a previous meeting of the Committee.

**11.09am** Mr McCann and Mr Eastwood joined the meeting

**11.10am** Mr Craig joined the meeting

**11.10am** The Chairperson welcomed Dr Tom Frawley, interim Assembly Commissioner for Standards and Ms Marie Anderson, Deputy Ombudsman to the meeting and invited Dr Frawley to outline the background to the two Reports and to brief the Committee on the further correspondence received from him.

Dr Frawley reminded the Committee of the key points in the two Reports and clarified the position in his correspondence of 23 July 2012.

**11.22am** The Chairperson thanked Dr Frawley and Ms Anderson for attending the meeting.

The Committee then discussed the reports on the complaints against a Member.

**12.02pm** Following discussion the Chairperson put the question that the Committee accepts the interim Assembly Commissioner for Standards' conclusion that the Member named in the Commissioner's first report had breached the Code of Conduct.

<b>Ayes</b>	<b>Noes</b>	<b>Abstention</b>
Mr Steven Agnew	Ms Paula Bradley	None
Mr Cathal Boylan	Mr Jonathan Craig	
Mr Colum Eastwood	Mr David McIlveen	
Mr Alex Maskey	Mr Alastair Ross	
Mr Fra McCann		
Mr Kieran McCarthy		

The motion was carried.

The Chairperson put the question that the Committee accepts the interim Assembly Commissioner for Standards' conclusion that the Member named in the Commissioner's second report has breached the Code of Conduct.

<b>Ayes</b>	<b>Noes</b>	<b>Abstention</b>
Mr Steven Agnew	Ms Paula Bradley	None
Mr Cathal Boylan	Mr Jonathan Craig	
Mr Colum Eastwood	Mr David McIlveen	
Mr Alex Maskey	Mr Alastair Ross	
Mr Fra McCann		
Mr Kieran McCarthy		

The motion was carried.

Following discussion Mr McIlveen proposed that the Committee should write to the Member informing him of the Committee's decision that he had breached the Code of Conduct and telling him that he should note this outcome.

Question put:

That the Committee should write to the Member informing him of the Committee's decision that he had breached the Code of Conduct and telling him that he should note this outcome.

<b>Ayes</b>	<b>Noes</b>	<b>Abstention</b>
Ms Paula Bradley	Mr Cathal Boylan	Mr Steven Agnew
Mr Jonathan Craig	Mr Colum Eastwood	
Mr David McIlveen	Mr Alex Maskey	
Mr Alastair Ross	Mr Fra McCann	
	Mr Kieran McCarthy	

The motion fell.

Mr Maskey proposed that the Committee should write to the Member informing him of the Committee's decision that he had breached the Code of Conduct and telling him that he should apologise by means of a public statement to the Assembly.

Question put:

That the Committee should write to the Member informing him of the Committee's decision that he had breached the Code of Conduct and telling him that he should apologise by means of a public statement to the Assembly.

<b>Ayes</b>	<b>Noes</b>	<b>Abstention</b>
Mr Cathal Boylan	Ms Paula Bradley	Mr Steven Agnew
Mr Colum Eastwood	Mr Jonathan Craig	
Mr Alex Maskey	Mr Kieran McCarthy	
Mr Fra McCann	Mr David McIlveen	
	Mr Alastair Ross	

The motion fell.

Mr McCarthy proposed that the Committee should write to the Member informing him of the Committee's decision that he had breached the Code of Conduct and telling him that he should write a letter of apology to the two complainants and a copy of the letters of apology should be sent to the Committee for inclusion in the Committee's Report.

**Ayes**

Mr Steven Agnew  
Mr Cathal Boylan  
Mr Colum Eastwood  
Mr Alex Maskey  
Mr Fra McCann  
Mr Kieran McCarthy

**Noes**

Ms Paula Bradley  
Mr Jonathan Craig  
Mr David McIlveen  
Mr Alastair Ross

**Abstention**

None

The motion was carried.

*Agreed:* The Committee agreed that should the Member not provide the Committee with a copy of an appropriate written apology to each of the complaints by 18 September 2012 the Committee would give consideration to recommending to the Assembly that a sanction be imposed.

