



Committee on Standards and Privileges

Report on a complaint against Mr Matthew O'Toole MLA

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Report: NIA 122/22-27 Committee on Standards and Privileges.

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Powers and Membership

Powers

The Committee on Standards and Privileges is a Standing Committee of the Northern Ireland Assembly established in accordance with paragraph 10 of Strand One of the Belfast Agreement and under Assembly Standing Orders 51 and 57. Further provisions on the Committee's functions are also included in Standing Orders 69, 69A, 69B, 69C and 70.

The Committee has the power:

- To consider specific matters relating to privilege referred to it by the Assembly;
- To oversee the work of the Assembly Clerk of Standards;
- To examine the arrangements for the compilation, maintenance and accessibility of the Register of Members' Interests and any other register of interests established by the Assembly, and to review from time to time the form and content of those registers;
- To consider any specific complaints made in relation to the registering of declaring of interests referred to it;
- To consider any matter relating to the conduct of members; and
- To recommend any modification to any Assembly code of conduct as may from time to time appear to be necessary.

The Committee is appointed at the start of every Assembly, and has the power to send for persons papers and records that are relevant to its inquiries.

Membership

The Committee has 9 members, including a Chairperson and Deputy Chairperson, and a quorum of five members. The membership of the Committee is as follows:

- Cathy Mason MLA (Chairperson)¹
- Connie Egan MLA (Deputy Chairperson)²
- Stewart Dickson MLA
- Mark Durkan MLA³
- Paul Frew MLA
- Harry Harvey MLA
- Brian Kingston MLA⁴
- Declan McAleer MLA⁵
- Emma Sheerin MLA⁶

¹ From 3 February 2025 Cathy Mason replace Carál Ní Chuilín as Chairperson.

² From 8 November 2024 Connie Egan replaced Stewart Dickson as Deputy Chairperson.

³ From 8 September 2025 Mark Durkan replaced Colin McGrath as a member of the Committee.

⁴ From 8 April 2024 Brian Kingston replaced Stephen Dunne as a member of the Committee.

⁵ From 10 February 2025 Declan McAleer replaced Carál Ní Chuilín as a member of the Committee.

⁶ From 24 November 2025 Emma Sheerin replaced Jemma Dolan as a member of the Committee.

List of Abbreviations and Acronyms used in this Report

MLA: Member of the Legislative Assembly

The Assembly: Northern Ireland Assembly

The Code: The Members' Code of Conduct

The Commissioner: Assembly Commissioner for Standards

The Committee: Committee on Standards and Privileges

Introduction

1. The Committee on Standards and Privileges ('the Committee') has considered a report from the (former) Assembly Commissioner for Standards ('the Commissioner'), Dr Melissa McCullough, on her investigation into a complaint against Mr Matthew O'Toole MLA ('the respondent') of an alleged breach of the Assembly Members' Code of Conduct ('the Code').⁷
2. A link to the Commissioner's investigation report, which includes a copy of the complaint correspondence, together with the evidence gathered during the investigation, is included at **Appendix 1** (a limited amount of information has been redacted from the Commissioner's report to accord with legal obligations). The link to the applicable minutes of proceedings of the Committee is included at **Appendix 2**.

Role of the Committee

3. The arrangements for regulating the standards of conduct of MLAs include: the role of the independent Commissioner in investigating complaints of alleged breaches of the Code; the role of the Committee in considering the Commissioner's investigation reports and adjudicating in light of the Commissioner's findings and any other evidence or information obtained; and the role of the Assembly in plenary in deciding upon sanctions recommended by the Committee, where applicable.
4. It is the Committee which ultimately decides on whether any breach of the Code is established, on the basis of the evidence, the facts and the legal position in respect of each allegation. If it decides that a breach has occurred, the Committee may: decide that a sanction is not merited; seek to resolve the

⁷ <https://www.niassembly.gov.uk/your-mlas/code-of-conduct/the-code-of-conduct-and-the-guide-to-the-rules-as-amended-on-23-march-2021/>

matter and then report the resolution to the Assembly; or recommend to the Assembly that a sanction be imposed under Standing Order 69B.⁸

