



Report by the Assembly Commissioner for Standards on a
complaint against Matthew O'Toole MLA
by Graham Fergus

Assembly-Confidential

Summary

This report sets out the findings of my investigation into a complaint submitted by Mr Graham Fergus against Mr Matthew O'Toole MLA.

Mr Fergus alleges that Mr O'Toole breached Rule 17 of the MLA Code of Conduct by issuing a public statement disclosing that he had submitted a formal complaint to the Commissioner for Standards against Minister Gordon Lyons. The complainant provided a copy of the press release as evidence. Further he alleges that Mr O'Toole breached Rule 15 in what he said regarding the substance of his complaint against Minister Lyons.

The alleged breaches concern Rule 17 of the Code which states “You shall not disclose details in relation to such an investigation except when authorised by law or by the investigatory authority” and Rule 15 of the Code which states “You must not subject anyone to unreasonable or excessive personal attack.” During my investigation I also identified that Rule 12 of the Code was engaged. This rule states “You shall disclose confidential or protectively marked information only when you are authorised to do so.”

I commenced my investigation on 5 August 2025. A written response to the complaint was requested from Mr O'Toole and was received on 18 August 2025.

Having considered the matter, I find that Rule 15 has not been breached. Mr O'Toole has enhanced protection in relation to political speech; stating his opinion did not breach this rule.

Rule 17 was not breached because at the time Mr O'Toole issued his statement there was no investigation underway. However, Mr O'Toole acknowledged that he had issued the statement. In doing so he disclosed information that was confidential, namely the fact and details of a complaint he had submitted, which he had not been authorised to do so under Rule 12 of the Code.

Having considered all available evidence, it is my view that Mr O'Toole's unauthorised disclosure constituted a breach of Rule 12 of the MLA Code of Conduct.

Complaint Background

1. On 26 June 2025, I received a complaint from Mr Graham Fergus alleging that Mr Matthew O'Toole MLA had disclosed confidential information relating to a complaint he had submitted to me, thereby breaching Rule 17 of the MLA Code of Conduct¹: "You shall not disclose details in relation to such an investigation except when authorised by law or by the investigatory authority." An additional allegation was that the content of the disclosure itself breached Rule 15 "You must not subject anyone to unreasonable or excessive personal attack."²
2. A link and copy of the press release issued by Mr O'Toole in which he publicly confirmed that he had lodged a formal complaint was included in the complaint.³

Investigation

3. In the course of my investigation, I carried out the following:
 - Reviewed the complaint and evidence provided
 - Requested and received a written response to the complaint from Mr O'Toole MLA⁴

All documents and evidence I have relied on in reaching my decision are at Annex A.

Allegations contained in complaint

4. Mr O'Toole breached the confidentiality of the complaints process when he disclosed confidential information via an online press release confirming that he had submitted a complaint against Minister Gordon Lyons, in contravention of Rule 17 of the MLA Code of Conduct.
5. The content of the press release was an attack on Mr Lyons in breach of Rule 15 of the MLA Code of Conduct.

Commissioner identified allegation

6. Rule 12 of the Code of Conduct, "You shall disclose confidential or protectively marked information only when you are authorised to do so" is also engaged.

¹ Document 1

² ibid

³ https://www.sdlp.ie/sdlp_refers_communities_minister_to_standards_commissioner

⁴ Document 2

Findings of Fact

7. I found the following facts established to the required standard of proof:
 1. On 12 June 2025, Mr O'Toole MLA submitted a complaint to the Commissioner for Standards
 2. On 12 June 2025, Mr O'Toole MLA published a press release on the SDLP website which said that he had submitted a complaint to the Commissioner for Standards against the Communities Minister, Gordon Lyons MLA.
8. In accordance with paragraph 7.14 of the General Procedures Direction, Mr O'Toole was afforded an opportunity to challenge any of the above findings before I finalised my report. Mr O'Toole did not challenge my findings of fact.

Evidence

9. Mr O'Toole's unauthorised disclosure took the form of a press release on the SDLP website.⁵
10. In Mr O'Toole's written response to the complaint⁶, he states:

"I do not dispute that this statement was issued in my name. However, I would point out that while I referred Minister Lyons on 12th June, your office did not launch an investigation until 20th June. ... There was no guarantee at this point that your office would launch an investigation, as of course your office retains the right to decide which complaints warrant an investigation."

Reasoned Decision

11. 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 of Conduct contains two specific provisions that require Members to uphold confidentiality at every stage of the process, namely Rule 12 and Rule 17.
12. 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.⁷ The key issue 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.

⁵ https://www.sdlp.ie/sdlp_refers_communities_minister_to_standards_commissioner

⁶ Document 3

⁷ <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>

13. However, in the same precedent case to which Mr O'Toole referred in his response to this complaint⁸, 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 until 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.
14. It is my view that Mr O'Toole knew, or ought reasonably 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.
15. 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.

