



**REPORT OF
THE NORTHERN IRELAND
ASSEMBLY COMMISSIONER FOR
STANDARDS
FOR 2012-2013**

Laid before the Assembly pursuant to paragraph 7 of Schedule 4 to
the Assembly Members (Independent Financial Review and
Standards) Act (Northern Ireland) 2011

1. INTRODUCTION

- 1.1 My appointment as the first Northern Ireland Assembly Commissioner for Standards took effect from the coming into operation of sections 17 and 25 to 33 of the Assembly Members' (Independent Financial Review and Standards) Act (Northern Ireland) 2011 ('the 2011 Act') on 17 September 2012.
- 1.2 Paragraph 7 of Schedule 4 of the 2011 Act requires that, as soon as practicable after the end of each financial year, the Commissioner shall submit a report to the Assembly. That report on the Commissioner's activities must include information on how resources have been used. However, in view of the date of my appointment, this report is limited to the six and a half month period from 17 September 2012 to 31 March 2013.
- 1.3 Having set out the functions of the Commissioner the report gives information on the referrals and complaints handled during the reporting period before outlining the administrative work undertaken, giving information on meetings and outreach and detailing the resources used. Finally, it outlines work planned for 2013-14.

2. FUNCTIONS OF THE COMMISSIONER

- 2.1 The functions of the Commissioner are set out in section 17(1) of the 2011 Act and may be summarised as follows –
- To investigate complaints and referrals.
 - To initiate an investigation where the Commissioner believes that a breach of the Code of Conduct has occurred.

- To report to the Assembly on the outcome of investigations.
- To give advice on any matter of general principle relating to standards of conduct of Members of the Assembly.

3. INVESTIGATIONS AND REFERRALS

3.1 Section 34 of the 2011 Act provided for the transfer of all on-going complaints and referrals from the Assembly Commissioner for Standards¹ to the Northern Ireland Assembly Commissioner for Standards. On 17 September 2012 one referral² and two complaints were transferred to me under that section. At the year-end the investigation of one of these complaints was almost complete³ whilst work on the other continued to be suspended pending the outcome of criminal proceedings. Work on the referral was well advanced.

3.2 During the reporting period five complaints⁴ were received of which two were held admissible in whole or in part. Two of the five complaints were made by members of the public⁵ whilst the remaining three were made by Members.

3.3 The three complaints that were held inadmissible all related to the alleged conduct of Members in their capacity as Ministers. They were, accordingly, outside the scope of the Code of Conduct.

¹ The post of Assembly Commissioner for Standards was established under Standing Order 69A(1). It was filled by Dr Tom Frawley CBE, the Northern Ireland Commissioner for Complaints and the Assembly Ombudsman for Northern Ireland.

² The referral concerned the alleged conduct of two Members

³ The report on it was submitted to the Committee on Standards and Privileges on 18 April 2013.

⁴ For the purpose of this Report a letter from an individual alleging more than one breach of the Code of Conduct by a Member is treated as one complaint

⁵ A husband and wife submitted individual complaints about the same alleged misconduct.

3.4 The investigation of the two complaints that were held admissible in whole or in part was nearing completion at the year-end⁶.

3.5 Section 22 of the 2011 Act provides the Commissioner with powers to compel the attendance of witnesses and the production of documents. It has not been necessary to exercise these powers during the reporting period.

4. ADMINISTRATIVE WORK

4.1 Data protection

Complaints by the Commissioner will inevitably contain personal data. To enable this to be held lawfully I secured the registration of the Northern Ireland Assembly Commissioner for Standards as a data controller for the purposes of the Data Protection Act 1998. Arrangements for the secure storage of information were put in place.

4.2 Financial prudence

Paragraph 6 of Schedule 4 to the 2011 Act makes provision for financial prudence by the Commissioner. Agreement was reached with the Assembly Commission on practical arrangements that were compliant with that provision whilst preserving my independence as Commissioner.

4.3 Prosecution of offences

The 2011 Act empowers the Commissioner to require the attendance of witnesses and the production of documents in the course of an investigation. These powers are backed by sanctions in the form of new criminal offences punishable by imprisonment for

⁶ The report on one of them was submitted to the Committee on Standards and Privileges on 2 May 2013.

a period not exceeding three months or a fine of up to £5,000. Under section 31 of the 2011 Act it is an offence for a person to whom the Commissioner has given a notice to –

- Fail to attend as required.
- Refuse or fail to answer questions.
- Intentionally alter, suppress, conceal or destroy any document he or she has been required to produce.
- Refuse or fail to produce such a document.
- Refuse to take an oath when required to so do.

4.4 Whilst it is to be hoped that these provisions will not have to be used I considered it prudent to establish a Memorandum of Understanding with the PSNI on the investigation and prosecution of any alleged contraventions. The PSNI shared that view and have appointed a senior officer to liaise with me on the matter.