Background

5. On 26 June 2025, the Commissioner received a complaint from Mr Graham Fergus ('the complainant') alleging that the respondent had breached Rule 15 and Rule 17 of the Code when he disclosed confidential information relating to a complaint that he had submitted to the Commissioner regarding Minister Gordon Lyons MLA. The complainant provided a link and a copy of the press release issued by Mr O'Toole as evidence.
6. The Commissioner considered the complaint and decided it was admissible, before then commencing her investigation on 5 August 2025. On 3 September 2025, the Commissioner forwarded her investigation report to the Committee for consideration.
7. Prior to the Committee commencing its adjudication, and in accordance with its established disclosure procedure, the Committee Clerk sent the Commissioner's full investigation report to the respondent for written comment in respect of any matter raised within the report. Where applicable, any written comments received from the respondent in such complaint cases are provided to the Committee at the same time as it receives the Commissioner's investigation report. The respondent was also offered the opportunity to appear before the Committee to make his comments in person and to answer any questions that members may have.
8. The respondent made a written response to the Commissioner's investigation report (**Appendix 3**) but did not avail of the opportunity to appear before the Committee. The Commissioner's subsequent response can be found at **Appendix 4**.

⁸ A range of sanctions are provided for in Standing Order 69B
<https://www.niassembly.gov.uk/globalassets/documents/standing-orders/sos-at-1-july-2025.pdf>

The relevant rules in the Members' Code of Conduct

9. The relevant rule considered by the Commissioner in the complaint against Mr O'Toole is as follows:

Rule 12: You shall disclose confidential or protectively marked information only when you are authorised to do so.

Rule 15: You shall not subject anyone to unreasonable and excessive personal attack.

Rule 17: You shall not disclose details in relation to such an investigation except when authorised by law or by the investigatory authority.

The Commissioner's reasoned decision

10. In the 'Reasoned Decision' section of her report, the Commissioner explains why she considers from her analysis of the facts and evidence, on the balance of probabilities, that Mr O'Toole's conduct did not breach Rule 15 and Rule 17 of the Code. In addition, the Commissioner identifies that Rule 12 of the Code is engaged.⁹
11. The following extracts from the investigation report outline the Commissioner's reasoning in relation to why she does not consider that Rule 15 and Rule 17 were breached, but why she considers that Mr O'Toole breached Rule 12 of the Code:

"Confidentiality is a cornerstone of the work of the Office of the Commissioner for Standards and is fundamental to maintaining the integrity of the complaints process. It safeguards all parties involved, including both the complainant and the Member who is the subject of the allegation. For this reason, the MLA Code

⁹ Paragraphs 11-15, Appendix 1

of Conduct contains two specific provisions that require Members to uphold confidentiality at every stage of the process, namely Rule 12 and Rule 17.

In his response, Mr O'Toole acknowledged that he had issued the statement on the SDLP website. He argued, however, that simply disclosing the fact that a complaint had been lodged does not constitute a breach of Rule 17 of the Code. He referred to a precedent case in support of this position. The key issued lies in the wording of Rule 17, which refers specifically to 'an investigation'. As the complaint had not progressed to the stage of investigation at the time of the statement, there can be no breach of Rule 17.

However, in the same precedent case to which Mr O'Toole referred to in his response to this complaint, Rule 12 was highlighted as being engaged. It is my view that the circumstances of this case similarly engage Rule 12. Mr O'Toole should not have disclosed that he had submitted a complaint, as he was not authorised to do so. The complaints process is confidential from the point of submission to its conclusion. Mr O'Toole was not permitted to disclose even the fact of a complaint. Were such disclosures deemed acceptable, the act of submitting a complaint to the Office of the Commissioner for Standards could too easily be weaponised.

It is my view that Mr O'Toole knew, or ought reasonable to have known, that issuing a public press release concerning an active and confidential complaint submitted to this Office was inappropriate and in breach of Rule 12 of the MLA Code of Conduct.

I am not satisfied that Rule 15 is engaged for a variety of reasons. Chiefly, Mr O'Toole has expressed his views on the conduct of Minister Lyons. He has the right to do so under Article 10 of the European Convention on Human Rights. In my view, nothing he has said in his statement has reached the threshold for a breach of Rule 15."

12. The Commissioner also makes the following observation in her report:¹⁰

“Confidentiality is of paramount importance to the work of the Office of the Commissioner for Standards. In my view, it is essential that breaches of confidentiality are treated with the seriousness they deserve in order to safeguard the integrity of the complaints process and to prevent the risk of misuse or harm that may arise from such breaches.

