



Northern Ireland
Assembly

COMMISSIONER FOR STANDARDS

Room 283
Parliament Buildings
Ballymiscaw
Stormont
Belfast
BT4 3XX

Tel: 028 9052 1211
Email: standardscommissioner@niassembly.gov.uk

**Mr Paul Gill
Clerk of Standards
Room 254
Parliament Buildings
Ballymiscaw
Stormont
BELFAST BT4 3XX**

7 October 2015

Dear Paul

COMPLAINT AGAINST BARRY McELDUFF BY ROSS HUSSEY MLA

Please find enclosed my report in relation to the above complaint.

Yours sincerely


**Douglas Bain CBE TD Advocate
Northern Ireland Assembly Commissioner for Standards**

Enc

Report

by the

**Northern Ireland Assembly
Commissioner for Standards**

**on a complaint by Ross Hussey MLA
against
Barry McElduff MLA**

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The Complaint

By letters dated 1 and 22 July 2015 Mr Hussey complained that Mr McElduff had breached the Code of Conduct.¹ In particular he alleged that by sending a letter to all the households in the Drumragh Ward in Omagh he had breached the rule of the Code that provides that –

'no improper use shall be made of any payment or allowance made to Members for public purposes and the administrative rules applying to such payments, allowances and resources must be strictly observed.'

Having considered Mr Hussey's letters and the documents he submitted I held his complaint admissible and advised him Mr McElduff and the Clerk of Standards that I had commenced my investigation.

The Investigation

The investigation was straightforward.

On 24 August 2015 I interviewed Mr McElduff. Thereafter I sent him a transcript of his interview² and afforded him the opportunity, of which he did not avail, to propose revisions to it.

I obtained information on the number of households in the Drumragh Ward from the Assistant Chief Electoral Officer³ and information on the cost of stationery from Secretariat staff.⁴

I considered the terms of the Financial Support for Members Handbook. Extracts of the most relevant provisions are at Annex B.

The complaint letters and all the other documents on which I relied in reaching my decision are at Annex A.

¹ Documents 9&10

² Document 12

³ Document 13

⁴ Documents 11 & 14

Findings of Fact

Having considered all the evidence I found the following facts proved -

1. On or about 26 June 2015 Mr McElduff caused letters, of which Document 3 is an example, to be sent to all households in the Drumragh Ward in Omagh.
2. Some of these letters, of which Document 3 is an example, were on A4 crested ivory paper provided by the Assembly. That paper costs £11.89 for 500 sheets inclusive of VAT.⁵
3. Some of the letters, of which Document 7 is an example, were on plain white paper bearing the Assembly crest. Such paper is not provided by the Assembly. It was created by using white A4 paper provided by the Assembly and adding or photocopying the crest onto it. The cost of such paper is £9.72 for 2,500 sheets inclusive of VAT.⁶
4. All the letters were sent in ivory first-class prepaid DL envelopes provided by the Assembly of which Document 4 is an example. The cost of such envelopes is £75.00 for 100 inclusive of VAT.⁷
5. As at 3 September 2015 there were 1,163 households in the Drumragh Ward recorded on the database of the Electoral Office for Northern Ireland.⁸ The number of households on 26 June 2015 was not significantly different.
6. The cost of 1,117 such envelopes was £872.25. The cost of the paper was between £4.52 and £27.66 depending on the proportion of ivory and white paper used.

⁵ Document 11

⁶ Document 11

⁷ Document 14

⁸ Document 13

7. The total cost to the taxpayer of sending the letters, inclusive of VAT but exclusive of staff and other costs, was between £876.77 and £899.91.
8. Mr McElduff is willing to repay the cost of sending the letters if it is found that his actions were in breach of the Code of Conduct.⁹

Mr McElduff was afforded the opportunity to challenge any or all of these Findings but did not avail of it.

Reasoned Decision

The administrative rules applying to the use of OCA are set out, principally, in the Financial Support for Members' Handbook.

At interview Mr McElduff told me that at the time he decided to send the letters he did not consider them to be a circular letter. Rather they were an attempt to engage with the constituents of the Drumragh Ward on issues that were of importance to them. However, when referred to the definition of a circular in paragraph 28.12 of the Handbook he told me that he would '*want to reflect*' on whether the letters were within that definition.¹⁰ He assured me that at the time he issued the letters his intention had been to operate within the rules. He had taken a conscious decision to use first-class envelopes for all the letters because it '*was a better message to the receiving party than to send a second-class envelope.*'¹¹ Mr McElduff told me that if he was found to have breached the rules he would regret that and that he would be willing to repay any improper expenditure.¹²

The letters were identical and were sent to all households in the Drumragh Ward. They were not sent in response to a query or correspondence from the householders. I have no doubt that they were circulars as defined in paragraph 28.12 of the Handbook.