4.5 *Comments on draft Directions*

Section 24 of the 2011 Act requires the Commissioner to comply with any direction given by the Assembly regarding the general procedure to be followed in the exercise of the Commissioner's functions, the standards of conduct and ethics required of the Commissioner and the registration by the Commissioner of financial and other interests. I availed of the opportunity afforded to comment on drafts of the Assembly Members' (Independent Financial Review and Standards) Act (Northern Ireland) 2011 (General Procedures) Direction 2012 and the Assembly Members' (Independent Financial Review and Standards) Act (Northern Ireland) 2011 (Code of Conduct and Requirement to Register Interests) Direction before they came into force on 12 November 2012.

4.6 During the reporting period I have identified a number of areas in which revision of the General Procedures Direction might be appropriate. At the end of my first year in post I intend to submit a report to the Committee on Standards and Privileges setting out my proposed revisions.

4.7 *Registration of interests*

The Assembly Members' (Independent Financial Review and Standards) Act (Northern Ireland) 2011 (Code of Conduct and Requirement to Register Interests) Direction 2012 came into force on 12 November 2012. Since that date I have registered my interests, and any changes to them, in accordance with Direction 4 of that provision.

5. MEETINGS AND OUTREACH

5.1 *Meetings*

During the reporting period I took part in a number of meetings and events relevant to my role.

5.2 Shortly after taking up post I met with Ms Marie Anderson, the Deputy Ombudsman, to discuss the complaints and referrals that were transferred to me. I am most grateful to her and to Dr Frawley, for the assistance they have given.

5.3 In September 2012 I gave evidence to the Committee on Standards in Public Life when it visited Parliament Buildings. In January 2013 I attended that Committee's annual open meeting in London at which I met with the National Assembly for Wales Commissioner for Standards and the Scottish Public Standards Commissioner.

- 5.4 In March 2013, along with the Clerk of Standards and a number of other officials, I took part in the Standards Network when it was hosted for the first time at Stormont. Attendees included the Standards Commissioners and Clerks of Standards, and their equivalents, from Westminster, the Scottish Parliament, the Welsh Assembly, the States of Jersey and the Oireachtas.
- 5.5 In addition those who assisted in my investigations, I met with the Independent Financial Review Panel, the Civil Service Commissioners for Northern Ireland and one of the two independent members of the House of Commons Committee on Standards to discuss matters of mutual interest.
- 5.6 *Outreach*
Following my appointment I gave a brief interview to the BBC regarding my role.
- 5.7 In November 2012 I presented to the Certified Institute of Public Finance and Accountancy's seminar on corporate governance on my role as Commissioner and on standards in public life in Northern Ireland.
- 5.8 Whilst having an independent Commissioner for Standards should tend to increase public confidence in the standards of conduct of Members it is important that the public are aware of the existence of that post and of their right to complain when they believe that a Member has failed to live up to the required high standards of conduct. Such information should be available on the Assembly's website in a user friendly format. Preparatory work to secure this, and on other methods of increasing public awareness, has been undertaken.

6. USE OF RESOURCES

6.1 Paragraph 3 of Schedule 4 to the 2011 Act requires the Commission to –

‘Provide the Commissioner with such administrative and other support, including staff, services and accommodation, as the Commissioner may reasonably require for the purpose of discharging the functions imposed on the Commissioner by this Act.’

6.2 Paragraph 8 of that Schedule requires the Commission to –

‘(a) pay such sums as are payable in accordance with the Commissioner’s terms and conditions of appointment;

(b) pay or reimburse any expenses properly incurred by the Commissioner;.....’

6.3 This section outlines the resources provided to me under these provisions.

6.4 I have been provided with an office within Parliament Buildings and the IT and other office equipment required for my work. I have been greatly assisted by the provision, on a part-time basis, of a Personal Secretary. All this provision has been made from within existing Secretariat resources and is not reflected in the figures given below.

6.5 On taking up post a budget of £7,500 for expenses and other goods and services was agreed with the Commission for the remainder of 2012-13. The following amounts have been expended:

	£
Travel and subsistence	1,052.67
Hospitality	17.85
Data Protection registration	<u>35.00</u>
Total	£1,105.52

6.6 The amounts paid to me under paragraph 8 in respect of pay and the cost of employers national insurance contributions were as follows:

	£
Pay	22,412.52
Employer's NIC	<u>2,662.34</u>
Total	£ 25,074.86

7. THE YEAR AHEAD

7.1 I anticipate that all on-going investigations will be concluded well before the end of 2013-14. In addition to dealing with any new referrals or complaints I expect to conclude a Memorandum of Understanding with the PSNI on the prosecution of offences under the 2011 Act. Further work will be undertaken to increase public understanding of the role of the Commissioner and of the complaints process. I shall contribute to the work of the Committee on Standards and Privileges on the revision of the Code of Conduct for Members.

8. ACKNOWLEDGEMENTS.

8.1 I wish to place on record my appreciation to all those in the Assembly Secretariat who have assisted me during the reporting

period. Particular thanks are due to Paul Gill, the Clerk of Standards, who has kept me right in all manner of ways, to Pamela Carson who provided the support and typing functions so effectively during my first five and a half months in post and to Sheila McCaughley who has continued her excellent work.

Douglas Bain CBE TD Advocate

Northern Ireland Assembly Commissioner for Standards

17 May 2013