The recommendations in my 2022 report¹¹ at paragraph 9.1 noted that Rules 16 and 17 are unsatisfactorily drafted and do not fully reflect the protections for the confidentiality of the Commissioner’s functions as set out in the 2011 Act. It remains my view that the Committee should give careful consideration to revising both Rule 16 and Rule 17 during the Stage 2 Review of the MLA Code of Conduct”.

The Committee’s consideration and conclusion

13. At its meeting on 15 October 2025, the Committee considered the Commissioner’s investigation report and the response from Mr O’Toole to the Commissioner’s report, in which, while not challenging the Commissioner’s findings of fact, he raises issues with her interpretation of the rules applied.
14. The Committee agreed to forward Mr O’Toole’s response to the Commissioner for a response, as applicable, which can be found at **Appendix 4**.
15. For completeness, the Committee agreed to request a copy of the press release issued by Mr O’Toole, as referred to in the Commissioner’s report, and this is provided at **Appendix 5**.
16. At its meeting on 3 December 2025, the Committee considered the response from the Commissioner and, having considered the evidence provided within

¹⁰ Paragraphs 16 and 17, Appendix 1

¹¹ [Annual-Report-2021-22.pdf](#)

the Commissioner's investigation report, agreed that no further information was required to enable it to decide on the complaint case.

17. Arising from its deliberations, the Committee agreed with the Commissioner's conclusions and associated reasoning on why the respondent has not breached rules 15 and 17.
18. From its deliberation on the Commissioner's investigation report and the response from Mr O'Toole, the Committee noted issues raised regarding interpretation of the applicable rules of conduct, including potential unintended or undesirable consequences and, in particular, whether Members are prohibited from disclosing even the fact of having made a complaint (e.g. in cases of self-referral to the Commissioner). In her response to Mr O'Toole's submission, the Commissioner stated:

*'I believe it is both reasonable and necessary for the Committee to consider whether there should be an explicit distinction between the disclosure of the fact of a complaint or referral, and the details or substance of an investigation. At present, the Code has not adequately reflected this distinction unlike in other legislatures, where self-referral and acknowledgment of a complaint are permitted, provided that no details of an ongoing investigation are disclosed.'*¹²

19. It should be noted that neither the current nor the predecessor Committee has taken the position that the fact of a complaint cannot be disclosed in any circumstances. In a previous case, which Mr O'Toole references in his written response, the predecessor Committee explained that:

'...arising from her interpretation of section 33 of the 2011 Act, the Commissioner has taken the view that both the fact of the complaint and any information regarding the complaint and investigation is confidential. The Committee does not consider that the fact of making a complaint in itself need necessarily be treated as confidential information. Circumstances can arise

¹² Appendix 4

whereby a Member may require to declare the fact of having made a complaint against another Member (including during proceedings of the Committee). As outlined in the Commissioner's investigation report, there is a requirement on Members to declare relevant interests in proceedings of the Assembly and on other occasions (and failure to do so may be an offence under section 43 of the Northern Ireland Act 1998). However, the Committee is clear that, where circumstances require a declaration of having made a complaint against a Member, this does not necessitate disclosure or discussion of the details of the complaint itself.¹³

20. Similarly, in its report on a separate case, the current Committee, in agreeing with the Commissioner's finding of a breach of Rule 12, noted that the respondent in that case had not 'required to disclose the fact of having made the complaint due to him having a declarable interest. Moreover, the respondent disclosed more than the fact of having made a complaint, as the press release included a statement ...¹⁴'
21. The Committee noted that it has previously agreed the following in relation to the confidentiality of complaints:
 - a. That the confidentiality obligations should begin at the time a complaint is submitted to the Commissioner and continue until either the complaint is deemed inadmissible or the investigation report is published by the Committee as part of its adjudication report; and

¹³ See paragraph 33 at the following link:

<https://www.niassembly.gov.uk/globalassets/documents/committees/2017-2022/standards-and-privileges/reports/steve-aiken---mchugh/report-on-a-complaint-against-dr-steve-aiken-obe-mla.pdf>

¹⁴ See paragraph 14 at the following link: <https://www.niassembly.gov.uk/assembly-business/committees/2022-2027/standards-and-privileges/reports/report-on-a-complaint-against-mr-timothy-gaston-mla-september-2025/#consideration>