⁹ Document 12 page 5C-E

¹⁰ Document 12 page 5A-C

¹¹ Document 12 page 6G-H

¹² Document 12 page 5C-E

It follows that I am satisfied that Mr McElduff contravened the provisions of the Handbook and so breached the rule of the Code of Conduct referred to in the complaint.

Recommendations

I recommend that –

1. in addition to any sanction that is considered appropriate action be taken to recover from Mr McElduff the full cost of sending the letters; and
2. Members and their staff be reminded that first-class postage should not be used not for purely presentational reasons but only when early receipt of a communication is required.

Douglas Bain CBE TD Advocate

Northern Ireland Assembly Commissioner for Standards

7 October 2015

Documents

Document No	Description
1	Notice to attend
2	Complaints Procedure Note
3	Letter McElduff - Residents Drumragh Ward
4.	Envelope: [REDACTED] – Ivory first-class pre-paid
5	Letter McElduff - Residents Drumragh Ward crested ivory A4 paper
6	Envelope: [REDACTED] – first-class pre-paid ivory
7	Letter McElduff - Residents Drumragh Ward – white A4 paper
8	Envelope: Named individual – first-class pre-paid ivory
9	Letter Hussey - Bain 1 July 2015
10	Letter Hussey - Bain 22 July 2015
11	Memorandum McBride - Bain 9 September 2015
12	Transcript – Barry McElduff MLA
13	Email McCarley – Bain 3 September 2015
14	Memorandum McBride – Bain 1 September 2015

Extract from Financial Support for Members Handbook

Paragraph 2.0(1) of that document sets out the ten principles underpinning the arrangements for claiming financial support.

Principle 3 as follows –

'Any amount claimed must be in respect of expenditure that has been wholly, exclusively and necessarily incurred in respect of a Members' Assembly duties.'

Principle 6 provides that –

'Resources provided to enable MLAs to undertake their Assembly duties must not, directly or indirectly, benefit Party political funding or be used for Party political activities.'

Paragraph 3.0 deals with principles in practice and at sub-paragraph (2) provides a list of questions designed to assist and guide Members in ascertaining whether an item of expenditure can appropriately be claimed. The second such question is as follows –

'Has this expenditure been wholly exclusively and necessarily incurred by me in my role as a Member of the Legislative Assembly, as opposed to my personal capacity or in a Party political role, or in any other official role?'

Paragraph 13.0, as read with Annex B on page 59 of the Handbook gives examples of admissible and inadmissible OCE expenditure. In relation to Communications it provides that *'Wreaths, personal greeting messages or cards of well-wishes/sympathy, or Assembly Stationery for the use of issuing circulars, or pre-paid stationery for anything other than Assembly business is inadmissible expenditure.'*

At paragraph 28.0 of the Handbook, under the heading Postage and Stationery it is provided –

'(9) The cost of purchasing and posting items of a political or personal nature must not be claimed from OCE under any circumstances.

(10) In addition, stationery and postage (**including the use of pre-paid envelopes**), funded from OCE **must not** be used for the following purposes:

(a) Communications of a business or a commercial nature; or

(b) Correspondence on behalf of a group or organisation that a Member is associated with other than the Assembly; or

(c) In connection with fundraising for the benefit of any organisation, advocating membership of any organisation, or supporting the return of any person to public office; or

(d) Issuing greeting cards or personal messages of well-wishes.

(11) Stationery supplied by the Assembly Office Resources team must not be used to issue circulars.

(12) A circular is defined as:

(a) a letter sent in an identical or near identical form to a number of addresses (whether or not it is individually signed and addressed), if it is not sent in response to a query or correspondence from those addresses; or

(b) ; or

(c); or

(d)

- (13) However, a Member may issue a letter to a number of individuals or groups regarding Constituency business and charged the cost of stationery and postage/deliver to OCE. A Member must be able to clearly demonstrate that the material is not of a Party political nature in content and that it is directly related to his/her Assembly duties. **For the avoidance of doubt the content of such letters must not be of a Party political nature and stationery provided by the Assembly Office Resources team MUST NOT be used for this purpose (including paper and pre-paid envelopes).'**

1

NOTICE TO ATTEND FOR THE PURPOSE OF GIVING EVIDENCE

**Mr Barry McElduff MLA
4 James Street
Meeting House Hill
OMAGH
Co Tyrone
BT78 1DH**

In exercise of the powers conferred on me by section 28(1) of the Assembly Members (Independent Financial Review and Standards) Act (Northern Ireland) 2011, I require you to attend before me in Room 283, Parliament Buildings, Ballymiscaw, Stormont at 12 noon on Monday 24 August 2015 for the purpose of giving evidence in relation to the complaint against you by Mr Ross Hussey MLA.

