



Northern Ireland
Assembly

Committee on Standards and Privileges

Minutes of Proceedings

17 November 2021

Meeting Location: Virtual Meeting via Microsoft Teams

Present by Video or Teleconference:

Ms Linda Dillon MLA (Chairperson)
Mr Christopher Stalford MLA (Deputy Chairperson)
Ms Pam Cameron MLA
Mr Declan McAleer MLA
Mr Patsy McGlone MLA
Ms Áine Murphy MLA

Apologies: Ms Sinéad Bradley MLA
Mr Stewart Dickson MLA

In Attendance by Video or Teleconference:

Mr Shane McAteer (Assembly Clerk)
Ms Marie Austin (Senior Assistant Clerk)
Ms Karen Barry (Assistant Clerk)
Mr Simon Gallaher (Clerical Supervisor)
Mr Jim Nulty (Clerical Supervisor)
Ms Alison Ferguson (Clerical Officer)



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Agreed: The Committee agreed to commence the meeting in closed session.

The meeting commenced at 12.48pm in closed session.

1. Apologies

As noted above.

The Clerk advised the Committee that Stewart Dickson had provided notification, under Standing Order 115(6), that he had delegated authority to the Chairperson to vote on his behalf.

2. Declaration of Interests

Members were advised of the ongoing requirement to declare relevant financial or other interests as and when they arise on the Committee.

Members noted that Steve Aiken has recused himself from agenda item 5.

The Chairperson outlined concerns which Steve Aiken had raised about being unable to attend recent Committee meetings due to having to recuse himself from some substantive items of business. Dr Aiken had requested that the Committee configure the agenda for future meetings so that items for which he needs to recuse himself are taken after he leaves to attend the Committee for Finance at 13:50.

Agreed: Members agreed that this request could not be met and that the Chairperson will write to Dr Aiken to apprise him of this decision.

3. Draft Minutes

Agreed: The Committee agreed the minutes of the meeting held on 10 November 2021.



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4. Matters Arising

Members noted the technical report received from Pi Comms, the Assembly Broadcasting provider, in relation to the StarLeaf related technical incident at last week's Committee meeting.

Members noted that they will be kept updated on the ongoing StarLeaf procedural review being undertaken by Assembly Communications following the incident.

Agreed: Members agreed that, as an interim measure, the Committee will continue to hold its closed meetings in fully virtual format on Microsoft Teams.

5. Complaint against a Member – Legal advice and Committee deliberation

The Committee received a recap of the legal advice from Assembly Legal Services regarding and concluded its deliberations on a complaint against a Member, which involved two allegations of breaches of the Assembly Members' Code of Conduct in relation to Rule of Conduct 15.

The Committee considered Allegation 1, together with the evidence, findings of fact and reasoned decisions of the Commissioner for Standards, as set out in her investigation report, and the legal advice received by the Committee.

In particular, the Committee considered whether the various elements of Allegation 1 met each of the criterion of Rule 15 and thereby amounted to a breach of this rule, notwithstanding any additional considerations in relation to the Member's right to freedom of expression.

Following discussion, the Chairperson put the question that the Committee finds, as a matter of fact, that the Member breached Rule 15 by making the 'Do you want to phone a friend?' comment to the complainant.



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The Committee divided: Ayes 4; Noes 3; Abstain 0

AYES

Mr Stewart Dickson (by proxy vote)
Ms Linda Dillon
Mr Declan McAleer
Ms Áine Murphy MLA

NOES

Ms Pam Cameron
Mr Patsy McGlone
Mr Christopher Stalford

The question was carried.

The Committee discussed whether the Member's 'Do you want to phone a friend?' comment was a form of expression protected by Article 10 of the European Convention on Human Rights and that a finding of a breach of Rule 15 would therefore amount to a prima facie interference with the Member's Article 10 rights.

Agreed: The Committee agreed that the Committee's finding that the Member was in breach of Rule 15 would amount to a prima facie interference with the Member's right to freedom of expression under Article 10 of the Convention.