Observations

16. 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.
17. The recommendations in my 2022 report⁹ 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.

Report Conclusions

18. I am satisfied, based on my analysis of the facts and evidence, that Mr O'Toole breached Rule 12 of the MLA Code of Conduct.

Melissa McCullough
NI Assembly Commissioner for Standards
3 September 2025

⁸ <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>

⁹ *ibid*

Annex A

| Document | Description |
|----------|--------------------------------------|
| 1 | Complaint |
| 2 | Mr O'Toole MLA response to complaint |

Dr Melissa McCullough
Standards Commissioner
Room 222, Parliament Buildings,
Stormont, Belfast BT4 3XX
standardscommissioner@niassembly.gov.uk
028 9052 1220

Dear Commissioner

I am writing to make a complaint against Mr Matthew O'Toole MLA in respect of a press release [published](#) on the SDLP website on 12 June 2025, which read the following:

"SDLP Leader of the Opposition Matthew O'Toole MLA has referred Communities Minister Gordon Lyons to the Assembly's Standards Commissioner.

It comes after a social media post identifying a leisure centre in Larne as being used to host those impacted by racist attacks in the area. The leisure centre was later attacked.

The South Belfast MLA Mr O'Toole said:

"The disgraceful attacks we have witnessed in recent days have followed months of inflammatory rhetoric around immigration from politicians, including in Assembly and Council motions designed to stoke fear and division.

"The DUP and others have irresponsibly conflated so-called 'legitimate concerns' with appalling racially fuelled violence which has terrorised families with children.

"Even after homes and cars have been set alight and families forced to flee, some politicians still refuse to condemn these racist attacks without qualification. That failure of leadership reached a dangerous new low when the communities minister, who has statutory responsibility for the Housing Executive, publicly identified a leisure centre being used to support displaced families, just hours before it was attacked.

"The SDLP believes this was a clear breach of the Ministerial Code and his obligation to act in the interests of all people in Northern Ireland. We have therefore referred Minister Lyons to the Standards Commissioner for investigation. These matters are of the utmost seriousness and if Gordon Lyons and his party cannot see that, he cannot remain as Minister.

These events have traumatised families and appalled communities across the North. The politicians who created this climate of hate cannot now disown its consequences. It is our responsibility to offer leadership, reassurance and solidarity and to say clearly that Northern Ireland is home to all who live here."

These comments were widely reported in the media and the Irish News and Belfast Live, among other outlets, published Mr O'Toole's confirmation that a complaint had been submitted against Mr Lyons.

As I understand it, the Rules of Conduct underpinning the Assembly Members Code of Conduct includes the stipulation that:

"You shall not disclose details in relation to such an investigation [by either the Northern Ireland Assembly Commissioner for Standards or the Assembly] except when authorised by law or by the investigatory authority."

I contend, from the outset, that the content of Mr O'Toole's press release contravenes this rule, jeopardises the independence and privacy of the complaint processes and brings the investigative processes governed by your Office, and the Assembly, into disrepute.

Furthermore, I believe this press release represents an unreasonable and excessive personal attack on Mr Lyons, in breach of the aforementioned Code of Conduct. This is because, firstly, it suggests that the Minister 'identified' Larne Leisure Centre as being used to accommodate displaced refugees, when in fact that information was already in the public domain, having been both cited in a press release earlier that day by a spokesperson for Mid and East Antrim Borough Council and communicated at a grassroots level by locally elected representatives on the advice of the PSNI. Secondly, this allegation against Mr Lyons is prefaced by the suggestion that he was implicated in a failure of leadership typified by a refusal of some politicians to condemn the ongoing racist attacks with qualification. Such an intimation is entirely without foundation, given that in the social media post in question Mr Lyons also clearly stated:

"Protesting is of course a legitimate right but violence is not and I would encourage everyone to remain peaceful."

Taken in its totality, I believe Mr O'Toole's press release was unbecoming of legitimate political debate, injected disunity at a time when political cohesion was vitally important and disregarded the key general duty on MLAs to act in the interests of the community as a whole.

Within this in mind, I would kindly ask that you investigate this complaint.

Your sincerely,

Graham Fergus (Mr)

[REDACTED]

[REDACTED]



18 August 2025

Melissa McCullough
Standards Commissioner
Room 222,
Parliament Buildings,
Stormont,
Belfast BT4 3XX

Dear Melissa,

Thank you for the opportunity to respond to this complaint. Naturally I take any referral to your office extremely seriously. I have taken the time to consider both the detail of Mr Fergus' complaint and the Code.