The particular matters in relation to which you are required to give evidence are -

1. whether you were responsible for sending the letter referred;
2. the number of such letters sent;
3. the use of Assembly pre-paid envelopes for such letters;
4. the use of paper bearing the Assembly crest for such letters;
5. the advice, if any, you sought before sending such letters in the manner specified in the complaint;
6. whether you accept or deny that the sending of the letters in the manner specified was in breach of the provisions of the Code of Conduct; and
7. if you do so accept, the steps which you have taken or intend to take (a) to repay any improper expenditure of public funds and (b) to prevent any repetition.

Your evidence will be taken on oath unless instead you elect to make an affirmation to tell the truth.

Douglas Bain CBE TD Advocate
Northern Ireland Assembly Commissioner for Standards
18 August 2015

Notes

The relevant statutory provisions can be viewed at <http://www.legislation.gov.uk/browse> Section 31 of the Act creates offences in relation to this notice. These, and other matters relevant to the interview, are outlined in that attached note on procedures and statutory

provisions.

Enc.

COMPLAINTS PROCEDURES AND STATUTORY PROVISIONS

1. Introduction

- 1.1 This note outlines the procedures and practices I will follow for handling complaints. It also gives information on certain relevant statutory provisions.
- 1.2 For further details of these matters please refer to sections 24-33 of the Assembly Members' (Independent Financial Review and Standards) Act (Northern Ireland) 2011 ('the Act') and to the Assembly Members' (Independent Financial Review and Standards) Act (Northern Ireland) 2011 (General Procedures) Direction 2012 ('the General Procedures Direction'). The Act is available on <http://www.legislation.gov.uk/nia/2011/17/contents>, the Code of Conduct at <http://www.niassembly.gov.uk/Your-MLAs/Code-of-Conduct/The-Code-of-Conduct-together-with-the-Guide-to-the-Rules-Relating-to-the-Conduct-of-Members-amended-and-reissued-by-the-Committee-on-Standards-and-Privileges-for-2013-14>. The Direction is annexed to the Code.

2. Action on Receipt of Complaint

- 2.1 I will normally acknowledge receipt of a complaint within five working days.
- 2.2 When doing so I will send the complainant a copy of this note.
- 2.3 If the subject matter of the complaint is being investigated by the police I will suspend my consideration of the complaint until any criminal proceedings have been concluded.

- 2.4 As Commissioner for Standards my first task is to consider whether the complaint meets the admissibility criteria set out in the General Procedures Direction.
- 2.5 If I am satisfied that a complaint is admissible I will start my investigation (see section 3 below).
- 2.6 If I am not satisfied that a complaint is admissible because not all the required information has been provided, I will normally write to the complainant requiring him or her to send me what is missing. If I do not receive all the required information within 21 days then the complaint is not admissible and will not be investigated.
- 2.7 In any case in which I decide that a complaint is not admissible I will inform the Committee on Standards and Privileges of my decision. If the Committee does not agree with my decision they may ask me to reconsider it.
- 2.8 If the Committee agrees that a complaint is not admissible the Clerk of Standards will write to the complainant and the Member whose conduct was the subject of the complaint was telling him or her of the Committee's decision.

3. My Investigation

- 3.1 My investigation starts when I am satisfied that a complaint submitted to me meets the admissibility criteria set out in Paragraph 3.2 of the General Procedures Direction. At that stage I will write to the complainant, the Clerk to the Committee on Standards and Privileges and to the Member whose conduct is the subject of the complaint advising them of my investigation.

