

Cathy Mason
Chairperson
Committee for Standards and Privileges
Parliament Buildings
Ballymiscaw, Stormont
Belfast
BT4 3XX

18th November 2025

Re: Complaint Case ID 202500040

Dear Cathy

Thank you for the opportunity to respond to the written submission received from Minister Lyons. I have reviewed his comments in detail. I remain satisfied that my investigation was carried out independently, impartially and in accordance with the Assembly Members (Independent Financial Review and Standards) Act (Northern Ireland) 2011 and the associated procedural directions.

While the Minister is entitled to disagree with the findings, several of his statements contain factual inaccuracies or misunderstandings of process, law and the scope of the Commissioner's role. It is important that these are clarified for the record.

Admissibility and Ministerial Capacity

1. The Minister asserts that the complaint should have been inadmissible on the basis that he was not acting in a Ministerial capacity. This is incorrect. The post in question referred to matters that intersected directly with his ministerial portfolio. The test for applicability is not solely whether Minister Lyons subjectively intended to act as a Minister, but whether the conduct is reasonably capable of being perceived as relating to ministerial duties. The complainants appeared to have understood the post in that context, and the Minister's own subsequent references to the PSNI and Housing Executive reinforced that perception. It should be noted that the Minister did not make such assertions relating to admissibility at interview.
2. The Minister asserts that he was acting solely as a local MLA. However, the Ministerial Code does not operate only when a Minister explicitly declares they are speaking in a Ministerial capacity. Under the Ministerial Code, Ministers are required *at all times* to uphold the Seven Principles of Public Life, including leadership, objectivity, accountability, and integrity. These obligations attach to the office they hold and apply in all contexts where their communications carry the authority, responsibility, or influence of Ministerial office. During an unfolding public order situation, any public statement by a Minister will inevitably be interpreted through that lens by some, if not many. A Minister cannot step in and out of these obligations by self-description alone. The expectation of leadership and responsible communication therefore applied, and it was appropriate to assess the conduct against the standards set for Ministers.
3. The post carried the weight of Ministerial authority during a sensitive public order incident. A failure to treat the post as Ministerial would, in fact, have been inconsistent with the Code's requirement that Ministers observe the Seven Principles of Public Life *at all times*.

Confidential

4. Correspondence referred to by the Minister from the Permanent Secretary shows that advice was not sought from the civil service and that it was the Permanent Secretary's understanding that Minister Lyons was acting in his capacity as an MLA. It is my view that this does not remove the fact that the post could reasonably be understood as coming from the Minister nor does it remove his continuing obligations under the Ministerial Code. My assessment of capacity was therefore appropriate and grounded in established ethical standards.

Allegation of Lack of Evidence/Speculation

5. The Minister repeatedly claims that my conclusions are speculative or unsupported by evidence. This is unfounded. Each conclusion was reached on the balance of probabilities, the evidential threshold used in all standards investigations. The investigation relied on the content and timing of the Minister's public post, correspondence from relevant public bodies, contextual information available at the time, and the Minister's own interview evidence. It is neither necessary nor proportionate to conduct "on the ground" interviews or gather empirical data such as police reports. The Commissioner's remit is to assess conduct in the context of the Code, not to establish criminal causation or public order outcomes.
6. The finding that the post "may likely have heightened tensions" reflects an evaluation of tone, timing and language in the context of an unfolding crisis. This is a legitimate and evidence-based assessment of risk and perception, not conjecture.

Compassion and Leadership

7. The Minister objects to references to "expected compassion" and "leadership" as subjective. In fact, the Nolan Principles, which underpin the Code, explicitly require "Leadership" and "Selflessness", both of which encompass empathy and responsibility in public communication. In times of crisis, the public expects Ministers to demonstrate calm and sensitivity. The absence of empathy in tone and content was relevant to assessing whether the communication met the standards of leadership required under the Code.

Objectivity and Fairness in Interpretation

8. The Minister suggests that my findings "impose extra-legal standards". This misrepresents the function of a Code of Conduct, which operates on ethical principles beyond strict legality. The role of the Commissioner is to evaluate conduct against ethical duties, not to determine legal liability. References to "expected compassion" and "public trust" are consistent with the ethical scope of the Code.