The Committee noted from its legal advice that the Member's 'Do you want to phone a friend?' comment could reasonably be viewed as a 'gratuitous personal comment' rather than a form of political expression and, as such, would not attract the enhanced protection which is afforded to political expression under Article 10 of the Convention.

The Committee discussed whether a finding by it of breach of Rule 15 in this case would be justified under Article 10(2) of the Convention by being prescribed by law and necessary in a democratic society for the protection of the reputation or rights of others. In doing so, the Committee took into consideration all relevant factors in the case. The Committee balanced the Member's right to freedom of expression and the public interest in this freedom against the public interest in protecting the reputation of the Assembly and its members, as well as preventing gratuitous personal attacks on witnesses before Assembly committees.

Agreed: The Committee, having taken all the relevant factors into consideration, agreed that the restriction on the Member's freedom of expression arising from its finding that the Member was in breach of Rule 15 was justified by reason of the requirements of Article 10(2) of the Convention.



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The Committee considered Allegation 2, together with the evidence, findings of fact and reasoned decisions of the Commissioner for Standards, as set out in her investigation report, and the legal advice received by the Committee.

Agreed: The Committee agreed that, in relation to Allegation 2, it could not find, as a matter of fact, that the Member's conduct was in breach of Rule 15.

In light of its finding of a breach in respect of one element of Allegation 1, the Committee considered whether a sanction was merited. Bearing in mind all of the circumstances of the case, the Committee discussed whether, rather than recommending to the Assembly that a sanction be imposed, it would seek to resolve the matter by requesting the Member to make a formal apology in writing to the complainant via the Committee.

Agreed: The Committee agreed that, while it upheld one element of the complaint, no further action would be taken if the Member provides the Committee with a formal written apology to the complainant, which would enable the Committee to report to the Assembly that it is satisfied that the matter has been resolved.

The Committee noted that the Clerk will prepare a draft Committee report on the complaint case, which will be considered at the next Committee meeting.

Agreed: The Committee agreed that an additional meeting will be held on Tuesday 23 November 2021 in order to consider the draft report.

Declan McAleer left the meeting at 1.45pm.

6. Complaint against a Member – Legal advice on necessary redactions to Committee Report

Pam Cameron declared an interest in this agenda item as the complainant had been in contact with her constituency office.

Patsy McGlone left the meeting at 2.02pm.

Committee quorum was lost at 2.02pm



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Members received legal advice from Assembly Legal Services on necessary redactions/anonymisation to the Committee report, including the appended investigation report by the Commissioner for Standards. The Chairperson reminded Members that the report was agreed at the meeting on 13 October 2021 subject to any necessary amendments in this regard.

The Committee noted that agreement will be sought via correspondence, in accordance with Standing Order 115(9), that the Committee report and accompanying documents will be published to reflect any necessary redactions/anonymisation in accordance with the legal advice provided.

The Committee noted that, to take account of protocols, a copy of the embargoed report will be laid in the Business Office within 24 hours.

The Committee noted that the report, will be embargoed until noon on 19 November 2021.

The Committee noted that the complainant and the respondent will be provided with a copy of the embargoed report in advance of the publication.

7. Correspondence

The Committee noted the following items of correspondence:

- A response from the Chairpersons' Liaison Group to the Committee on Wi-Fi issues within Parliament Buildings.
- Correspondence from the Committee Chairperson to a patient representative of the Neurology Recall Patient Support Group in regards to the appointment of an Acting Commissioner for Standards.
- Correspondence from the Acting Ethical Standards Commissioner in Scotland regarding the publication of their Annual Report 2020-21.



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8. Any Other Business

There was no other business.

9. Date, Time and Place of the next meeting

The Committee noted that the next meeting will be on Tuesday, 23 November 2021.

The meeting was adjourned at 2.16pm.

**Linda Dillon MLA,
Chairperson, Standards and Privileges Committee**

23 November 2021