- 3.2 In the course of my investigation I will seek to ingather all relevant evidence both oral and documentary. This may be done on a voluntary basis or by use my statutory powers (see Section 5 below) to call for witnesses or documents.
- 3.3 Once I have completed my investigation I will draft my report to the Committee on Standards and Privileges. Before I submit that report to the Committee I will give the Member whose conduct is the subject of the complaint an opportunity to challenge any finding of fact I have made. If I accept such a challenge I will amend my findings. If I reject it, I will include a copy of the challenge in my report to the Committee.
- 3.4 The Committee will consider my report and may ask me questions about it. It is for the Committee, and ultimately for the Assembly, to consider what action, if any, to take on my report.
- 3.5 As Commissioner for Standards I have no role in determining any sanction that may be imposed where there has been a breach of the Code of Conduct.

4. Interviews

- 4.1 It is important that I hear from those with information relevant to my investigation. A meeting or interview will often be the best way of gathering that information.
- 4.2 Normally such interviews will take place in my office in Parliament Buildings at a mutually convenient date and time.
- 4.3 Before interviewing or requesting evidence from any person for the first time I will notify them in writing of the purpose of the interview. This will be done either in my letter inviting the person to arrange a meeting

with me or, where my statutory powers are being used, in the formal notice requiring attendance. I will also tell the person of my powers to call for witnesses and evidence and the procedure to be followed for my investigation. Normally that will be done by giving them a copy of this note.

- 4.4 Where my statutory powers to require a person to attend for interview are used I will issue a formal notice setting out the time and place of the interview, the particular matters about which that person is required to give evidence and the documents, if any, which that person is required to produce. The notice will also draw attention to the consequences of failure to comply with the notice.
- 4.5 If I require the interviewee to give evidence on oath he or she may instead make an affirmation to tell the truth.
- 4.6 At the interview the interviewee, in addition to answering my questions, will be given an opportunity to say anything else he or she wishes that is relevant to my investigation.
- 4.7 At the interview I will usually be accompanied by a note taker. In addition, an audio recording of the interview may be made.
- 4.8 The interviewee may be accompanied by one person of his or her choice. That person cannot answer questions on behalf of the interviewee and may be excluded from the interview in the event at my discretion.
- 4.8 As soon as possible after the interview I will send the interviewee either a full note of the meeting or a transcript of it. I will allow him or her at least 14 days to suggest any revisions to it. If no revisions are received within the specified period the note will be treated as final. I will consider and accept or reject any proposed revisions received on

time. If I accept them, the note will be amended and treated as final. If I reject them the un-amended note will be treated as final but I will include a copy of the proposed revisions in my report to the Committee.

5. **Statutory Provisions**

- 5.1 Section 31 of the Act makes it a criminal offence for a person who has been sent a formal notice to attend for interview or to produce documents to –
- (a) refuse or fail to attend;
 - (b) refuse or fail to answer questions;
 - (c) refuse or fail to produce a document specified in the notice;
 - (d) refuse to take the oath; or
 - (e) alter, suppress, conceal or destroy any document specified in the notice.
- 5.2 A person convicted of that offence is liable to a fine of up to £5,000 or imprisonment for a period of not more than three months or to both.
- 5.3 Section 33 of the Act prohibits me, and any person, including anyone who has given evidence, who has assisted me in my investigation, from disclosing any information contained in the complaint or given to or provided by me in connection with my investigation.
- 5.4 A person who having been sworn makes a statement at interview which he or she knows to be false, or does not believe to be true, may be guilty of perjury contrary to the Perjury (Northern Ireland) Order 1979. Upon conviction such a person would be liable to imprisonment for up to seven years or to an unlimited fine, or to both.

6. Further Information

6.1 If you are unclear about anything in this note or if you have any questions regarding my investigation please do not hesitate to contact me. As my post is part-time this is best done by email to douglas.bain@niassembly.gov.uk. Alternatively you may contact my Personal Secretary, Sheila McCaughley on (028) 9052 1338 or write to me at Room 283, Parliament Buildings, Ballymiscaw, Stormont, Belfast BT4 3XX.

Douglas Bain CBE TD Advocate

Northern Ireland Assembly Commissioner for Standards

30 July 2015



**Northern Ireland
Assembly**

3

4 James Street
Meetinghouse Hill
Omagh
Co. Tyrone
BT78 1DH

Tel: 02882253040

Email: barrymcelduffmla@gmail.com

26 June 2015

Letter to residents of Drumragh ward, Omagh

Dear sir/madam

I am writing to you to highlight the need for the Omagh community to stand united together against Tory cuts. You are well aware that the economy of Omagh is very reliant on a strong public sector and on the vitality of small businesses.

Public services, in particular, are being targeted by the Tories in London at this time. In truth, the Tories are robbing the Assembly and every government department of a workable and sustainable budget.