Alleged Criticism of Public Bodies

9. The Minister denies that his post criticised the PSNI or the Northern Ireland Housing Executive. While the post may not have used overtly critical language, the implication that public bodies failed to consult DUP representatives conveyed disapproval and had the potential to erode public confidence. The Commissioner's role includes assessing how statements may reasonably be perceived, not solely how the Minister intended them.

Freedom of Expression

10. The Minister's reliance on Article 10 of the European Convention on Human Rights is misplaced. Freedom of expression is a qualified right, and the European Court of Human Rights has consistently held that those holding public office are subject to a higher duty of restraint and responsibility in exercising that right. The underlying principle is that the exercise of freedom of expression "carries with it duties and responsibilities" as stated in Article 10(2) of the Convention. This concept is consistently applied across different

contexts, with a heightened standard for public officials, particularly ministers, due to their unique position of public trust and influence.

11. Article 10 protects robust political debate, but this was not political debate. The communication at issue here involves the operational judgment of a Minister communicating during a volatile public order situation. It involved the dissemination of sensitive information in a tense environment where wording could foreseeably influence public behaviour. Nothing limits the ability of a standards body to examine whether an officeholder exercised appropriate care in their public communications. Preventive and proportionate restrictions on expression can be justified, especially where their words may influence public behaviour or affect vulnerable groups. Therefore, Article 10 is not absolute, and those who hold ministerial office bear enhanced responsibilities in how they exercise their freedom of expression.

Evidence and Balance of Probabilities

12. The Minister disputes findings made “on the balance of probabilities.” This standard does not require absolute proof but rather an assessment of what is more likely than not, based on the totality of evidence. The findings were supported by contextual information, the timing of unrest and the Minister’s own communications. It is incorrect to suggest that they were based solely on opinion.

Tone and Empathy

13. The Minister questions how empathy can be assessed. Tone and perception are central to the Nolan Principles of Leadership and Integrity. In assessing public communication, the Commissioner must consider not only factual accuracy but also whether it meets the standard of responsible leadership expected of those in public office.

Alleged Contradictions

14. The Minister claims there is inconsistency in the report, particularly regarding deliberation and haste. There is no contradiction. The post was described as deliberate and considered in composition but lacking in the reflection expected of a Minister given the context. Those two observations are compatible.

Alleged Misrepresentation of Facts

15. The Minister disputes references to “revealing” information about vulnerable individuals. The report acknowledges that some information was already in the public domain but notes that repetition by a Minister carries greater weight and risk. The question is not whether the information was known, but whether restating it publicly was proportionate and responsible in the circumstances.

Inferences About Public Perception

16. The Minister objects that my analysis infers how the post “could reasonably be perceived”. That is a standard and necessary element of any conduct assessment. Ethical standards often rest on how behaviour appears to a reasonable observer, not only on the intent of the individual.

Procedural Fairness

17. The Minister suggests that he was denied the opportunity to rebut certain points. The Minister was provided with a draft of the findings of fact and invited to submit written representations, which were fully considered. His points were incorporated where appropriate, as demonstrated by amendments to the findings of fact.

Timeliness

18. The Minister criticises the timeframe for completion. The investigation was concluded within my statutory term but without compromising fairness or thoroughness. All procedural steps including notification, interview, draft report and right of reply were observed.

Conclusion

19. I reject the suggestion that the report was speculative, biased or procedurally flawed. The investigation was conducted with due care, transparency and in accordance with the established framework for standards in public life. The conclusions reflect a balanced evaluation of the Minister's conduct against the Nolan Principles and the Ministerial Code, taking full account of both intent and impact.
20. The Minister is entitled to disagree with the findings. However, disagreement does not equate to procedural error. I am confident that the report provides a fair and evidence-based assessment.

Yours sincerely



Melissa McCullough

Former NI Assembly Commissioner for Standards
Commissioner for Standards States of Jersey
Commissioner for Standards States of Guernsey
Commissioner for Standards States of Alderney