**[EXTRACT]**

## Wednesday, 19th September 2012

### Room 21, Parliament Buildings

**Present:** Mr Alastair Ross (Chairperson)  
Mr Kieran McCarthy (Deputy Chairperson)  
Mr Steven Agnew  
Mr Cathal Boylan  
Ms Paula Bradley  
Mr Colum Eastwood  
Mr Fra McCann  
Mr David McIlveen (from agenda item 6)

**In Attendance:** Mr Paul Gill (Assembly Clerk)  
Ms Hilary Bogle (Assistant Assembly Clerk)  
Mr Christopher McNickle (Clerical Officer)

**Apologies:** Mr Jonathan Craig  
Mr Francie Molloy  
Mrs Sandra Overend

**1.30pm** The meeting commenced in closed session.

#### **6. Further consideration of two complaints against a Member**

Members noted the Clerk's Paper; correspondence from the Committee to the Member; and the Member's response.

The Clerk updated the Committee on this issue.

*Agreed:* The Committee agreed that the Clerk should provide it with further information on sanctions that have been imposed on Members elsewhere.

**2.25pm** Colum Eastwood and David McIlveen left the meeting.

**[EXTRACT]**



## Wednesday, 3rd October 2012

### Room 144, Parliament Buildings

**Present:** Mr Alastair Ross (Chairperson)  
Mr Kieran McCarthy (Deputy Chairperson)  
Mr Steven Agnew  
Mr Cathal Boylan  
Ms Paula Bradley  
Mr Jonathan Craig  
Mr Colum Eastwood  
Mr Fra McCann  
Mr David McIlveen  
Mr Francie Molloy  
Mrs Sandra Overend

**In Attendance:** Mr Paul Gill (Assembly Clerk)  
Ms Hilary Bogle (Assistant Assembly Clerk)  
Mr Christopher McNickle (Clerical Officer)

**1.30pm** The meeting commenced in closed session.

#### 5. Further consideration of two complaints against a Member

Members noted the Clerk's Paper and the Assembly Research Paper.

**1.40pm** Mr Eastwood joined the meeting

The Clerk updated the Committee on this issue.

Following discussion Mr Boylan proposed that the Committee recommend to the Assembly that it impose upon the Member the sanction of exclusion from proceedings of the Assembly for a period of seven days.

The Chairperson put the question that the Committee recommend to the Assembly that it impose upon the Member the sanction of exclusion from proceedings of the Assembly for a period of seven days.

<b>Ayes</b>	<b>Noes</b>	<b>Abstention</b>
Mr Steven Agnew	Ms Paula Bradley	None
Mr Cathal Boylan	Mr Jonathan Craig	
Mr Colum Eastwood	Mr David McIlveen	
Mr Fra McCann	Mr Alastair Ross	
Mr Kieran McCarthy	Mrs Sandra Overend	
Mr Francie Molloy		

The motion was carried.

**Agreed:** The Committee agreed that the Clerk should draft a report for consideration by the Committee at its next meeting.

**1.50pm** Mr Eastwood left the meeting

**[EXTRACT]**

## Wednesday, 17th October 2012

### Room 21, Parliament Buildings

**Present:** Mr Alastair Ross (Chairperson)  
Mr Kieran McCarthy (Deputy Chairperson)  
Mr Steven Agnew  
Ms Paula Bradley  
Mr Francie Molloy  
Mrs Sandra Overend

**In Attendance:** Mr Paul Gill (Assembly Clerk)  
Ms Hilary Bogle (Assistant Assembly Clerk)  
Mr Christopher McNickle (Clerical Officer)

**1.31pm** The meeting commenced in closed session.

#### **5. Draft Committee Report on two complaints against a Member**

*Agreed:* Members discussed and agreed the draft Committee Report and ordered that the report be printed.

*Agreed:* Members agreed that the Deputy Chairperson should sign a motion on behalf of the Committee.

*Agreed:* The Committee agreed that the Committee's report should be embargoed until the commencement of the debate.

*Agreed:* The Committee agreed that the Clerk should write to the two complainants and the Member complained of informing them of the Committee's decision and forwarding a copy of the Committee's embargoed Report.

**[EXTRACT]**





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