Already, our street lights and our potholes are not being repaired and British Secretary of State Theresa Villiers is promising that the next round of budget cuts will be 'eye-watering.'

These are sure to have a devastating impact on our schools and on our local health service. All the while, momentum is building in Edinburgh and Cardiff against savage cuts to public services and welfare protections in Scotland and Wales.

At this stage of our campaign against Tory cuts, I would emphasise the need for ALL of us to unite. As a Sinn Féin MLA for Omagh, I am asking you to put pressure on ALL local political parties to speak with one voice, Unionist and Nationalist / Republican, against Tory cuts in the weeks and months ahead.

I am convinced that everyone will feel the impact of the cuts which are coming down the track.

Please feel free to contact me / my office if you wish to further discuss this or any other concern.

Yours sincerely


Barry McElduff MLA

Northern Ireland Assembly

Delivered by



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Mail Centre
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Omagh
BT79 0dt

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Omagh
Bt79 0dh



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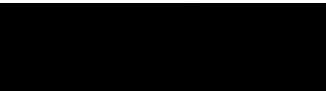
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Northern Ireland Assembly

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Royal Mail
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26.05.15
07:10 AM
BT79 0DF



Omagh
BT79 0df

8

PLEASE REPLY TO
THE OMAGH OFFICE
Email hussey@mla.niassembly.gov.uk
Office email westtyroneuup@gmail.com



Northern Ireland
Assembly

Ross M Hussey BA (Hons) Cert PFS Dip Paralegal (ILEX)
MLA for West Tyrone
64 Market Street, Omagh, County Tyrone, BT78 1EN Tel 02882245568

Your Ref

Our Ref

Date

1 July 2015

Sir Douglas Bain
Assembly Commissioner for Standards
Parliament Buildings
Stormont
BELFAST
BT4 3XX

Dear Mr Bain

I enclose herewith copy of a letter that was sent by Mr McElduff MLA to one of my constituents. You will note that Assembly headed paper and envelopes were used. I believe this is a breach of the established protocol for the use of Assembly paper and envelopes.

We believe that over 550 letters were distributed within the Drumragh ward and I am sure that over the coming days I will receive complaints from other wards within my constituency.

Perhaps you would advise if you agree with me that this is a breach of Assembly rules and what action you intend to take about this.

Yours sincerely


Ross M Hussey MLA

Enc



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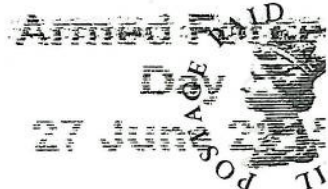


Barry Mc

Northern Ireland Assembly



Royal Mail
Northern Ireland
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26.06.15
07:00 pm
BT78 1DH



Omagh
BT79 0dt

PLEASE REPLY TO
THE OMAGH OFFICE
Email ross.hussey@mla.niassembly.gov.uk
Office email westtyroneup@gmail.com

10



Northern Ireland
Assembly

Ross M Hussey BA (Hons) Cert PFS Dip Paralegal (ILEX)
MLA for West Tyrone
64 Market Street, Omagh, County Tyrone, BT78 1EN Tel 02882245568

Your Ref

Our Ref

Date

22 July 2015

Mr Douglas Bain
Assembly Commissioner for Standards
Parliament Buildings
Stormont
BELFAST
BT4 3XX

Dear Mr Bain

Thank you for your letter of 15th July 2015 in relation to my complaint against Barry McElduff MLA.

I enclose herewith letters and envelopes which I have in my possession these are letters sent by Mr McElduff in the Drumragh Ward. I am aware of others however the recipients advised that the letters were "binned" upon receipt. Clearly I would not be in a position to advise on the number of letters sent but it would be fair to assume that all house holders in the Drumragh Ward which we calculate would be 550.

I believe that the following Code of Conduct has been breached:

"No improper use shall be made of any payment or allowance made to Members for public purposes and the administrative rules applying to such payments, allowances and resources must be strictly observed".

I also enclose the relevant instructions contained in the Office Cost Expenditure Manual.

Yours sincerely

Ross M Hussey MLA

Enc

MEMORANDUM

From: Lynne McBride
Members Finance
Date: 09 September 2015
To: Douglas Bain CBE TD Advocate
Subject: Stationery

Please find below the response in respect of the above request.

A4 white copier paper – box of 2500 - £9.72 Vat inc - therefore one sheet is **£0.003888** VAT inc

A4 paper – Crest (no address) – ream of 500 sheets – £11.89 VAT inc - therefore one sheet is **£0.02378** VAT inc

Should you require further information, please contact me or Office Resources who hold details of stationery costs.



