



**REPORT OF
THE NORTHERN IRELAND
ASSEMBLY COMMISSIONER FOR
STANDARDS
FOR 2014-2015**

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 third 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 number of complaints handled during the reporting period before outlining the other work undertaken and detailing the resources used. Finally it outlines work planned for 2015-16.

2. FUNCTIONS OF THE COMMISSIONER

2.1 The functions of the Commissioner have not changed since the office was created. They 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. The two such directions given have not been amended during the year.
- 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, one Commissioner's investigation and one referral by the Committee were on-going. During the year I found two of these complaints to be inadmissible. The Committee on Standards and Privileges ("the Committee") agreed. Following a full investigation of the Commissioner investigation I found that there had been no breach of the Code. The Committee agreed.¹ Full investigations of the other four complaints were completed. All of them related to the conduct of Gerry Kelly MLA at the Tour of the North Parade in June 2013. In

¹ NIA 185/11-15

each case I found that a breach of the Code of Conduct had occurred. The Committee agreed my decisions and brought forward a motion proposing Mr Kelly's suspension for a period of five days.² Following a debate in the Assembly that motion was negated on 16 June 2014, as a consequence of a Petition of Concern³.

- 3.2 Following withdrawal of the legal challenge, my report into the referral relating to the allegations against Iris and Peter Robinson made in the BBC Spotlight programme broadcast in January 2010, was submitted in July 2014. I found that there had been a breach of the Code by Mrs Robinson but no breach by her husband Peter Robinson MLA. The Committee agreed my findings on 26 November 2014⁴. Because Mrs Robinson was no longer a Member no further action was possible.
- 3.3 Fifty-three new complaints were received during the year compared with 36 in 2013-14. This increase was due to 27 complaints made against one member about the same alleged conduct. Forty-five (84.9%) of these complaints were made by members of the public and the remaining eight (15.1%) by Members. The corresponding percentages for 2013-14 were 69.4% and 30.6%.
- 3.4 The complaints were about alleged misconduct by 15 Members. Twenty-eight of the complaints, including 27 about the same conduct, were made against the same Member. Two member of the public each submitted two complaints whilst one Member made two complaints both of which were inadmissible.

² NIA 183/11-15

³ A petition pursuant to section 42 of the Northern Ireland Act 1998

⁴ NIA 185/11-15

3.5 Of the fifty-three complaints received during the year forty-six (86.8%) were found, without the need for a full investigation, not to meet the admissibility criteria set out in the General Procedures Direction. The corresponding figure for 2013-14 was 25 (69.4%). The Committee agreed my decision in all cases. A full investigation was instituted into four complaints. In three of these, all against the same Member, my investigation was on-going at the year-end. Whilst I concluded my investigation and submitted my report in respect of the fourth admissible complaint, the Committee had not completed its consideration of it before the year end. Two complaints were withdrawn before I had decided on their admissibility. My decision on the admissibility of the remaining complaint was outstanding at the year end.

3.6 No significant changes were made to the complaint handling process during the year. Whilst in most cases it is likely to remain my practice to interview witnesses on a voluntary basis I considered it appropriate, because of the nature of the four investigations undertaken, to exercise my powers under sections 28 and 30 of the Act to require the attendance of some witnesses and to take their evidence on oath. I also used my power under section 28 to require the production of documents relating to the three complaints against the same Member.

4. OTHER WORK

4.1 During the year I again contributed to the Committee's work on the revision of the Code of Conduct. Because that work was not completed during the year I was unable to undertake the further planned work on material for the Assembly website on the role of the Standards Commissioner and the complaints process.

4.2 In April 2014 I accompanied members of the Committee on a visit to the Scottish Parliament during which I had the opportunity of meeting with the newly appointed Commissioner for Ethical Standards in Scotland. In October 2014 I attended a meeting of the Standards Network hosted by the National Assembly of Wales. The Network is an informal forum where those involved in standards works in legislatures in the United Kingdom and Ireland can discuss matters of mutual interest. I met with members of the Independent Financial Review Panel on two occasions to discuss matters of mutual interest and contributed to the Panel's consultation on a proposed determination. Other meetings, not directly related to a particular investigation, were held with the Clerk to the Assembly/Chief Executive, the Comptroller and Auditor General and the Assembly Ombudsman.

4.3 Following further meetings agreement was reached with the PSNI in September 2014 on the arrangements for the prosecution of offences under section 31 of the Act and on related matters. The agreement was embodied in a Protocol which was published on the Assembly website.

4.4 Throughout the year I 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; and

(c)

5.3 The sums paid under that paragraph, along with the corresponding figures for 2013 - 2014, were as follows -

	2013-14	2014-15
	£	£
Commissioner Pay ⁵	41,113	51,477 ⁶
Employers ERNIC	3,680	6,258 ⁶
Travel & Subsistence	<u>1,576</u>	<u>2,166⁶</u>
TOTAL	£46,369	£59,901

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

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

⁶ Includes payment to the Acting Commissioner in respect of work carried out in 2013-14 but not claimed in-year.

again greatly assisted by the provision, on a part-time basis, of a Personal Secretary. Transcripts of witness interviews were prepared by staff from the Official Report. 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. That same budget was agreed for the whole of 2013-14 and again for 2014-15.

5.6 The sums paid under paragraph 8(b), along with the corresponding figures for 2013 -14 were as follows -

	2013-14	2014-15
	£	£
Hospitality	0	0
Data Protection Registration	35	35
General business expenditure	0	63
Legal Fees	<u>4,650</u>	<u>6470⁷</u>
TOTAL	£4,685	£6,568

6. THE YEAR AHEAD

6.1 In addition to completing work on the outstanding complaints identified in paragraph 3.5 above I intend to make further significant

⁷ The increased expenditure related largely to the investigation of the allegations made in the BBC Spotlight programme referred to in paragraph 3.2 above

proposals to the Committee regarding a revision of General Procedures Direction. These will be designed to simplify the process and make it more user-friendly both for complainants and Members whilst also reducing the cost of processing complaints. My work on new material for the website will be completed as soon as practicable after the new Code of Conduct and Direction are 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. Paul Gill, the Clerk of Standards and Sheila McCaughley, my Personal Secretary, undoubtedly deserve particular mention for all the support and assistance they have provided. Sincere thanks are also due to the Editor of the Official Report and his colleagues who so willingly took on the new task of preparing interview transcripts in addition to their already heavy workload.

Douglas Bain CBE TD Advocate
Northern Ireland Assembly Commissioner for Standards
15 April 2015