The complaint focuses on two accusations:

- 1) That I violated rule 17 of the rules of conduct as set out in the Code of Conduct: *You shall not disclose details in relation to such an investigation (by or under the authority of either the Northern Ireland Assembly Commissioner for Standards) except when authorised by law or by the investigatory authority.*
- 2) That I violated rule 15 of the rules of conduct set out in the Code of Conduct: *You shall not subject anyone to unreasonable and excessive personal attack.*

Rule 17: Disclosure of details related to an investigation

Mr Fergus' claim I breached rule 17 relates to a press release issued on 12th June 2025, where I stated *We have therefore referred Minister Lyons to the Standard Commissioner for Investigation.*

I do not dispute that this statement was issued in my name. However, I would point out that while I referred Minister Lyons on 12th June, your office did not launch an investigation until 20th June. I have attached the relevant correspondence from your office (Annex A). There was no guarantee at this point that your office would launch an investigation, as of course your office retains the right to decide which complaints warrant an investigation.

I am cognisant that your office previously investigated a similar case against Dr Steve Aiken MLA, when he publicly announced he referred a complaint to your office. At the time you ruled:

Complaint is not entirely synonymous with an investigation by the Commissioner and Rule 17 does not expressly prohibit reference to the fact of a complaint.



Your office ruled that Dr Aiken's statement did not violate Rule 17 as it was made prior to confirmation that the complaint would result in an investigation.

Per the text of the Code, I believe the comments made in the press release on 12th June cannot constitute a violation of rule 17.

Rule 15: Unreasonable or excessive personal attack

Mr Fergus also suggests that I broke rule 15 of the Rules of Conduct, stating I *subjected the Minister to an unreasonable and excessively personal attack*. His evidence for this appears to be twofold:

- 1) He says that we falsely accused Minister Lyons of publicly identifying Larne Leisure centre as a place to cite displaced refugees when the matter was already in the public domain;
- 2) That our criticism that Minister Lyons and his party had failed to unequivocally condemn the violence seen in Northern Ireland last June was unfounded

In neither the press release nor our complaint to your office did we claim that Minister Lyons was the first or only source that identified Larne Leisure Centre as a temporary site used to house those displaced by violence and rioting. Multiple different sources can *identify* the same thing at different points.

As outlined in our complaint we submitted to you our criticism was that Minister Lyons:

- Disclosed more evidence unnecessary to dispel rumours that the Larne Leisure Centre was being converted into a permanent migrant centre;
- Distanced himself from the decision to allow migrants into the centre, which could be interpreted as disapproval or criticism of the decision;
- Failed to express sympathy or solidarity with the victims of the rioting;
- Reacted differently in this instance to when the Centre being used as a temporary shelter for others temporarily displaced from their homes;
- Failed to acknowledge how his words may have been seen as ill-judged or any regret.

In our press release we also made wider criticisms of the DUP and their handling of these riots, which in our opinion, failed to show leadership or offer genuinely unqualified rejection of the disorder.

My clear view is that all of these represent legitimate political speech, and were the subject of widespread commentary by representatives from many other political parties at the time. Indeed, the actions of Minister Lyons were the subject of an urgent question to Minister Lyons



on Monday 16 June (tabled by the Chairperson of the Assembly Communities committee), in which many of the same points I made were put to him by other elected representatives (see NI Assembly, Official Report, 16 June 2025).

Mr Fergus is well within his rights to disagree with my comments. However I would argue that they:

- Fall within the reasonable grounds of political debate; and scrutiny
- Did not attack Minister Lyon's personality, private life or character
- Deal with a matter of huge importance and directly related to his role as Minister for Communities, as such with statutory responsibility for the Housing Executive

As an MLA, and even more so in my role as Leader of the Official Opposition, I am bound by the Code of Conduct to uphold the Nolan principles; including accountability; openness; and honesty. An essential part of my role is ensuring scrutiny of the actions of Ministers. While it is for your office to determine the outcome of any investigation, which I will of course respect, I would personally argue that the Code should not be used as a tool to chill or stifle scrutiny, especially in the context of the very low public opinion of Stormont.

I am happy to discuss this matter with you in more detail through an interview or provide any other evidence you may require. I will of course accept the finding of your office and will make myself available should the need arise.

Yours sincerely,



Matthew O'Toole MLA
Leader of the Opposition



Annex A



Commissioner for Standards
222 Parliament Buildings
Ballymiscaw
Stormont
Belfast
BT4 3XX
Tel: 028 9052 1220
Email: standardscommissioner@niassembly.gov.uk

Mr Shane McAteer
Standards & Privileges Committee
Room 254
Parliament Buildings
Ballymiscaw
Stormont
Belfast
BT4 3XX

20 June 2025

Case ID: 202500040

Dear Shane

Complaint by Mr Matthew O'Toole MLA against Minister Gordon Lyons MLA

In accordance with paragraph 7.7 of the General Procedures Direction I write to advise you that I have commenced an investigation into the above complaint.

Yours sincerely

Dr Melissa McCullough
Northern Ireland Assembly Commissioner for Standards

cc: Mr Matthew O'Toole
Minister Gordon Lyons MLA

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