Lynne McBride
Members Financial Services
028 90 521694

INTERVIEW TRANSCRIPT

Complaint Against: Barry McElduff MLA

Witness: Ross Hussey MLA

Date: Monday 24 August 2015

Place: Room 283, Parliament Buildings

Present: Douglas Bain, Standards Commissioner
Barry McElduff MLA

Time Started: 12:06 pm

Time Ended: 12:22 pm

- A. **COMMISSIONER:** Mr McElduff, thank you for coming so promptly. Can I ask you to take the oath for me or affirm.
- MCELDUFF:** Affirm, affirm.
- B. **COMMISSIONER:** Could you read the words of the affirmation?
- MCELDUFF:** Okay. I do solemnly sincerely and truly declare and affirm that the evidence I shall give shall be the truth, the whole truth and nothing but the truth.
- C. **COMMISSIONER:** Thank you very much. There are just a couple of other formalities, which we have to deal with under the procedures that I operate under. Can you confirm that you have received from me, a notice to attend here today of which Document number 1 is a copy?
- D. **MCELDUFF:** Yes.
- COMMISSIONER:** And can you confirm that attached to that was a note outlining some of the procedures of which Document number 2 is a copy?
- E. **MCELDUFF:** Yes indeed.
- COMMISSIONER:** Do you have any questions about the procedure?
- MCELDUFF:** No.
- F. **COMMISSIONER:** Then can we move on to the substance of this matter and I ask you to look first at the document which I have marked number 3?
- MCELDUFF:** Yes.
- G. **COMMISSIONER:** I think that this is a letter on Assembly headed ivory paper addressed to the residents of Drumragh Ward.
- MCELDUFF:** Yes indeed.
- H. **COMMISSIONER:** And it's dated 26th June 2015. Did you cause that letter to be sent?

A
MCELDUFF: Yes.

COMMISSIONER: And is the facsimile signature on it your signature?

B
MCELDUFF: Yes, indeed.

COMMISSIONER: I think the letter really, in short, is about our campaign against Tory cuts.

C
MCELDUFF: It is seeking unity within the community against British government cuts, yes.
It is indeed.

COMMISSIONER: I think in fact the third last paragraph talks about our campaign against
Tory cuts.

D
MCELDUFF: Yes. The fifth paragraph, yes?

COMMISSIONER: No, third from the bottom.

MCELDUFF: No problem, yeah third from the bottom, yeah.

E
COMMISSIONER: Our campaign, is that a Sinn Féin campaign?

F
MCELDUFF: Well I don't see this as a Sinn Féin party political letter. I do see it as political
in content, of course it is. I feel very strongly about this actually that I am simply
doing my public duty here as an MLA and there is a campaign against Tory cuts.
Trade unions are involved in it, some political parties are involved in it. The SDLP is
involved in it for example. SDLP MLAs, Sinn Féin MLAs, trade unions. It is kind of a
broad-based campaign against Tory cuts, you could say.

G
COMMISSIONER: Thank you. Do you accept that that was a letter which was sent in
identical terms to a number of people?

MCELDUFF: Yes.

H
COMMISSIONER: And that it was a circular letter?

A. **MCEL DUFF:** I don't accept that it was a circular letter in that sense. This was an attempt by me to secure direct engagement. Direct engagement from constituents about probably the most compelling issue of the day. I was very very careful to put it on Assembly headed notepaper, I did not put it on Sinn Féin headed notepaper. I thought, and I still think, that I was operating properly as an MLA, as an MLA should.

B. The way the letter is worded, the content of the letter, Assembly headed notepaper. I mean, I do feel that I was doing my public duty as an MLA, I do believe that, yeah.

COMMISSIONER: Okay. Were you aware of the rules about sending circular letters? I understand that you don't think that your letter is, but were you aware of these rules?

C. **MCEL DUFF:** I was aware that, yes, an MLA has to operate within a framework of rules. To me, that wouldn't have struck me as stepping outside of the rules. To me, that was inside the rules because I believe in a protocol like this. You have to have a protocol like this, you have to have appropriate use of office cost allowance, envelopes and, for example, if I was organising a party political meeting, I would definitely make sure they weren't used, you know. But if I am seeking direct engagement from constituents about issues that I believe to be of massive importance to them, I don't think it would qualify to be described as a party political circular.

D.

