



**REPORT OF
THE NORTHERN IRELAND
ASSEMBLY COMMISSIONER FOR
STANDARDS
FOR 2013-2014**

Laid before the Northern Ireland 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 This is my second report on my work as the Northern Ireland Assembly Commissioner for Standards. Paragraph 7 of Schedule 4 to the Assembly Members' (Independent Financial Review and Standards) Act (Northern Ireland) 2011 ('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.

1.2 Having set out the functions of the Commissioner this report gives information on the investigations handled during the reporting period before outlining the other work undertaken and detailing the resources used. Finally it outlines work planned for 2014-15.

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 a Commissioner investigation where the Commissioner decides that there is a prima facie case 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.

- 2.2 Although the Commissioner for Standards is independent he is required, by virtue of section 24(1) of the Act, to comply with directions given by the Assembly under that power. Two such directions have been given.
- 2.3 The Assembly Members' (Independent Financial Review and Standards) Act (Northern Ireland) 2011 (General Procedures) Direction 2012 ('the General Procedures Direction') sets out, inter alia, the admissibility criteria for complaints, the procedure to be followed by the Commissioner when considering complaints and the contents of reports by the Commissioner on his investigations. The Assembly Members' (Independent Financial Review and Standards) Act (Northern Ireland) 2011 (Code of Conduct and Requirement to Register Interests) Direction 2012 sets out the Code of Conduct with which the Commissioner must comply in the performance of his duties and the financial and other interests which he must register.

3. COMPLAINTS, REFERRALS AND COMMISSIONER INVESTIGATIONS

- 3.1 At the start of the year six complaints and one referral by the Committee were on-going. During the year I found three of these complaints to be inadmissible. In the other three complaints I decided, following a full investigation, that no breach of the Code had been established. In all six instances the Committee on Standards and Privileges ('the Committee') agreed my decisions. My investigation into the referral relating to the allegations made in the BBC Spotlight programme broadcast in January 2010 was completed in November 2013. However, submission of my report to the Committee has been delayed by a legal challenge to its contents by a person referred to in the report.

- 3.2 During the year thirty-six new complaints were received. Twenty-five of these complaints were made by members of the public and eleven by Members. All the complaints made by Members were received during the first eight months of the reporting year and it may be that comments made by the Committee on the trivial nature of some of the complaints being made by Members have been heeded¹.
- 3.3 The complaints were about alleged misconduct by fifteen Members or former Members. Eleven of the complaints concerned the conduct of a single Member albeit on three unrelated occasions. Six complaints, arising out of the same incident, were made against another Member whilst four complaints, arising out of the same incident, were made against another Member. One member of the public submitted three complaints whilst one Member made four complaints all against the same Member.
- 3.4 Of the thirty-six complaints received during the year twenty-five were found, without the need for a full investigation, not to meet the admissibility criteria set out in the General Procedures Direction. A full investigation was instituted into nine complaints. In four of these, all related to one incident, the investigation was on-going at the year-end.² In the other five complaints investigated I decided that no breach of the Code had been established. A decision on the admissibility of two complaints, received in late March 2014, was outstanding at the year end.³

¹ Committee on Standards and Privileges Report on a complaint against Mr Jimmy Spratt MLA 20 January 2014 paragraphs 20 & 21

² My report, covering all four complaints, was agreed by the Committee on 4 June 2014.

³ On 30 April 2014 the Committee agreed my decision that both complaints were inadmissible.