- b. That the confidentiality requirements should permit a Member, as the complainant or as the respondent, to disclose the fact of a complaint where appropriate, including when it is a declarable interest.
- 22. In that regard, the Committee intends to seek approval from the Assembly to an amendment to the Guide to the Rules, which accompanies the Code, to clarify and highlight the confidentiality requirements during the complaints process.
- 23. In terms of Rule 12, the Committee is clear that the appropriate application of this rule (and Rule 17) is not incompatible with Members' right to freedom of expression (which the Code upholds).¹⁵ Rather, the constraint on freedom of expression arising from the application of Rule 12 is in accordance with Article 10 of the European Convention on Human Rights, including because it is in pursuit of a legitimate aim, proportionate and subject to a temporal limit which is aligned to the discharge of the investigatory and adjudicatory functions of the Commissioner and the Committee respectively.
- 24. Mindful of the abovementioned points, the Committee considered the specific circumstances of the case before it, including the timing and details of the press release issued by Mr O'Toole (Appendix 5). In that regard, the Committee noted in particular the Commissioner's conclusion that 'Mr O'Toole knew, or ought reasonable to have known, that issuing a public press release concerning an active and confidential complaint submitted to this Office was inappropriate and in breach of Rule 12...'. Moreover, the Committee was clear that the contents of the press release amounted to more than merely the fact of having made a complaint. As such, the Committee concurred with the Commissioner's conclusion that the respondent has breached Rule 12 of the Code.

¹⁵ See paragraph 34 at the following link:

<https://www.niassembly.gov.uk/globalassets/documents/committees/2017-2022/standards-and-privileges/reports/steve-aiken---mchugh/report-on-a-complaint-against-dr-steve-aiken-obe-mla.pdf>

25. Having regard to the specific circumstances of the case, the Committee considered the range of available options in terms of next steps, in light of the finding that the respondent has breached Rule 12 of the Code.
26. The Committee agreed that, in order to resolve the matter, Mr O'Toole would be asked to provide a formal written apology to the Committee, which would allow the Committee to report that the matter has been resolved. Mr O'Toole subsequently provided a formal letter of apology, which is included at **Appendix 6**.
27. Therefore, **the complaint is upheld, and the Committee has concluded that Mr O'Toole breached Rule 12 of the Code. However, following receipt of the written apology from Mr O'Toole, the Committee is content to report to the Assembly that the matter is now resolved.**
28. Arising from its consideration of Mr O'Toole's letter of apology (Appendix 6), the Committee discussed the need to ensure that, in future, the expression of an apology in such letters is unambiguous. The Committee, therefore, agreed that a letter of apology template will be prepared, which will issue to respondents when an apology is agreed as the appropriate approach to resolving a breach of the Code.
29. Finally, as it has done in previous reports on breaches of Rule 12, **the Committee reminds all MLAs of the importance of maintaining confidentiality during the complaints process. This safeguards the fairness and integrity of the process and avoids any unnecessary reputational damage to any of the parties involved. Therefore, Members must maintain the confidentiality of complaints from the time the complaint is submitted until consideration and, where applicable, the investigation and adjudication of the complaint has concluded.**¹⁶

¹⁶ See paragraph 21 at the following link: <https://www.niassembly.gov.uk/assembly-business/committees/2022-2027/standards-and-privileges/reports/report-on-a-complaint-against-tom-buchanan-mla/>; and paragraph 18 at the following link

<https://www.niassembly.gov.uk/assembly-business/committees/2022-2027/standards-and-privileges/reports/report-on-a-complaint-against--mr-timothy-gaston-mla-september-2025/>

Links to Appendices

Appendix 1: The Commissioner for Standards report on a complaint against Mr Matthew O'Toole MLA

[**View Report by the Assembly Commissioner for Standards on a complaint against Matthew O'Toole MLA by Graham Fergus**](#)

Appendix 2: Minutes of Proceedings

[**View Minutes of Proceedings of Committee meetings related to the report**](#)

Appendix 3: Written submission from Mr Matthew O'Toole MLA

[**View the written submission from Mr Matthew O'Toole MLA**](#)

Appendix 4: Written response from the Commissioner for Standards to the written response from Mr Matthew O'Toole MLA

[**View the Written response from the Commissioner for Standards to the written response from Mr Matthew O'Toole MLA**](#)

Appendix 5: Press Release referred to in the report

[View the Press Release referred to in the report](#)

Appendix 6: Written apology from Mr Matthew O'Toole MLA

**[View the written apology from Mr Matthew O'Toole
MLA](#)**

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