E. **COMMISSIONER:** Well, could I just ask you to look at the Financial Support for Members Handbook December 2012 which is the current version and you will see that I have highlighted a number of sections. In particular, this part says that it mustn't be used for political purposes. Is that right?

F. **MCEL DUFF:** Does it say that?

COMMISSIONER: Sorry, let me make sure I get the right bit. We are talking about paragraph 28.9.

G. **MCEL DUFF:** Is that party political or is political?

COMMISSIONER: No, it is just political, not party political.

MCEL DUFF: Yeah, yeah.

H.

A **COMMISSIONER:** I think you told me earlier that, of course the letter was..I think your words were "of course, it is a political letter", not a party political letter.

B **MCELDUFF:** Well you see, in a way this reminds me of an engagement in the Assembly Chamber one day when an MLA accused another MLA of making a political speech, you know. It was Jim Wells that was accused of making a political speech and he said "I can't think of a more appropriate forum to make a political speech than the Assembly Chamber". So, I suppose, my understanding of office cost allowance is that you don't use it for party political purposes like internal party political business but engagement with constituents, I mean, the definition of politics, what is politics, everything is politics. If I wrote to twelve students about student fees, that's politics. I would be shocked if one couldn't use office cost allowance paid envelopes to say, for example, survey twelve or fifteen students on their views on EMA or student finance. I would be shocked and I see that in a similar vein.

C **COMMISSIONER:** Just for completeness, referring you to the same handbook and this time to paragraph 28.11, I think that says that stationery supplied by the Assembly office resources must not be used for circulars.

D **MCELDUFF:** Okay. The definition of circular..okay.

E **COMMISSIONER:** The definition of circular is a letter sent in an identical or near identical form to a number of addresses whether or not it is individually signed and addressed if it is not sent in response to a query or correspondence from those addresses.

F **MCELDUFF:** Again, on a personal level, I didn't see this as a circular. I didn't see it as a circular, I saw it as an attempt to secure direct engagement from constituents and I was reaching out as well because the Drumragh Ward in Omagh is predominately unionist and I wanted to reach out to all the constituents who I represent in Omagh.

G **COMMISSIONER:** No, I understand that that was your position at the time. Having read that definition of a circular..

H **MCELDUFF:** Can I just ask you, when was this dated?

I **COMMISSIONER:** December 2012.

- A. **MCELDUFF:** Okay.
- COMMISSIONER:** Having read what the definition of what a circular is, are you still of the view that your letter was not a circular or do you believe now, on reflection that it falls within that definition?
- B. **MCELDUFF:** I maybe would want to reflect on that. I want to reflect on that because, my intent I have to say has been to operate in a bona fide way here and, only to use office cost allowance properly at all times.
- C. **COMMISSIONER:** If it was the case that your use of office cost allowance to send these was improper, that is something you would regret?
- MCELDUFF:** Yes. If it was improper because I do want to stay absolutely within the rules of office cost allowance and I thought that I was achieving that when, for example, I didn't party politicise the letter when I put it on Assembly headed notepaper which is neutral. Neutral and the institution to which I am elected.
- COMMISSIONER:** And, if it is the case that what you did was to send a circular letter, as defined, would you repay the cost?
- E. **MCELDUFF:** Yes.
- COMMISSIONER:** Just, then..
- F. **MCELDUFF:** If that was the outcome of the investigation, I respect the right of the Commissioner and his office to engage in this type of investigation absolutely.
- COMMISSIONER:** Now, just for completeness, I think you mentioned that this was sent to Drumragh Ward because it was predominately unionist.
- G. **MCELDUFF:** Well it was an outreach initiative. It was an outreach initiative, you might describe it as.
- COMMISSIONER:** Was it sent only to those in Drumragh Ward?
- H. **MCELDUFF:** Only.

A. **COMMISSIONER:** I have been told and, no doubt the Electoral Office will be able to give me a precise figure, that there are approximately five hundred and fifty households in that ward.

MCELDUFF: I would believe that to be the case too, around that figure, yes.

B. **COMMISSIONER:** Could you just confirm that Document number 4 is the envelope in respect of the letter I have shown you, addressed to the Alexander family at an address within that ward. And it is a first-class prepaid Assembly envelope.

C. **MCELDUFF:** Exactly, yes.

COMMISSIONER: And similarly, that Document 5 is another letter sent. Is that an example of that letter?

D. **MCELDUFF:** Yes, another example yes indeed.

COMMISSIONER: And Document 6 is the relevant envelope addressed to the Cunningham Family, also in that ward.