- 3.5 All my decisions on the admissibility of complaints, and all my decisions taken following investigation, were agreed by the Committee.
- 3.6 During the year the process for handling complaints was refined in light of experience gained. A note on the procedures for investigations and for any interviews was developed for the benefit of complainants, witnesses and Members under investigation. That note gave notice also of the relevant statutory provisions.
- 3.7 Whilst in most cases it remained the practice to interview witnesses on a voluntary basis I exercised my powers to require the attendance of a witness on three occasions during the year. On each occasion evidence was taken on oath and a transcript of the interview, rather than a note of the meeting, was made.
- 3.8 Because of a possible perceived conflict of interest I recused myself from dealing with three complaints all relating to the same incident. The Assembly appointed Mr Stuart Allan, the Commissioner for Ethical Standards in Public Life in Scotland, as an Acting Commissioner. He conducted a full investigation of all three complaints and found that no breach of the Code had been established. His decisions were agreed by the Committee.

4. OTHER WORK

- 4.1 During the year I contributed to the Committee's work on the revision of the Code of Conduct. I made proposals to the Committee for changes to the General Procedures Direction. The Committee decided not to amend the Direction until their work on the revision of the Code had been completed.

- 4.2 Work on a Memorandum of Understanding with the PSNI on the prosecution of offences has not progressed as anticipated. A draft document was submitted to the PSNI but they have not been able to consider it due to the unavailability of the responsible senior officer.
- 4.3 Substantial further work was undertaken on the design of new material for the Assembly website including the provision of a complaint form. Finalisation of the new material has been put on hold pending completion of the Committee's work on revision of the Members' Code of Conduct.
- 4.4 Throughout the year I have complied with the Code governing my conduct and registered all relevant financial and other interests and all hospitality received.

5. USE OF RESOURCES

- 5.1 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.'

- 5.2 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;.....'*

5.3 The sums paid under paragraph 8(a), along with the corresponding figures for the seven months of 2012-13 following my appointment, were as follows -

	2013-14	2012-13
	£	£
Commissioner Pay ^{4 5}	41,113	22,143
Employers ERNIC	3,680	2,662
Travel & Subsistence ⁶	<u>1,576</u>	<u>1,053</u>
TOTAL	£46,369	£25,858

5.4 I continued to be provided with an office within Parliament Buildings and the IT and other office equipment required for my work. I was again greatly assisted by the provision, on a part-time basis, of a Personal Secretary. All this was provided from within existing Secretariat resources and is not reflected in the figures given above.

5.5 On taking up post in September 2012 a budget of £7,500 for expenses and other goods and services payable under paragraph 8(b) was agreed with the Commission for the remaining seven months of 2012-13. The same budget was agreed for the whole of 2013-14.

⁴ Fees due to the Acting Commissioner (see paragraph 3.8 above) were not paid during the reporting year and are not included.

⁵ The Commissioner is paid at an hourly rate of £68.75 which has not changed since September 2012.

⁶ The 2013-14 figure includes £674 paid in respect of the Acting Commissioner (see paragraph 3.8 above).

5.6 The sums paid under paragraph 8(b), along with the corresponding figures for the seven months of 2012-13 following my appointment, were as follows -

	2013-14	2012-13
	£	£
Hospitality	0	18
Data Protection Registration	35	35
Legal Fees	<u>4,650</u>	<u>0</u>
TOTAL	£4,685	£53

6. THE YEAR AHEAD

6.1 In addition to completing the outstanding work identified in paragraphs 3.1 and 3.4 above and dealing with any new complaints or referrals I anticipate completing my work on an agreement with the PSNI on the reporting of offences under the 2011 Act. I intend to make further proposals to the Committee regarding a revision of the Code of Conduct and the General Procedures Direction. My work on new material for the website will be completed as soon as practicable after the new Code of Conduct is agreed.

7. ACKNOWLEDGEMENTS

7.1 I wish again to place on record my appreciation to all those in the Assembly Secretariat who have assisted me during the reporting year. Whilst it is invidious to identify individuals Paul Gill, the Clerk of Standards, Sheila McCaughley, my Personal Secretary and Pauline Wilson, who covered for her during a period of absence,

undoubtedly deserve particular mention for the exemplary support and assistance they have provided.

Douglas Bain CBE TD Advocate

Northern Ireland Assembly Commissioner for Standards

25 June 2014