E. **MCELDUFF:** Yes.

COMMISSIONER: Document 7 is another example of the letter addressed to an individual, on this occasion, in that ward.

F. **MCELDUFF:** Yes.

COMMISSIONER: Just out of my curiosity, number 7 is on plain white Assembly paper, whereas the other two are on the ivory more expensive paper. Is there a reason for that?

G. **MCELDUFF:** It must have been the availability of the paper. There would be no significance in that whatsoever. Actually, I did think to send a first class envelope was a better message to the receiving party than to send a second-class envelope. I wanted to be upfront, I wanted to be outreaching to the constituents that I have in Omagh who are probably most inaccessible for me as a public representative.

H.

A. **COMMISSIONER:** Prior to taking your decision to spend this on Assembly paper with the prepaid envelopes, did you seek advice from the Finance Office?

B. **MCELDUFF:** I didn't but I have previously served on the Assembly Commission and I had some understanding of the rules and I felt pleased with myself that I knew, for example, not to put it on Sinn Féin headed notepaper and to present it in an Assembly way, as distinct from a party political way.

C. **COMMISSIONER:** That is all the questions I have for the moment. Is there anything you wish to add to anything or anything you wish to correct or revise?

D. **MCELDUFF:** Not really no. I am content enough with the process. I respect your right to carry out this interview and I want to cooperate fully with it and I just, in my own mind, my intent was good and I believe this to be an outreach initiative where I could reach and represent all my constituents in Omagh and West Tyrone. It is easier for me to visit family homes in other parts of Omagh than it would be for example in the Drumragh ward so, in the spirit of outreach. There is maybe one thing, I've had two reactions I believe. I believe I have had two reactions to the letter. I also suspected there would be gatekeepers within the unionist community who wouldn't want me to engage with unionist people in Omagh. I have always believed that. The first reaction I got was a death threat. It came during the summer months and it was in the form of a phone call to our office that I was to be shot and there was to be a bomb at my house in Carrickmore, so that was followed up by the PSNI and a proper investigation etc. so that it is underway at present. The second reaction I got was a complaint to the Commissioner for Standards about misuse of Assembly envelopes so I did expect reactions to the letter because there would be gatekeepers inside the unionist community who wouldn't want me or any other MLA from the nationalist republican tradition engaging with those people.

E. **COMMISSIONER:** Finally, do you have any complaint to make about your treatment during this interview.

G. **MCELDUFF:** No.

H. **COMMISSIONER:** What a pleasant change *[laughs]*.

A. **McELDUFF:** I reserve the right to change that before I leave *[laughs]*.

B. **COMMISSIONER:** Now the procedure, as I think you know, Mr McElduff, is that, as soon as we get a transcript of this, we shall send it to you. You then have fourteen days to suggest any revisions to it. I will then complete my report as soon as possible after I have seen any other witnesses. Can I thank you first of all for responding so quickly to my invitation to come for interview and for your cooperation today.

MCELDUFF: No problem.

C. **COMMISSIONER:** The time is now 12:22 pm and we will turn off the recording.

D. [Ends]

E.

F.

G.

H.

Bain, Douglas

From: McCarley, Jocelyn <Jocelyn.McCarley@eoni.org.uk>
Sent: 03 September 2015 14:16
To: Bain, Douglas
Subject: Household figure for Drumragh ward - 1117

Douglas

I have ran the statistics on our system for the above ward – as of todays date we have recorded 1163 households in the Drumragh ward.
I have also checked the NISRA website which shows that on census day 2011 there were 1014 households in this ward.

Jocelyn

Electoral Office Northern Ireland
2nd Floor, St Annes House
15 Church Street
Belfast BT1 1ER

Tel: 02890 446667
e:mail : jocelyn.mccarley@eoni.org.uk



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MEMORANDUM

From: Lynne McBride
Members Finance

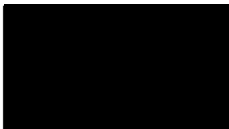
Date: 01 September 2015

To: Douglas Bain CBT TD Advocate
Commissioner for Standards

Subject: Postage Costs.

Please find below in response to your recent request.

1. 1st class DL envelope non-window (x1) is £0.73 (+ £0.02 VAT)
2. A4 Assembly headed ivory paper (x1 sheet) is £0.0291
3. A4 Assembly plain ivory paper (x1 sheet) is £0.0135



Lynne McBride
Members Financial Services
028 9037 8311